

MEETING OF THE PARLIAMENT

Wednesday 11 May 2005

Session 2

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Scottish Parliament

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[THE PRESIDING OFFICER *opened the meeting at 14:30*]

Time for Reflection

The Presiding Officer (Mr George Reid): Good afternoon. The first item of business this afternoon—as it is every Wednesday afternoon—is time for reflection. Our time for reflection leader today is the Rev Dr George Whyte, minister of Colinton, Edinburgh.

The Rev Dr George Whyte (Minister of Colinton, Edinburgh): Thank you for inviting me to speak today.

I serve the parish of Colinton, which was founded in 1095. Near the rear door of the present church building, there is a list of people who have done my job over the years. There are four and a half centuries of Catholic priests and then an assortment of Episcopalians and Presbyterians. From 1690, there is an unbroken succession of ministers of the Church of Scotland. The year in which the person arrived and the year in which they left is beside each name on the list. As the Kirk has only recently acquired a pension scheme, most of them left in a wooden box or, as the board more delicately says,

“died when minister of the parish”.

My name is at the bottom of the list, with the year of my induction—1992—and then a space that is to be filled in when I am gone. I hope that the sign-writer does not get away with simply putting dittos below the earlier entries.

Each Sunday morning as I wait to begin the service, there is a reminder in gilt lettering of the passing nature of my involvement with an institution that was there long before I was and—God willing—will be there long after I have gone. Perhaps some of you who are gathered here understand the mixed emotions that such thoughts bring.

I am glad that a list of my predecessors is set where I have to see it. In one way, it invokes humility. I am a fleeting part of the Colinton story, and Colinton is just a little bit of the bigger city. In turn, that city is just a little bit of a bigger nation, which is just a little bit of the bigger world. The list also reminds me of the importance of standing in line and playing my part in my day, which is how the fabric of community is woven across the years.

The writer of Psalm 103 wrestled with the same sense of his mortality and significance. He says:

“The days of a mortal are as grass; he blossoms like a wild flower in the meadow; a wind passes over him, and he is gone, and his place knows him no more.”

The writer adds:

“But the Lord’s love is forever”.

That is a good thought to retain when you know that the sign-writer is poised grimly in the wings.

Private Legislation

The Presiding Officer (Mr George Reid): The next item of business is a debate on motion S2M-2764, in the name of Iain Smith, on behalf of the Procedures Committee, on its report on private legislation, which is its fourth report in 2005.

14:33

Iain Smith (North East Fife) (LD): I am pleased to see such a packed chamber for this important debate.

It is important to give some history behind why the Procedures Committee proposed today's debate on its report. To some extent, the Scotland Act 1998 left a hole in respect of how private legislation and bills such as works bills should be handled. Pre-devolution, the Private Legislation Procedure (Scotland) Act 1936 allowed a provisional order to be laid. If that was opposed, parliamentary commissioners considered matters and could hold a public inquiry if necessary. A confirmation bill then went to the Westminster Parliament. However, that procedure, which applied prior to 1999 for Scottish private legislation, is no longer available to the Scottish Parliament.

In England and Wales, the Transport and Works Act 1992 removed major works, such as railway and tram works, from the private bill procedure. There is a draft order and, if there are objections, a public inquiry, followed by ministerial confirmation. There is no direct parliamentary involvement in the transport and works process. That procedure is not available to us in Scotland.

In the absence of any legislative alternative, the Scottish Parliament effectively had no option but to establish through the standing orders—as it is entitled to do by the Scotland Act 1998—a procedure for handling private bills. That procedure was drafted by the Procedures Committee in 2000, ahead of the introduction of the first private bills in 2002. The standing orders do not differentiate between different types of private legislation: between works bills for new railways, for example, and non-works bills, such as the National Galleries of Scotland Bill.

The procedures work pretty well for relatively straightforward pieces of legislation, such as uncontroversial bills to which there are no objections. However, it has become increasingly clear during the course of this parliamentary session that the present procedures place an unacceptable burden on parliamentary resources when complex works bills are being dealt with, especially if the bills attract a considerable number of objections. Also, due to the record investment that the Scottish Executive has made in public

transport, there has been a much larger volume of works bills than may have been anticipated. The Stirling-Alloa-Kincardine Railway and Linked Improvements Bill has been passed, and the Waverley Railway (Scotland) Bill, which will establish the Borders rail link, is under scrutiny. The two Edinburgh tramline bills are also presently under scrutiny, and bills to establish rail links to Edinburgh and Glasgow airports will be coming down the track, as it were, in the coming months.

A number of specific problems have resulted from those factors. There is a limited pool of available members who can serve on private bill committees. Each bill involves a huge time commitment for members on those committees, not only because of the number of meetings that they may have to attend, but because of the vast amount of documentation that goes with such bills. That time commitment is on top of those members' normal parliamentary and constituency requirements—attendance at normal committee meetings and at meetings of the Parliament, and dealing with their constituency business. There is also a huge administrative burden for the Parliament in handling the processes, and there is concern that the number of private bills that are being dealt with may lead to delays in our ability to go ahead with some important infrastructure investment. There is also a degree of public dissatisfaction at the fact that it is not always clear what the purpose of a private bill is and what the public can legitimately object to.

The attention of the Procedures Committee was drawn to a number of specific issues that arose during the passage of the early private bills. The committee decided that it was a priority to consider the private bill procedures and to make long-term and short-term proposals to address those issues. The committee took a considerable amount of evidence from those who have been involved in the private bill process, including extensive briefing sessions with clerks from the Scottish Parliament's private bills team and clerks from the Houses of Parliament. We also visited Ireland to discuss with Government officials, members and clerks from the Houses of the Oireachtas how works legislation is conducted in Ireland. That was particularly valuable, as it became apparent that whenever possible in Ireland, matters that may previously have required private bills had become, under primary legislation, subject to ministerial powers. That approach may be appropriate for consideration of such things as the navigation rights around offshore wind farms such as Robin Rigg. That matter was addressed through a private bill, but if we are to have many more offshore wind farms, it might be better to deal with the matter through some form of primary legislation that gives ministers appropriate powers, rather than through a series of private bills.

Having considered the evidence, the committee agreed that it needed to devise a new procedure for dealing with works-type private bills, and we are grateful to our working group of Executive and Parliament officials, which examined the practical implications of various options that were available. We concluded that the best way forward was a new statutory framework that was based on the Transport and Works Act 1992 model but which retained a higher level of parliamentary involvement. We have called that framework TWA-plus, and it is referred to in annex C of the committee's report. It is a system in which the Scottish Executive would be responsible for laying the orders for a new works scheme for a railway, a tramline or even a canal, and in which the Parliament would have an opportunity, at an early stage, to consider whether that order should progress to more detailed consideration. That detailed consideration would not be carried out at parliamentary level; it would be done through an independent reporter and a public inquiry, if appropriate, as would happen for a major road scheme. In fact, it might be possible to extend the model to the construction of motorways and major road schemes, for example. Once the public inquiry had been conducted and the reporter had reported, the ministers would make the final determination and lay an order for parliamentary approval.

The introduction of that framework would require primary legislation, and we consider that that would best be progressed by the Executive. We recommend that the Executive introduce such legislation during the current session. The exact shape of the process, including the extent of parliamentary involvement at the various stages, would be a matter for further discussion during the development of the legislation and its passage through the various bill stages.

We also considered some more urgent matters because we felt that we needed to make some immediate changes to standing orders. I will run through them quickly because I know that our time is limited.

The first is environmental impact—I can tell that Alasdair Morgan is very keen to speak on that subject. There was concern that the private bill procedures were not as robust as those required for other planning matters, particularly as regards the early involvement of statutory bodies such as Scottish Natural Heritage, Historic Scotland and the Scottish Environment Protection Agency. We have therefore proposed changes to standing orders to ensure that the private bill process is every bit as robust as the processes that are governed directly by environmental impact assessment regulations. Those proposed changes are attached to our report. Incidentally, members who have read the report in great detail will have

spotted that there is a mistake in the cross-references in annex A to the proposed new rule 9A.1.4A, which, as members know, should be references to rule 9A.1.4B. Those corrections will be made by the clerks before the standing order changes are published.

Secondly, we considered the make-up of the private bill committees. We wanted to clarify the rules about who is eligible to be a member of such committees to allow—we hoped—a bit more flexibility. We also wanted to ensure that there is public confidence in the system. As part of that, we believe that a public commitment to impartiality has to be made by members at the first meeting of a private bill committee. For example, although all members generally support the new rail schemes, private bill committee members have to consider those bills impartially, and there has to be a commitment to that on the record.

Thirdly, we wanted to adjust the rules about attendance at private bill committees because we felt that they were rather too rigid. In fact, the committee had a very robust discussion with legal advisers about whether the rules were appropriate. We came to accept that the legal advice was very clear that all members had to be present. However, the rules need to be changed to ensure that only people whose evidence was being taken at the time have a right to object if a member is not present, rather than everyone who is involved in the process being able to object, as that might involve hundreds of objectors.

Fourthly, at the request of the Edinburgh Tram (Line One) Bill Committee, we considered late objections to ensure that, while we were tightening up the criteria for lodging late objections, we were giving the private bill committees a bit more flexibility in considering them.

Finally, the issue of a change of promoter might become particularly relevant if the Transport (Scotland) Bill is passed, as the promoter for the Glasgow airport rail link might have to change.

That concludes my quick run through all the key issues that are included in the proposed changes to standing orders.

I move,

That the Parliament notes the Procedures Committee's 4th Report 2005 (Session 2), *Private Legislation* (SP Paper 334); agrees that the changes to Standing Orders set out in Annex A to the report be made with effect from 12 May 2005, but agrees that new Rule 9A.1.4A shall not apply to any Bill introduced before 5 September 2005.

14:42

Mr Bruce McFee (West of Scotland) (SNP): Today's debate had its genesis in 2000, when the former Procedures Committee recognised the potential of a system that could be established by

an act of Parliament to deal with private bills. However, due to constraints on time and resources, the committee concluded that it would not be practical to move ahead at that time.

Five years on, we have the makings of a system that radically alters the existing private bills system in a way that is progressive and advantageous to all parties. Members who are reading the fourth report in 2005 of the Procedures Committee for the first time might find the subject matter dry. However, the evidence that we received and the dialogue that we held have been quite interesting. If nothing else, that comment should ensure my entry into the anorak of the year awards, if not guarantee me the first prize.

Although it was abundantly clear from most, if not all, witnesses that the present system for dealing with certain private bills is cumbersome, demanding and likely to lead to delays—there was a united front for change—there were sharp divisions over the shape of any new system, on which conflicting evidence was offered. It is fair to say that the committee's view altered as we heard evidence supporting various proposals, then changed again as we heard about the downside of those proposals. We learned quite a lot from our witnesses: MSPs who had been involved in the process; objectors to previous bills; different agencies; and, of course, the professionals, some of whom might or might not have had an interest in retaining the current system. We also gleaned valuable information from our visit to Dublin, when we heard at first hand about the changes to the Irish system.

However, at the end of the process, having listened and studied the various models from different places, we decided to recommend none of them.

The system that we have recommended is, in effect, a hybrid of two or more schemes and is designed to improve the process for all. It will ensure greater consistency, make best use of parliamentary time and bring greater experience and knowledge to the process, but it will still leave the political decisions to elected members rather than officials.

Our recommendation for a TWA-plus system is outlined in a non-prescriptive way in annex C of the committee's report. Implementing the recommendation will require primary legislation, which will need the Executive's co-operation in creating space both for the drafting of and consultation on the proposals and for the passing of a bill before any of the desired changes can be made. However, the whole Parliament will be involved in scrutinising any such legislation, because annex C does not specify the final model. It may be two years or more down the line before any new system is operational, but the suggested

system would be infinitely superior to continuing to make the piecemeal changes to existing procedures that the committee has been required to propose to help to alleviate the pressures that have built up in the current system.

The biggest proposed change is to move from a purely parliamentary system to a statutory one, whereby instead of the introduction of a private bill that becomes the subject of detailed scrutiny by MSPs, the Executive would make an order that would have been scrutinised by an independent reporter with expertise in the field. If that proposal is legislated for and implemented sensibly, we will have a process that is coherent, transparent and easily understandable.

I ask the Executive to pay particular attention to some of the provisions in the Irish scheme before it drafts any legislation. Under the Transport (Dublin Light Rail) Act 1996, an order-making procedure for light-rail projects was introduced that was used for four Dublin tram proposals between 1998 and 2001. The system involved the appointment of an inspector—rather like our reporter. In three cases, the inspector granted the order. In the fourth case, an order was not granted but a revised application was submitted and eventually accepted.

Although the act was superseded by the wider Transport (Railway Infrastructure) Act 2001, the process was generally felt to have worked well, partly because it placed an onus on the promoter to try to resolve objections before the start of the public inquiry. Six months before the submission of the application, the promoter was expected to begin consultation with local communities that would be affected by the proposal.

In addition, the system did not involve any fee for the lodging of objections, although objectors were responsible for bearing their own costs. Crucially, objectors could apply to ministers for reimbursement of costs incurred, including legal costs. The system also provided for objectors to put submissions directly to both the minister and the public inquiry. A public inquiry was compulsory in all cases. The inspector/reporter was independent and had the power to compel both the attendance of witnesses and the production of relevant documents. An important point is that the inspector had a degree of flexibility to amend proposals without requiring that a new application be submitted.

In conclusion, the committee's report is a positive step towards a 21st century method of handling what we currently call private bills. I hope that Parliament will endorse the report. I trust that the Executive will examine the positive elements of practice in other countries when it drafts the legislation.

14:48

Mr Jamie McGrigor (Highlands and Islands) (Con): I am happy to outline the Conservative position on this issue.

Members of the Procedures Committee were circulated with an interesting late written submission from Councillor Lawrence Marshall—who, like me, is obviously a great railway enthusiast—who suggests that the procedure requiring rail schemes to be promoted via a private parliamentary bill is a relic of the Victorian era that discriminates against rail and tram projects.

Among the main criteria for deciding which MSPs will sit on a private bill committee are that the MSPs are not local members and have no axe to grind about the project. Interestingly, Councillor Marshall challenges that. His guiding principle would be that decisions on private bills ought to be taken by MSPs who represent those who live in the immediate vicinity of the project. In that way, the members of the committee would be accountable to the local population for their decisions if things went wrong. He suggests that projects would be best determined by local councils. Indeed, he asks what the difference is between a councillor sitting on a planning committee that considers a proposal to build a new school and an MSP who sits on a private bill committee that considers an application for a rail or tram project.

I found Councillor Marshall's ideas thought provoking, but was reminded of the well-known comment that Ross Finnie makes whenever he talks about fish, which is that fish do not recognise boundaries but constantly swim from one territory to another. In the same way, trains go steaming through council boundaries, and that is perhaps where Councillor Marshall's theory might not work in practice. At any rate, so long as private bills are to be looked at by members of this Parliament, we agree in principle with the changes suggested by the Procedures Committee.

The changes are intended to bring flexibility and, in the main, are common sense. However, we are concerned that the environmental aspect is perhaps being highlighted more than is necessary, bearing in mind that the Parliament is fulfilling its objectives pertaining to European Community directive 85/337/EEC, on the assessment of the effects on the environment of certain public and private projects, by ensuring that environmental information on a project is collected, publicised and taken into account in determining whether or not to pass a bill. That is done in the form of an environmental statement, which is one of the essential documents required for any works bill. Therefore, the safeguard should be in place. As statutory environmental bodies currently have the same rights as any others, we do not really see

why they should be entitled to a priority right above all other agencies.

We believe that the long-term statutory proposal is a sensible way forward. Although the initial concern might be that the system is moving away from the Parliament and from MSPs, we consider that the TWA-plus option is probably the right one. Having looked at the systems used by other Parliaments, it appears that most of them eventually turn to such a system when it comes to scrutinising intricate and technical bills. It makes sense to have experts examine the proposals first, rather than expect MSPs to become experts overnight. We also sincerely hope that the new proposals will lessen the sheer weight of private bills that are before the Parliament at the moment, so that no one suggests bringing in congestion charges to ease the private bill traffic jam.

14:52

Mark Ballard (Lothians) (Green): I welcome the report's contents and, unlike Jamie McGrigor, I very much welcome the measures that will improve the system, particularly in terms of environmental issues. Proper regard can be given to Scotland's natural heritage and environment by the proper inclusion of the Scottish Environment Protection Agency, Scottish Natural Heritage and Historic Scotland in the process.

The main issue that we should discuss today is the long-term vision of how we deal with private bills—a particularly arcane and increasingly difficult type of legislation—in this Parliament. As has been said, the Procedures Committee discussed different ways of dealing with private bills, including the TWA model, the semi-parliamentary model, the 1936 model and so on. It became clear towards the end of the process that the TWA model was the one that was finding most favour. As Jamie McGrigor suggested, there were real concerns that the TWA model that is used at Westminster took important scrutiny powers away from Parliament and away from members of Parliament, and that it gave too much power to determine the process to the Executive or Government. We must recognise that there is a reason why the matters that are addressed in private bills are legislated for: it is because powers are conferred that go beyond the normal planning regime and they need proper national scrutiny.

Having heard the evidence, I recognise completely the major dissatisfaction with the current system. The MSPs who have been on private bill committees have found the whole process extremely tedious and taxing, and there have been questions about whether sitting on one of those committees and, in effect, carrying out a public inquiry is an effective and appropriate use of MSP time. I agree that we need a new system.

Having heard evidence from Margaret Curran and Nicol Stephen, I was reassured about the TWA model that was being proposed. I believe that the model that we are now calling TWA-plus is actually a long way away from the TWA model that is being used at Westminster—in many ways, it is unhelpful to call it TWA-plus, because it is so different. It is those differences—the plus part of TWA-plus—that make the Executive's proposal much more acceptable.

I was worried by the lack of parliamentary scrutiny in the TWA model at Westminster because there is a requirement for parliamentary scrutiny only of proposals of national significance. I find the national-regional division very unhelpful; that was borne out by a consultants' report in 2002 into the TWA model at Westminster. We can learn a lot from the consultants' report about how to bring about a better system for Holyrood.

As I said, I was reassured by the ministers' comments. Nicol Stephen made it clear that the system that was envisaged was one of order-making powers that would be driven by the Executive but would include parliamentary scrutiny and approval at key points. It is important that we have the correct balance.

The Executive may put forward proposals that it will usually fund, and I see the advantages of a system that is based on TWA rather than bills, but in which there is proper parliamentary scrutiny at all the key points. It is important that Parliament itself decides the level of scrutiny and that there is no arbitrary national-regional divide. Nicol Stephen made it quite clear that

"There will need to be discussion between the Parliament and the Executive on the issue, but if the Parliament expressed a clear wish to be involved in a scheme, I find it difficult to believe, under the model that we are developing, that the Executive would wish to resist that or would seek powers to resist that."—[*Official Report, Procedures Committee*, 1 February 2005; c 803.]

It is also important that there is a proper public inquiry and a proper opportunity after the public inquiry for Parliament to scrutinise the minister's decision. Under step 6 of the proposed TWA-plus model, a ministerial decision would attract much less attention than previously. However, we need a proper level of scrutiny at that later stage and, given ministers' remarks, I am confident that we will get that level of scrutiny.

The convener suggested to ministers that, to some extent, we are discussing a semi-parliamentary model—one that would use orders rather than bills. We have to take the proposal forward in that light. I welcome the consensual remarks that the ministers have made about working together to produce a system that will speed up and bring about the major transport infrastructure developments that Scotland needs.

14:57

Susan Deacon (Edinburgh East and Musselburgh) (Lab): I am pleased that we are having this debate and I am delighted that the Procedures Committee has published the report—it has stuck with the issue for a considerable time. I am even more delighted that my local colleague, Councillor Lawrence Marshall, the member for Portobello, has featured so prominently in the debate, courtesy of Jamie McGrigor. I am somewhat mortified—as I am sure Lawrence Marshall will be—that it has taken a Tory to recognise his contribution to the transport debate. I rectify that by putting on the record the fact that I, too, recognise his contribution to the debate.

The reason why Lawrence Marshall and others, including me, have taken an interest in the issue is that we are passionate about making improvements to our transport infrastructure and other areas of development in Scotland. On the face of it the debate might seem to be solely for procedural anoraks, but when we translate the procedural technicalities into what they mean in practice, the fundamental question—as Iain Smith said in his opening speech—is about how we deliver key infrastructure investment projects throughout Scotland.

If I have a gentle criticism of the Procedures Committee report it is that a great deal of its analysis views the matter through the prism of process rather than outcome. Although I accept that concerns about the amount of parliamentary time, the level of parliamentary resources and the detailed scrutiny of objections are important, the key consideration for us as a national Parliament should be to ensure that we move forward further and faster in delivering the rail links, tram systems and other projects that we need in a modern, 21st century Scotland.

I would have no difficulty in supporting the status quo and arguing that we should put more time and effort into the existing decision-making process if I thought that that was the best way of pursuing the overarching objective, but I truly do not believe that it is. I say—as I have said before—with the utmost respect to colleagues who are involved in the various private bill committees in the Parliament that I am concerned that our current approach adds years rather than value to the decision-making process. That is not sustainable.

I fundamentally believe that the Scottish Parliament's role should be to consider the strategic direction of our nation and to set the overall legislative and policy framework; it should not be to scrutinise the detail of every project or proposal that comes before us. In Scotland there are 32 democratically elected local authorities, goodness knows how many non-departmental public bodies and all sorts of other mechanisms

and forums—including the Executive—that could do that work.

Moreover, the more the Parliament concerns itself with such operational detail, the more our energies and mindset are diverted from the strategic considerations that only a national Parliament can address. Let us consider the proposals for tramlines in Edinburgh. Of course the Parliament should be involved in strategic considerations about whether the reintroduction of trams is the right way forward for our capital city, or whether the overall network that is proposed is the right one, but the consideration of the detail of each route in a single bill is surely not the best contribution that the Parliament can make. Hundreds if not thousands of person hours are taken up by such detailed consideration, although much of that work has already been done by a democratically elected local authority.

The current rules require such detailed consideration, and I appreciate that colleagues have done the job thoroughly. However, it is within our gift to change the rules and procedures and I sincerely hope that we will do so. I will return to the example of the tramlines, because the matter is of considerable concern to me. Indeed, I take the opportunity to say that although only two proposed tramlines have come before the Parliament, a third line should be delivered, too. The fact that such proposals come before the Parliament as individual bills, which require detailed discussion about individual routes, militates against the Parliament's consideration of the strategic questions that we ought to be considering. I do not for a moment suggest that the concerns of local residents about a rail link or a tramline's route should not be considered; I say simply that the Parliament is not the best or most appropriate forum in which to do that.

Mark Ballard: Initially, the Procedures Committee was concerned about the fact that proposals for tramlines, for example, are not considered through the regular planning system, but we became convinced that when a private company such as Transport Initiatives Edinburgh Ltd wants powers that go way beyond normal planning powers, there must be proper scrutiny of the matter, which is why a private bill is introduced. Does Susan Deacon acknowledge that the granting of such powers to private companies must be subject to proper scrutiny?

Susan Deacon: I am glad that Mark Ballard raised that issue and I make two points in response. First, of course there must be proper scrutiny. However, I repeat that the Parliament and its current procedures do not offer the best or most appropriate way of carrying out such scrutiny. Ours is a devolved Parliament and we should promote the general principle that scrutiny

should be devolved to a local level as far as possible. That has happened and it can and should happen.

Secondly, I will risk being slightly provocative by saying that the Parliament will ultimately be judged not on the quality of our questioning and analysis but on the ambition and scale of the changes that we deliver. Scrutiny, consultation and accountability are watchwords of the Parliament and remain true, but they represent a means to an end, not the end in itself. As the Parliament grows and develops, of course we should consider how we ensure that we have effective scrutiny processes, but we must balance that against the need to ensure that we reach a decision timeously and in a way that matches real-world needs with real-world demands. We live in a fast-moving world. If Scotland is to compete on the global stage, we must ensure that the record investment that Iain Smith mentioned hits the target quickly—that is what the people of Scotland look for from us.

15:04

Tricia Marwick (Mid Scotland and Fife) (SNP): I am grateful to the Procedures Committee for its inquiry and the report that it has now published.

Do the procedures under which the Parliament currently operates help, or get in the way of, the delivery of the transport infrastructure that we all want and that Scotland needs? I think that they get in the way. As the convener of the Waverley Railway (Scotland) Bill Committee and as the Scottish National Party chief whip, I am involved in all parts of the process. I know how difficult it is to get MSPs to go on to a private bill committee.

I have served on the Waverley Railway (Scotland) Bill Committee for a year and a bit. I was promised that it would only last a year, but there is probably another year and a bit to go before we are finished. After long trials, jury members can be given exemptions for life. Some MSPs have served a long time on private bill committees. The committees are extremely time consuming and difficult, and work done by MSPs on such committees is in addition to their work in the Parliament and on other committees.

I welcome the Procedures Committee's report and the scrutiny that the committee has given to the system for private bills. I welcome the proposal for a statutory system; that is a sensible way forward. The way that we operate at the moment is not helpful—either to the proposers of the bills or to the MSPs on the private bill committees.

It was not anticipated that there would be many works bills, but we now have two tram committees and the Waverley committee, as well as a smaller committee that is not considering a works bill.

Many MSPs are involved on those committees. Most of the bills are to do with the same area, and the local MSPs are precluded from being on the committees.

The Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee, the Edinburgh Tram (Line One) Bill Committee, the Edinburgh Tram (Line Two) Bill Committee and the Waverley Railway (Scotland) Bill Committee have involved an inordinate—and I would say unfair—number of MSPs from Fife. We are close enough to the action but not actually involved in it. Because it would be unfair to bring somebody down from Aberdeen or Inverness on a Monday to serve on the committees, some other MSPs are being distinctly put upon. I include myself in that category. All business managers should be a bit fairer to the folk of Fife in future.

This Parliament and its processes are evolving. At the beginning, we were not sure what would be involved. We sucked it and we saw, and it is not to anybody's advantage to continue as we are.

The Procedures Committee has taken the Parliament and its processes a big step forward. As Susan Deacon said, the challenge is to translate that into real infrastructure. Although I welcome the proposal for the Executive to introduce legislation, I urge that such legislation should be introduced as soon as possible. A number of private bills are already waiting in the wings and my biggest concern is that they will go through our present process, with all the difficulties that that would entail. The Executive should find a way to bring forward the legislation so that proposals that are in the pipeline can be brought into the system as quickly as possible. That will allow Scotland's transport system to move forward.

15:09

Des McNulty (Clydebank and Milngavie) (Lab): Like other members, I welcome the Procedures Committee's report. However, the committee has not addressed some fairly fundamental issues as straightforwardly as I would have hoped.

There is a fundamental issue at the core. Major transport projects can proceed only with the blessing of the Executive and at the Executive's behest, so why are we taking the private bills route? There is something fundamentally inconsistent about the use of a private bills mechanism to progress what are clearly Executive programmes. If we have a process of scrutiny that is separate from the subject committee system and the usual system of financial scrutiny—in which, as the convener of the Finance Committee, I have an interest—we could end up examining closely the detail of proposals and how those

proposals will operate in a particular setting within a given programme at the expense of looking across programmes and finding out how choices are made.

To pick up Susan Deacon's point, I question whether the Parliament's scrutiny resources are necessarily being used in the correct way if we use the private bills mechanism to focus separately on each transport project rather than have a system of overview. I can understand why the Procedures Committee has concentrated on streamlining the existing procedures, because it is clear that they contain flaws—not just the amount of time that members must spend on the consideration of private bills—but we need to address some more fundamental issues.

Susan Deacon was right to make the point that there are three rather than two Edinburgh tram proposals: only two have been taken up in private bills. There are three other proposed transport projects in the greater Edinburgh area—the Borders railway, the Waverley project and the airport link. There is no logic in considering each of those proposed developments in isolation. The Executive has given a clear statement that it will move towards establishing a national planning framework. I hope that that will involve a mechanism for cross-project analysis, which will enable us to determine what added value is given by one project as opposed to another. That would mean that the Parliament would be factored into the process of making the key choices.

There are choices to be made. It is not possible to do every project, so we must decide in a systematic way which are the best projects to do and must have transparent reasons to explain why project A rather than project B should proceed.

Iain Smith: I do not necessarily disagree with some of the things that Des McNulty is saying, but I think that he has perhaps misunderstood the purpose of our report on private legislation. Is it not the case that the issues to which he refers are matters that should be dealt with as part of the Parliament's budget process or considered in the context of the discussions on the regional and national transport plans that are taking place as the Transport (Scotland) Bill goes through Parliament?

Des McNulty: There is an argument for examining the private bills process, but only if we can get the other mechanisms right and ensure that the private bills process does not pre-empt those other mechanisms. That is what I think is the problem with the current arrangement. The Procedures Committee has produced a partial solution to one set of problems, but there is a bigger set of problems that we as a Parliament need to address. We have not got the mechanisms right.

The danger is that people—whether promoters or the Executive—will go a considerable way down the private bills route with a project that might not go ahead because it is not the right project with which to proceed. Decisions change because they have to—that might be because of external financial constraints or because the costs that are associated with a project change significantly. A few weeks ago, the Minister for Transport pointed out that the costs that are associated with the Aberdeen western peripheral route have gone up by more than 100 per cent since the original announcement was made. That situation will not be unique to that transport project; it might well arise for other projects.

A project's cost-benefit analysis must be kept under constant review and should not be considered in isolation, separately from analyses of other kinds of project. Such scrutiny is not part of normal budgetary scrutiny, but it must be factored into the process. We must be able to hold ministers properly to account for what they do. In my view, the parliamentary mechanism that is used to factor in such scrutiny—the private bills process—might be preventing that role from being exercised as it should be.

I am very dissatisfied with the present procedures. I recognise that the Procedures Committee has come up with some positive steps to streamline the private bills process. However, as all of us know, these transport infrastructure projects come from the Executive. We need to take a further look at the general process of how we deal with them. I hope that we do not view our support of the Procedures Committee in this instance as the end of the matter; other fundamental issues still need to be addressed.

The Presiding Officer: We move to winding-up speeches. I would be grateful if members could keep their speeches as tight as possible.

15:15

Mr McGrigor: Having listened to other members, I have nothing further to add. The Conservatives will support the motion.

The Presiding Officer: Thank you, Mr McGrigor.

15:15

Alasdair Morgan (South of Scotland) (SNP): That was one of the best speeches that I have heard from Jamie McGrigor for some time, but I will not be quite as brief.

I was one of the members of the National Galleries of Scotland Bill Committee, which held four very short meetings. If anything exemplifies the bizarre nature of the private bills procedure,

the National Galleries of Scotland Bill does so. We had the full weight, expense and majesty of parliamentary procedure, all to allow the National Galleries of Scotland to build on about 50yd² of Princes Street gardens—a development to which no one objected in any case. If I recollect correctly, the most interesting thing to emerge from the meetings was the admission by the City of Edinburgh Council that it had got over the prohibition on commercial building in the gardens before by classifying a permanent ice cream kiosk as a garden shed.

I now sit on the Edinburgh Tram (Line Two) Bill Committee, which is a different beast in terms of the complexity of the project and the number of objections. I agree with Susan Deacon that the level of detail that our current procedure forces us to get involved in is not appropriate for a Parliament. In general, the Scottish Parliament should deal with matters of broad principle. We should have a procedure outwith the Parliament that allows for fair and thorough coverage of the issues on the one hand, but which does not become a mechanism by which projects are delayed inordinately on the other.

I do not necessarily agree with everything that Des McNulty said. I am conscious that the Edinburgh Tram (Line Two) Bill Committee cannot consider whether the money that is to be invested in tramline 2, if it goes ahead, should instead be spent on tramline 3, but neither should it have to do so. The Parliament has a Local Government and Transport Committee that deals with transport matters and that committee could consider the issue if it chose to do so—that avenue is open to the committee; indeed, it may have decided to take that route.

Des McNulty: My understanding is that the rules of the Parliament make it difficult for the Local Government and Transport Committee to engage in considering a transport project that a private bill committee is considering.

Alasdair Morgan: It might be an idea if we were to change the rules. Surely it is not beyond the wit of the Local Government and Transport Committee to investigate whether money would be better spent on a tramline to Edinburgh royal infirmary than on a tramline to the airport and to do so in general terms without impinging on legal considerations and risking judicial review. That should not be a problem, and even if an issue were to arise, we should be able to find a way round it.

Susan Deacon: Does not a commonsense issue need to be factored into the argument? I am thinking of the people whom we keep asking for their views. I return to my preoccupation with the tramlines. The local authorities concerned have already asked people for their views on the

tramlines and yet Alasdair Morgan is advocating that not one but two parliamentary committees should also ask for their views. That is not an effective use of anyone's time, energy or thinking capacity. We need to move forward on the issue.

Alasdair Morgan: The point that I was making picked up on Des McNulty's point about the Parliament taking an overview of Government expenditure and the strategic projects in which the Scottish Executive should invest our cash. Des McNulty made the point that the Parliament should consider the broader issues. I cannot see any obstacle to doing that under the current procedures.

Iain Smith referred to confusion about the current procedures, which is indeed a problem. The process can appear complicated to the public. Many people in Galloway thought that everything was done and dusted when the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill went through the Parliament. In fact, the bill was only one part of the 10 or 15 permissions that required to be obtained north and south of the border before the Robin Rigg wind farm development could go ahead.

There is an interesting point to be made about House of Commons scrutiny because, as Iain Smith said, the Scotland Act 1998 left a bit of a hole in our legislation. It does not say much about the practice of constitutional bills being taken by a Committee of the Whole House when details, such as the amendment to schedule 8 that took out the previous provision, are allowed to slip through without any comment.

I do not agree with all the temporary changes to standing orders. Given the size of our regions, I wonder whether the total bar on regional members serving on private bill committees is sensible. Perhaps the situation could be got round in another way. The proposed changes are a reasonable attempt to simplify our current procedures temporarily, but they are no substitute for a fundamental review of the underlying primary legislation.

15:20

The Minister for Parliamentary Business (Ms Margaret Curran): I had written down to say, "This has been an interesting and a useful debate." Indeed it has. I mean no disrespect to the Procedures Committee, but it has been more interesting and lively than I expected. Standards have been high in the past, but they have been surpassed.

The Executive is grateful to the Procedures Committee for the thorough inquiry that it has undertaken and the nature of the report and recommendations that it has placed before

Parliament. The report and the speeches this afternoon have given us much food for thought.

Notwithstanding some of the points that I will come to, private bills have a key part to play in the legislative process at Holyrood. Several important bills have already been passed, and several more private bills that represent significant developments for the people of Scotland are either in progress or in the pipeline.

As an Executive, we have a significant interest in the procedures for dealing with private legislation since, as Iain Smith indicated, statutory authority is required for our substantial programme of transport infrastructure projects, which is necessary to renew and expand our transport network. The Stirling-Alloa-Kincardine Railway and Linked Improvements Bill has been enacted, and many members have referred to bills that are under way. They demonstrate our commitment to modernising transport infrastructure within and between our major cities.

I do not want to repeat points, and members throughout the chamber realise that the current procedures are slow, cumbersome and not always appropriate. Substantive points have been raised to which the Executive will give attention, because it is clear that, under present procedures and given the number of transport and works bills that are in preparation, let alone those that are in the pipeline, the Parliament—never mind the Executive—faces considerable pressure.

I would not normally associate the phrase "put upon" with Tricia Marwick. In my experience, she does a good job of standing up for herself. However, I acknowledge the points that she and other business managers have made at the Parliamentary Bureau about the pressures facing MSPs. I pay tribute to the work that MSPs do in undertaking their duties. I am not sure whether there is a particular Fife dimension to the matter, but if so it is certainly not personal, so I ask Tricia Marwick not to take it that way—although it might be worth bearing that in mind in settling future scores. Before Jackie Baillie shouts at me again, I say that I appreciate members' work in discharging their duties.

Stewart Stevenson (Banff and Buchan) (SNP): When establishing private bill committees, will the business managers and others consider in advance the day on which committees meet, so that they can be resourced accordingly? My poor colleague Alasdair Morgan had to take over from me on the Edinburgh Tram (Line Two) Committee, because it turned out that I was the only member who simply could not fit in with the day on which other members were available, because of other commitments. That practical workaday issue should be examined.

Ms Curran: As Stewart Stevenson will know, the Procedures Committee has come up with temporary proposals to address our immediate challenges. I do not think that any business manager would rule anything out if we thought that it would ease the passage of the work.

We need to consider the fundamental challenges that we face. The committee's work has been extremely helpful, because we need to find a better way of dealing with private legislation and with major infrastructure projects that are of national importance.

Susan Deacon and Des McNulty made some telling points. The Executive is in no doubt that we need a system that will enable us to deliver our strategic interests in transport. As Susan Deacon said, the system should match our ambitions for Scotland and our plans for the development of transport and other linked services. We need harmony between the various processes. The financing of transport infrastructure projects is critical to the Executive's budget planning, as Iain Smith said. We must ensure that we get value for money and that we have sufficient resources to undertake other programmes. I assure Des McNulty and Susan Deacon that we will take on board their points, which strike at the heart of our response to the committee's report. We must ensure that we deliver our transport commitments. We are updating transport legislation through the Transport (Scotland) Bill and we will ensure that we work in partnership with the Parliament.

I think that I am getting a gentle reminder from the Presiding Officer to hurry up.

The Deputy Presiding Officer (Murray Tosh): It is not that, minister; it is that your voice is fading as you turn away from your microphone.

Ms Curran: I am sure that that is a great disappointment to all concerned.

The Deputy Presiding Officer: I understand that people in the public gallery sometimes have difficulty hearing what is said at the front of the chamber.

Ms Curran: I apologise. I also apologise to the members whom I am addressing for having my back towards them.

I accept the need for a strategic response and the need to ensure harmony between the processes. However, I do not underestimate the effort that the Procedures Committee has put in. Its clear conclusion is that primary legislation is necessary to establish a different and more streamlined system. I appreciate the committee's work in considering the options—for example, it examined work that is being done in England on the issue and worked with a group of officials from the Executive on some of the details. I accept

Mark Ballard's point about the clear need for partnership working.

Any new model would need to have a number of key features. We are interested in the work that the committee has done. The proposal is that the Executive would lead the process. That would address some of the points that have been raised, because it would remove the dependency on private promoters and the need for private bill committees to consider major infrastructure projects, which at present require primary legislation before they proceed. It would be for ministers to decide whether to produce an order, after considering specific statutory criteria, including the financial viability of the project and whether the proposed scheme would be in the public interest.

If ministers were satisfied that the statutory criteria had been met, the Parliament would be invited to agree that the project was in the public interest and, on that basis, to signify an initial approval in principle, subject to the outcome of an inquiry into any objections. As has been said, objections would be heard by an independent inquiry reporter, rather than a private bill committee. The minister would then consider the reporter's report and decide whether to lay an order before the Parliament.

The Executive wants to give attention to that package of proposals, which represents a considerable range of improvements.

Mr McGrigor: Does the minister agree with my point that too much priority is to be given to environmental bodies, given that plenty of environmental safeguards already exist? That will only take up more time and make the whole process longer.

Ms Curran: Forgive me, but I tend not to look to the Tories for advice on how to handle environmental issues. We would certainly not want to load the process unduly and repeat activities that have already been undertaken, but the member will appreciate that environmental concerns are of great interest to the Executive. Environmental issues are at the heart of many of our procedures. I do not want to raise Mr McGrigor's hopes on that issue.

The Executive is interested in the range of proposals that the committee has produced. We want to continue the partnership working that we have established with the committee and will proceed on that basis. We appreciate the issues that a range of members have raised in relation to responsibilities. There are immediate proposals for standing orders that could improve the process, on which we would look favourably. However, we appreciate the point that the delivery of transport infrastructure is critical to our agenda for Scotland.

We need a process that will deliver that and harmony between our big ambitions for Scotland and the processes that will get us there.

15:30

Richard Baker (North East Scotland) (Lab): It is a pleasure to close for the committee in what has been a largely consensual debate, even if it got a bit spikier towards the end. It has been good to hear thought-provoking contributions on what the committee recommended.

The committee has focused on the process for dealing with infrastructure proposals. We want the process to be efficient so that proposals can proceed expeditiously with parliamentary involvement. The committee has said that the Parliament should consider not the nitty-gritty and issues that members do not have the time or expertise to consider in great detail but the overall outcome of the proposed projects.

The process that we are recommending should not exist in isolation, away from Parliament's ability to consider the cross-cutting aspects of the transport agenda or the overall feasibility of projects.

Mark Ballard: Does Richard Baker acknowledge that the proposals that private companies make using the private bills procedure do not necessarily rely on Executive funding? For example, the Edinburgh tramline 3 that Transport Initiatives Edinburgh proposed would have relied on funding from the congestion charge. Therefore, there is a clear need for a private process rather than for what Des McNulty suggested, which is that every proposal should come from the Executive.

Richard Baker: Yes, but perhaps the points that we are making are not as much in conflict as Mark Ballard thinks. We need a private bill process for private initiatives. However, for projects with public backing, by the time the private bill committee is set up, the argument for the financial viability of the project should have been established. By maintaining parliamentary involvement at other stages of the process, we will ensure that Parliament not only has the final say but oversees constantly the viability of all the proposals.

We have not suggested merely streamlining the current process. We want the current process to work more effectively but, having been a member of a private bill committee, I would not be satisfied with just streamlining what we have. It was clear to us all on the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee—and indeed to members of other private bill committees—that fundamental reform is required.

The committee heard from a number of people who had concerns about the flaws and inadequacies in the current process and the burden that it places on the Parliament's resources, to which many members, including Tricia Marwick, referred. In gathering evidence, we realised that to justify that burden we would have to find the best possible system. As members have pointed out, it is clear that the current system is not the best possible system. The inadequacies of the current private bills process have been highlighted because of the strides that we are making, particularly in developing new transport schemes that require private bill committees to be established.

The committee has identified changes that need to be made urgently, including having a clearer definition of what constitutes an interest that would preclude a member from sitting on a committee. That would be an important move towards ensuring that membership is not decided on a flimsy basis. We have also highlighted the need for flexibility in determining the number of members who sit on a committee, the notice that is required for environmental bodies—the committee agreed on that section of the report—and the need for improved rules for lodging late objections and handling a change of promoter. More flexibility will achieve extra clarity, so that the process can run more smoothly.

Of course, the committee recognised that more fundamental reform of the system is required and that merely amending the current procedures will not be sufficient. It is right that we review the procedures. We considered what has been done in Westminster, which has amended its process through the Transport and Works Act 1992. However, in recommending the TWA-plus model—or whatever we might call it—we sought to retain greater parliamentary involvement, for the reasons that Mark Ballard highlighted.

The fact that private bill committees have gone out to communities in which transport projects will be undertaken is good, but that does not represent better parliamentary scrutiny than the model that we are proposing, which would involve an independent reporter who would bring the expertise that is required, which Jamie McGrigor highlighted, and the potential for greater local consideration and further public inquiries, which Bruce McFee talked about. The committee heard the case for having more in-depth local consideration, which is why it made proposals to change the system substantially. We look forward to the Executive's response.

Of course, we are not wedded to the proposals that we have made and have listened to the concerns that members have expressed about cross-cutting agendas and the need to consider

outcomes rather than the process, which is what we must consider first and foremost. Obviously, we hope that the Executive will take on board the points that have been made today when it comes up with its response.

Whatever happens, the committee is of the clear opinion that the status quo is not an option and that the process that we have recommended can provide informed, thorough and local consideration, while maintaining a key role for Parliament in the decision-making process. I hope that that will enable the scrutiny and reflection on the overall transport agenda that other members have talked about this afternoon.

I commend the motion to Parliament.

Rehabilitation in Prisons

The Deputy Presiding Officer (Murray Tosh):

The next item of business is a debate on motion S2M-2762, in the name of Pauline McNeill, on behalf of the Justice 1 Committee, on its report on its inquiry into the effectiveness of rehabilitation in prisons, which is its third report in 2005.

15:37

Pauline McNeill (Glasgow Kelvin) (Lab):

I thank the Conveners Group and the Parliamentary Bureau for agreeing to a slot for this debate. The Justice 1 Committee believes that our report on our inquiry into the effectiveness of rehabilitation in prisons is a focused piece of work. Although we have debated many times the roles of prison and community service, we believe that our report is a useful reference point on the subject with which it deals.

I should begin by explaining to the chamber that, as a result of a bit of a constituency crisis, I will have to leave the debate to meet the minister, which cannot be avoided, so I offer my apologies.

I thank the clerks to the committee and Laura Piacentini, who has been our adviser on the report. Her help was welcome.

The terms of reference of the report related to the fact that prison systems around the world have been undergoing profound transformations as some countries have adopted alternatives to custody and other countries have experienced an upward trend in their prisons' populations. Of course, the background to the report was the Scottish situation relating to prison conditions, particularly overcrowding. As we debate today, we have a prison population of 6,500—one in nine men from our most deprived communities, many in their early 20s—so the issue is a serious one for us.

The committee began its inquiry by trying to define what was meant by "rehabilitation". We spent many hours on that. The concept of rehabilitation has traditionally focused on reforming through treatment the characteristics of an offender, with the aim of returning offenders to the community in a better state than they were in when they arrived in prison. Our first conclusion was that rehabilitation is now a much wider concept and that there is focus on the changing and diverse circumstances that might predispose a person to lawbreaking.

The Scottish Prison Service says:

"We do not do things to people but try to facilitate change in them."—[*Official Report, Justice 1 Committee*, 15 September 2005; c 1068.]

The committee knows that rehabilitation will not work for everyone, but we have concluded that it is that process which ideally provides offenders who are sentenced to custody with opportunities to resist any further involvement in crime. We know that that is an ideal goal, but it is worthy of exploration. In many ways, rehabilitation is just a word that is used to describe what we are trying to achieve with offenders. Rehabilitation will be different for each offender because circumstances change, but it might include integration into a community from which the person has been excluded, developing their employability where they have been unemployed, and providing assistance with broken relationships when they have suffered from that. Those are some of the ingredients that must be part of the rehabilitation process.

The essence of our current goals is to assist offenders with their personal ambitions to reduce their offending behaviour, which is why it is worth our while to continue investing in rehabilitation in the widest sense. If we do not believe in that, we would have to say that it is not worth our spending the vast sums of money that we spend on rehabilitation programmes—although we have difficulty in quantifying those sums.

The Justice 1 Committee's report suggests that rehabilitation is not just a set of treatment programmes but is much wider. For my part, I have always been interested in the debate about whether community programmes are more effective than prisons in achieving our goals. We have heard that debate many times, and the committee's report is useful in pinning down the comparison. In my view, it is not realistic to compare an offender who has been locked in the prison system and taken away from their community with an offender who is undertaking a community sentence and is starting from a different position. With community sentencing, we are often dealing with different offenders, anyway. It is important to conclude that once we send a person to prison it is, in most cases, far harder to rehabilitate them.

I will draw to Parliament's attention some of the key recommendations in the report; I start by talking about short-term sentences. The Justice 1 Committee, ably assisted by our witnesses, wants to overturn the notion that nothing can be done to assist people through rehabilitation programmes if they are on short-term sentences. That is not to say that we should decide as a matter of policy to end short-term sentences, but the committee is clear that it wants immediate action from the Scottish Prison Service to address what can be done during short-term sentences. We know from our work that the official definition of a short-term sentence is that it is a sentence of four years or less, but references to short-term sentences can

mean anything down to two weeks, or even less, in some cases.

We want the system to be flexible enough to ensure that rehabilitation fits into short-term sentences. We want the work to assess offenders and their history in its entirety to continue. Glasgow City Council social work services made the point that offenders who have started on a community service programme but have committed another crime often end up in the prison system, but no one asks them what work they have done in the community. We know that the SPS has moved forward in that regard, but we want greater continuity. We are calling for a radical rethink.

The Deputy Presiding Officer: One minute.

Pauline McNeill: My goodness, how time flies.

In my last minute, I will comment on the role of families and relationships. The committee emphasises that prisoners' relationships with the outside world are fundamental and that more needs to be done to connect them to the outside. The role of prison officers and the question whether they should have a dedicated role in rehabilitation need to be examined. It is fundamental to the strategy that prisoners do real work that relates to the skills that they will need outside prison.

We must also consider the role of the prison service in relation to literacy and numeracy. No one is saying that it is the prison service's job to ensure that it deals with literacy, but there is clearly a role for it in doing so. The role of the open estate is also crucial to prisoners making the transition to the community. We know that the criteria have changed and we think that that is important.

The Presiding Officer is about to nod at me to wind up, which I will do. There are a number of recommendations in the committee's report; I know that members will speak to them in greater detail than I have. I hope that members—especially members of the Justice 2 Committee, which is undertaking stage 1 of the Management of Offenders etc (Scotland) Bill—might get some useful information from the report, which is a focused piece of work. I recommend that members look at the report and at the useful work that has been done.

I move,

That the Parliament notes the recommendations contained in the Justice 1 Committee's 3rd Report 2005 (Session 2), *Inquiry into the Effectiveness of Rehabilitation in Prisons* (SP Paper 291).

15:45

The Deputy Minister for Justice (Hugh Henry): I thank the Justice 1 Committee for its

useful work and for helping to stimulate a significant debate on addressing offending and reoffending.

I will put the subject in context. Last night, we locked up 6,808 offenders in Scotland. Every person in prison brings with them a personal history that is often complex and characterised by a past that can include deprivation and addiction. The prisoner population is not homogeneous in respect of offending or of personal and social circumstances. Those factors make the task of working with individuals in prison extremely challenging. One size does not fit all; we need a range of opportunities in our prisons to encourage offenders to access initiatives that best suit their needs.

We are investing heavily in our prisons and rehabilitative work does not happen in a vacuum, so we recognise that we need to provide decent accommodation and a civilised environment as a backdrop for that work.

Richard Lochhead (North East Scotland) (SNP): How does the minister measure the success of existing rehabilitation programmes?

Hugh Henry: I refer Richard Lochhead to the extensive discussion of that and other issues in the Justice 1 Committee, which probably addresses the matter more ably than I can in a short time. If any matter is not addressed, he can by all means come back to me.

We want to ensure that our current unprecedented estate development programme has an effect. We are spending £333 million over five years—an average of £1.3 million a week—on improvements to the SPS.

The inclusion of a rehabilitative aim for our prison service is a choice; a delicate balance needs to be struck in running a penal system. International experience suggests that pursuit of a single set of objectives—for example, custody or rehabilitation—can disrupt that carefully struck balance and endanger the calm and safe running of our prisons. I am pleased to say that our prisons have never been as safe as they are now for staff and prisoners. I record our thanks for the dedication and endeavours of our staff, who have made that possible.

Against that background, we can consider what supports offenders in choosing a crime-free life on their release. Much of the focus of the committee's report is on offending behaviour interventions, but simply offering offending behaviour programmes is not enough. Available international experience suggests that badly designed programmes that are poorly delivered and which target prisoners with inappropriate risk and need levels can make their situation worse, not better. That is why, since the mid-1990s, the SPS has chosen a programme

strategy that is based on having in place a service-wide system of risk and needs assessment that ensures that only offenders who have specific needs and risk levels enter programmes. The effectiveness of that approach is being evaluated and refined in order that it can have a greater impact on risk and offending.

The rehabilitation and care directorate in the SPS has identified 10 intended outcomes for a prisoner on release. When prisoners are released, they will be physically and mentally well, substance free or stabilised and be able to access the most appropriate accommodation. They will be able to read, write and count and will be employable. They will be able to maintain relationships with family, peers and communities, to access community support, to live independently and to stop reoffending. They will not present a risk.

It would be wrong to discuss rehabilitation without speaking of the links between prison and the community. It is essential for successful resettlement that we prepare and support the offender at that vulnerable time. Preparation for release from prison and provision of support in the community are not just a good investment; they are essential. That is why, in the past two years, we have worked with the SPS and local authority criminal justice services groups to improve the arrangements for prisoners on release. Through the tripartite group initiative, we have provided an extra £4 million for throughcare in the past two years. Local authorities are implementing new plans.

The creation of the community justice authorities under the Management of Offenders etc (Scotland) Bill will ensure closer working with a joint purpose for all organisations that are involved in offender management, whichever side of the prison wall they happen to be on. We will require the SPS to play its full part in supporting the new arrangements that are set out in the framework document for the SPS, which was published in March, for example, by ensuring that each CJA has a single point of liaison with the SPS. I will also put in place new performance monitoring arrangements for local authorities and the prison service in order to strengthen accountability for the effectiveness of offender management services. The delivery of those new arrangements is critical to reducing reoffending and to giving the people of Scotland the safer communities that they deserve.

15:50

Mr Bruce McFee (West of Scotland) (SNP): The Justice 1 Committee's report is only 151 paragraphs long, but the subject is enormous. The committee's attempts to engage professionals and experts in a debate on the effectiveness of rehabilitation in Scotland's prisons inevitably

produced evidence that strayed well outwith what happens within the prison walls, but without the additional understanding of how rehabilitation services inside prisons link—or should link—with services outside, it would have been almost impossible to reach sensible conclusions.

Many of the issues that the report raises—particularly those that relate to short sentences, women prisoners, the burgeoning prison population and persistent reoffending—echo issues that were raised in the chamber debate two weeks ago. Gordon Jackson said that we must remember that persistent reoffending behaviour is usually established long before an individual reaches prison. I hope that I have paraphrased him accurately, as he is in the chamber. We should remind ourselves of that when we consider the report.

I do not intend to address all the issues that the report raises—indeed, I simply could not do so in the available time—but I hope to expand on one or two of them. The first issue that I want to address is what rehabilitation is and what we expect it to deliver. I now know that on that subject at least, professionals and experts are like lawyers—I mention Gordon Jackson again in that context—in that if three professionals or experts are asked the same question, there will be four different answers. The committee found itself in such a position.

In its evidence, Apex Scotland came closest to describing the more traditional understanding of rehabilitation. It said that rehabilitation is

“about the 1960s idea that we could treat people and put them through a range of programmes that would cure them of their behaviour in a psychological or medical way so that they would come out the other end and not reoffend.”

Its spokesman also said:

“I prefer the term ‘reintegration’.”—[*Official Report, Justice 1 Committee*, 29 September 2004; c 1140.]

The more traditional understanding of rehabilitation was again exploded by Dr Nancy Loucks, who said:

“I have some difficulty with the idea that someone can be become a changed person through treatment, as if that can somehow change their offending behaviour when they move back into society. Rehabilitation is more about equipping people to cope as well as they can on their release. Equipping them means that we tackle things such as addiction and help them with employment, training and literacy, which can help them to cope in the situation that they were in previously. In that way, we hope that they will be less inclined to reoffend.”—[*Official Report, Justice 1 Committee*, 15 December 2004; c 1365.]

What the committee understood by rehabilitation, and what we expect rehabilitation to achieve, are fundamental to the inquiry and the recommendations. Paragraph 13 of the report states:

“The Committee believes that the ultimate goal of rehabilitation is the elimination of offending behaviour but recognises that there is a positive contribution to be made by reducing such behaviour”.

That belief is essential to understanding the committee’s recommendations. Once the basics have been established, everything else will flow from that.

I want to say something about short-term sentences and women prisoners, which are intrinsically linked. The official definition of a short-term sentence is a sentence that is less than four years, so I clarify that I will talk about what we have ended up calling very short sentences, of less than three months. We heard from the SPS that rehabilitation for short-term prisoners is “not a realistic objective” in respect of the large number of prisoners who are currently in custody, but the committee passionately disagreed with that sentiment; our view was also the predominant view of our witnesses. The majority of prisoners in our system are serving sentences of less than one year and it is not right to write them off until they return with a longer sentence. We must as a matter of course consider proper compulsory assessment of the literacy and numeracy skills of young offenders, because literacy and numeracy levels in our prisons are woeful.

Finally—this is not mentioned in the report—but we must find suitable alternatives, of which there are many, to the ridiculously short prison sentences that do much to destroy family contacts, children’s lives and prospects for rehabilitation, which we all seek.

15:55

Margaret Mitchell (Central Scotland) (Con):

Although we have only a short time, I welcome this opportunity for members to debate this important issue. The Justice 1 Committee agonised and deliberated long and hard about the definition of rehabilitation, which is essential to understanding the issue. It came up with the crucial recognition that rehabilitation is a process, not an event. Today’s debate is too short to cover all the important points that are raised in the report, but the following are those that I believe to be the most important.

Significantly, the report challenges and disputes the commonly held view that nothing can be done with short-term offenders. In fact, the opposite was found to be true. We need to concentrate more on short-term prisoners. In the first instance, we need to sort out the definition of “short term”, which can range from six weeks to four years. The committee’s recommendation that

“consideration should be given to defining new categories of prisoner in terms of length of sentence”

is, therefore, sensible. Unfortunately, the Scottish Prison Service is still vague in its response to that proposal.

Even in a short-term prison sentence of six weeks to three months, core issues such as basic literacy and numeracy levels can be examined. The statistics on literacy and numeracy among prisoners are alarming, and the committee rightly expressed its concern about the impact that illiteracy and innumeracy are having on rehabilitation. I very much welcome the Scottish Prison Service's commitment to screening all prisoners at induction, but there is still a lack of clarity regarding what is proposed thereafter.

Another key issue is continuity, which is essential to successful rehabilitation. When a prisoner reoffends, information concerning their previous prison experience and any community rehabilitation programmes that they were involved in should be recorded and accessible. It should not be the case that they must start all over again. Flowing from the continuity issue is the issue of resources. Too often, rehabilitation programmes and real work experience are denied to prisoners because of staff shortages: that is not good enough. If the Executive is serious about tackling reoffending, it must ensure that there are sufficient resources to ensure that prisons are adequately staffed and that contingency plans are in place to cover the inevitable staff absences. Real work experience is essential to the rehabilitation process, especially as many prisoners have never worked. The opportunity to learn real skills and to experience the discipline of work could greatly improve their chances of successful reintegration into society.

Finally, I welcome the recognition in the report that the support of families—or, where that is not appropriate, the support of a meaningful person—can make a significant contribution to sentence management within prisons and successful reintegration thereafter.

It must be stressed that working towards successful rehabilitation of prisoners will require adequate resources, especially in terms of prison staff numbers, and a radical rethink of what can be achieved in so-called short-term sentences. Those could lead to huge benefits both for the prisoners and, as a consequence, for the public in terms of reoffending rates.

15:58

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): The committee's report is welcome and is part of a suite of work that is being done in Parliament to provide a focus on a crucial area of criminal justice—working towards reducing reoffending. Just as we have to ensure that our

justice system is transparent, fair and efficient, we must ensure that it is effective in reducing the number of offenders who commit an offence for the first time and in reducing the number of those who, once punished, reoffend. The complexities of seeking to make the system effective have been ably explored in the committee's report. I will address some of the complex issues that are raised by the report and offer some observations.

I recognise the benefit of the clearer definition of rehabilitation that the committee has put together. Within that definition, we should give greater emphasis to equipping individuals with some of the structure that is missing from their lives and begin to give them the skills and support that they have not had. We sometimes underestimate the impact that chaotic lifestyles have on young people in particular. I will come back to talk about particular issues around youth offending.

On the definition, I was struck by the evidence of Glasgow City Council criminal justice social work services, which stated:

"There is a sense that rehabilitation deals with recent matters ... some of the people with whom we work have long-standing problems since their early childhood. The "re" in rehabilitate is not an option for many people who have had long-standing problems." —[*Official Report, Justice 2 Committee*, 15 December 2004; c 1344.]

I am aware that the committee had to limit the scope of its inquiry, but without a proper and mature debate on earlier intervention, we will not begin to address the problem.

Paragraph 13 of the report states that many

"offenders may never previously have been integrated to society",

but I attest that although many individual offenders have not integrated into society, it is unlikely that those individuals will not have been known to public agencies such as the police, social work departments or the hearings system. Information from the SPS's report "Young People in Custody in Scotland, An Occasional Paper" showed us that 76.2 per cent of all young people in custody had a history of regular truancy, 43.6 per cent had attended special schools, 9.4 per cent reported previous contact with the children's hearings system, 63.3 per cent had close friends who were involved in criminal activity, and 51.9 per cent had at least one member of their immediate family who had served a custodial sentence. Without understanding that such triggers happen very early in people's lives, we will continue to be too late to rehabilitate individuals, and when we begin that rehabilitation work, it will be that much harder.

It is easy to cite arguments for improvements in partnership working and in doing so I also acknowledge the evidence in paragraph 55 about how we have lost the clarity of what we mean by

partnership working. However, within a community setting, partnership working can be effective if it is given one additional tool, which could well be the measure within the Management of Offenders etc (Scotland) Bill that will allow for home detention curfews. There should be conditions attached to those curfews that ensure that an individual is at home at a particular time, but they should also include compulsion to attend a course or programme or to continue learning in the community.

On learning, I agree with some of the Conservative party's comments to the effect that some of the skills and learning that are experienced in prisons should be real and transferable. I am delighted that Edinburgh prison is moving towards having vocational qualification courses in prison and away from some of the traditional manufacturing courses. That means that some of the qualifications that will be gained in prison will be transferable. If anything will allow for rehabilitation for individuals and for the community, it will be our prison service ensuring that individuals are fit for work, not crime.

16:03

Marlyn Glen (North East Scotland) (Lab): I welcome the opportunity to debate the Justice 1 Committee's report and I also welcome the Scottish Prison Service's initial response, which said that the report sets a challenging agenda and is a valuable contribution to the debate.

The committee inquiry was about the effectiveness of rehabilitation in prisons; the committee quickly agreed that to cut recidivism in our society, we have to work to rehabilitate. I believe that we can make a difference and that prison is not just about punishment or revenge, or solely about protecting society by removing a person's freedom. Prison can and should be about rehabilitation of all prisoners, however long they are to be incarcerated. There has been a change in popular culture that reflects that change in attitude; it is now generally accepted that behaviour can be changed, and we have a responsibility to work to make those changes in our prisons. Television schedules are now full of programmes that illustrate positive behavioural changes: "Tiny Tearaways", "Children from Hell" and—my favourite—"Supernanny". That huge culture shift has already reached our prisons and is a massive challenge that the people who work in our prison system are already striving to address. On our committee visits, we saw excellent examples of the work that is being done.

I welcome the fact that the SPS has agreed with our report's recommendation that it review prison officer training to ensure that the training covers the goal of rehabilitation and that it consider the need for continuous in-service training.

Given the great deal that has been said about the inappropriateness of prison for most women, I applaud alternatives such as the 218 time-out centre in Glasgow and I look forward to the time when that system is rolled out. On our visit to Cornton Vale women's prison, I was impressed by the direction that has been taken by the regime there, which is making great strides towards dealing more holistically and in a more caring way with women than was the case in the past. Such an approach is required in all prisons, the vast majority of which are filled with younger men. We need to make a connection with our previous justice debate on violence. Given the seemingly prevalent macho culture on which such violence feeds, male prisoners must be given a similarly holistic regime so that notions of violence and machismo are not perpetuated.

In promoting rehabilitation, we should be concerned not just about the number of programmes that are delivered, but about the availability of a range of support, which should include information, skills training and attention to diet and to health generally, including sexual health. We need a whole package of opportunities, even though we need to acknowledge that, sadly, some people will never take advantage of those chances.

Young men need suitable male role models. I urge establishments not to fall into the habit of recruiting only men as prison officers, but instead to employ women from outside agencies to provide the caring side. Prison is no place to continue to use outdated and damaging stereotypes. When people come out of prison, we want them to have changed and to have had their assumptions challenged.

I will make time to mention the links centres, which are a vital part of supporting people back into the community by providing links to service providers who can help with housing and benefits. The continued development of such centres is crucial; our aim must be to ensure that we help prisoners to return to society in a more fully integrated way.

I finish by quoting Dr Nancy Loucks, who states:

"Imprisonment is a family experience."

Her research into the experiences of prisoners' families—defined in their widest sense—provides an extremely useful insight into how important such work is. If we keep that in mind, it is easier to see how rehabilitation can be made more effective.

I look forward to the discussions on the Management of Offenders etc (Scotland) Bill, which I hope will build on the work of our inquiry.

16:07

Christine Grahame (South of Scotland) (SNP): The Deputy Minister for Justice said that maintaining contact with the community is crucial to rehabilitation—but the most important community is family. I am grateful to Marlyn Glen for providing those words to preface my speech, which will also quote from the report and from evidence to the committee from Families Outside.

The Families Outside report makes it clear that imprisonment is, indeed, a family experience that may involve the prisoner's family losing their home and most of their income. The children's behaviour may deteriorate—bed wetting is common—and, furthermore, the children of those who are in and out of prison are themselves more likely to offend. Family members may become ill, either physically or mentally, and they may be shunned or ostracised by neighbours and may be disowned by their own family. Thus, the breakdown of the relationship between the prisoner and the family extends beyond the four walls of the family home.

One of the most interesting parts of the Families Outside annual report for 2003-04 is the section entitled "Can you help me get to prison?" Not many of us want to go to prison, but people need to be able to do so for visiting purposes. Referring to a 2003 survey, the report states:

"The key findings showed that:

- 46% of visitors relied on public transport
- 44% travelled with children, nearly half of whom were under five years old ...
- It took 40% of families **between 5 and 12 hours** to make an entire journey including a visit. For over 18% it took longer than 12 hours."

Simple things such as the transport of families to prison can be crucial in improving prisoners' morale and in giving them a reason to reform.

Paragraph 65 of the committee's report quotes the following evidence from Families Outside:

"the rehabilitation work that needs to be done between families and prisoners is crucial, but it is neglected".

The paragraph continues with a further quote from Families Outside, which states that rehabilitation

"can reduce the likelihood of reoffending by up to six times".

That position is later endorsed by Dr Loucks. The report goes on to state:

"Families Outside also emphasised the value that families could add to the process by being more involved in sentence management—

"There is scope for families to be involved in supporting employment and training initiatives. Families should also be made aware of addiction and treatment programmes."

Many of us who have been involved in these issues for a long time know that much acquisitive crime is fuelled by the need to buy drugs. Many families, although not all, would like to offer support and be part of the regime that the prison is trying to develop. The problem is that, as is mentioned in paragraph 73 of the committee's report, the role of the family contact officer seems to be de minimis in many prisons, with the notable exception of Cornton Vale. Paragraph 75 states that

"in other prisons, the role is commonly allocated to staff as an additional responsibility, over and above other duties".

I suggest, as does the committee, that that is not good enough. That paragraph quotes Families Outside as saying that its main anxiety is that the prison officers who take on that responsibility often move on, so that improvement, continuity and experience are lost. That concern is reinforced by the Audit Scotland report mentioned in paragraph 78, which describes the

"variation across prisons in relation to the availability of family contact development officers."

I conclude with the committee's recommendation. Paragraph 80 states that

"rehabilitation in prisons is *ad hoc*, fragmentary and slow ... The Committee therefore recommends that the provision of dedicated family contact officers, where it is already available, should be enhanced and protected from redeployment to other services and should be rolled out to other establishments in the prison service as a matter of priority."

That is a simple but telling step. If it reduces the chances of reoffending by so much, we should be doing more to ensure that the breakdown of the individual does not continue as a breakdown of the family. That would be a simple means to reinforcing rehabilitation.

16:11

Maureen Macmillan (Highlands and Islands)

(Lab): Those of us who have served on the justice committees over the years are well aware that we must answer the question of what prisons are for. Are they to deliver only punishment through loss of freedom, or do they have a role to play in the rehabilitation of the offender? If the latter, what are the realistic expectations of what can be achieved, and can it be achieved only with a long-term sentence or with a short-term sentence too?

The report by the Justice 1 Committee into the effectiveness of rehabilitation in prison is thought-provoking, not least in its discussion of the definition of rehabilitation. What exactly are we hoping to achieve? Apex Scotland said in evidence

"that people stop offending when they decide that they want to".—[Official Report, Justice 1 Committee, 29 September 2004; c 1140.]

How do we persuade them? How do we give them the tools to enable them to want to stop offending, considering the long-standing issues that have led people to offend, including poor anger management, impetuous behaviour, bad role models, poor educational attainment and drug and alcohol abuse?

I have visited not a few prisons over the years with justice committee colleagues, with Her Majesty's inspectors of prisons and even with the Deputy Minister for Justice, and I believe that the Scottish Prison Service is engaging more positively with rehabilitation programmes now than it was five years ago. I have spoken to individual prison officers who have been deeply committed to the work that they were doing on anger management, cognitive behaviour or sex offending, but I have also been told of the pressures that such programmes are under because of lack of space or because other prison business takes priority.

We should be in no doubt that motivating prisoners and trying to address their social, psychological or mental health problems is a difficult job, and we have to ask the SPS questions about the depth of training and the remuneration of prison officers and the supervisory support that they receive. As Pauline McNeill has said, if we are to have short sentences we must also use those sentences to address reoffending.

The committee report also underlines the importance of education provision. I have always been impressed by the dedication and enthusiasm of the teachers I have met in prison classrooms. Again, they are often working in constrained circumstances. We are all now aware of the lack of literacy and numeracy skills among offenders. In many cases, that is a legacy of interrupted education through truancy or exclusion in early teenage years. That was flagged up as a major concern in evidence to the Justice 2 Committee's recent inquiry into youth justice. I am aware from correspondence between the Minister for Education and Young People and the Justice 2 Committee that there is a realisation that we need to keep hold of such youngsters in education, no matter how challenging that is.

I ask the Minister for Education and Young People and the Minister for Justice to consider the latest thinking on how to deal with people who are subject to attention deficit hyperactivity disorder and who may make up a large percentage of young offenders. We have no statistics on that in this country, but statistics from other countries suggest that in those countries they make up a large proportion of the young offender population. Early diagnosis and treatment could make a difference to the future prison population and to future offending, but we are where we are. We will

have made a start on rehabilitation if a person can leave prison with improved literacy and numeracy skills, with skills that are transferable from the prison workshop to the workplace and with strategies to deal with their impulsive behaviour.

What happens after prison is just as important. Housing was raised as their main issue by a group of long-term prisoners that we spoke to on a Justice 1 Committee visit to Edinburgh prison in the previous session. I imagine that that is still a major priority. There was obviously a high degree of anxiety about how they would cope out there when many of them had lost touch with their families or did not want to be in touch with them.

Drug and alcohol rehabilitation programmes are also required. I spent part of election night flanked by two policemen who wanted to bend my ear about the revolving door of prisons—in particular for drug offenders. They said that they know who the drug offenders are and that those offenders get arrested and go to jail for a few months. They come out again and resume their life of thieving and burglary to feed their drug habit. They are then arrested, go back into prison, come out again and so it goes on. The two policemen wanted to know when that cycle would stop. I hope that the Management of Offenders etc (Scotland) Bill, which is being scrutinised by the Justice 2 Committee, will put structures in place that will deliver a seamless transition from prison to community and a consistent standard of engagement with offenders, even those who are serving short sentences.

16:16

Patrick Harvie (Glasgow) (Green): I welcome the committee's report and commend committee members for their work. They have helped to develop an understanding of what rehabilitation means, which is important.

It is valuable to recognise the ideal goal of rehabilitation, but also the smaller steps in the right direction. I agree with the committee that there is scope for working constructively with shorter-term prisoners, but that should not prevent us from continually questioning the value of those sentences. If prison is used to protect the public from offenders who pose a genuine risk, how realistic is it to achieve that protection by sending someone to prison for a few months? That disrupts their life, their accommodation, their relationships, their employment—if they have any—and traumatises those who, whatever we think of their past conduct, may be unprepared for the reality of prison.

It is also important to address some of the deeper questions. What do people want from the prison system? Is that something with which

Governments are comfortable? Helena Kennedy, the Labour peer, argued that

“people are perfectly capable of hearing a ... nuanced debate about crime and alternatives to prison, yet the great fear of governments is that they may hand their political opponents a trump card if they are not seen to be punitive”.

What does the public really want? We know something about that from research commissioned by Safeguarding Communities-Reducing Offending, by the University of Strathclyde and others. People are, in general, much less punitive than is often thought to be the case. Punitiveness is generally a response based on fear. There is generally support for effective prevention and scepticism about prison.

Hugh Henry: I think that Patrick Harvie is on the record as having said in previous debates that he does not believe that prisons should be used to punish people. Does he believe that paedophiles should be punished?

Patrick Harvie: I will use the rest of my time to talk about punishment as I have raised the issue before and I would like to expand on it. I have not argued in the past that prison should not be used for punishment: I have said that punishment should not be the objective.

The Executive has argued that there are two reasons to put people in prison: punishment and protection. Mr Henry gave evidence to the Justice 1 Committee as part of the inquiry. He stated:

“There are two aspects to imprisonment: punishment and protection. People who have committed a crime that is deemed to be sufficiently serious need to be removed from the community. ... By removing the person from the public domain, some protection is afforded to the community. The wider debate concerns what happens to someone during the time that they are in prison.”—[*Official Report, Justice 1 Committee*, 15 December 2004; c 1378.]

Surely what happens during the time that someone is in prison is absolutely central. If we fail to get that right we fail offenders, victims and society at large. The purposes of prison should be confinement—for the reasons that Hugh Henry explained—but also rehabilitation. Behaviour change does not take place without motivation. No behaviour is without purpose and motivation, and offending behaviour is no exception. Punishment might have a role to play if it is intended to deter or to achieve behaviour change, but punishment that happens merely because of a desire to make people who made others suffer experience suffering themselves—a desire to do bad things to people who did bad things to others—is self-indulgent. Worse still, if, as too often happens, punishment takes place because there is a need to appear to be doing something in a situation in which something needs to be done, it is unethical and represents a response born in fear. Our response should be born not in fear but in

confidence and aspiration. The aspiration for a safer society that is freer from crime is inseparable from the aspiration that we should have for offenders to improve their lives.

16:20

Colin Fox (Lothians) (SSP): Like other members, I welcome the Justice 1 Committee's report, which poses many valid questions against a background in which rehabilitation programmes in prison appear to be less than wholly effective. It is a shame that we will not have more time to debate the issues today.

Other members more than adequately outlined the facts and figures in the context of the debate. For me, the most pressing statistic is this: some 70 per cent of people who receive sentences of six months or less reoffend within two years. We should take the opportunity that the debate brings to consider how realistic it is of us to expect great improvements and to consider the help that we give to people in prison, especially people who serve short sentences.

What do we know about effective rehabilitation? As Pauline McNeill said before she left the chamber, we know that there is a lower rate of recidivism among people who serve their sentences in the community. We also know that a person who is sent to prison must overcome several obstacles that they would not face if an alternative to custody was used. They are taken away from family support; there is a greater chance of relationship breakdown; their attitudes to their experience are understandably more belligerent; and they must suffer other people's attitudes towards them when they come out.

The minister touched on a key ingredient of the debate when he talked about who offenders are. By and large, the profile of offenders is clear: young men from poor backgrounds are overwhelmingly represented. The Justice 1 Committee knows that a recent report indicated that people from the 100 poorest wards in Scotland are disproportionately represented in the prison population. Such prisoners' literacy, numeracy and other skills are often underdeveloped and a family member has often been in jail. When I visited Low Moss prison recently, the governor explained why such young men come back into his custody again and again. He said, “We send them back to exactly where they came from—exactly where they faced the problems that led to their offending in the first instance.”

Whether a person reoffends after completing their sentence is a key measure of the success of rehabilitation. Maureen Macmillan was right to highlight the contribution to the debate of the witness from Apex Scotland, who said:

"people stop offending when they decide that they want to, for whatever reason."—[*Official Report, Justice 1 Committee*, 29 September 2004; c 1140.]

The key question is therefore: what help do we give people when they want to change their lifestyles? Criminologists say that it is pointless to believe that the criminal justice system can solve the problem on its own—that is a theme that runs throughout the committee's report. The report recommends multi-agency working and acknowledges that the approach is doomed to fail unless we involve other agencies to do with housing, benefits, education, employment, health and so on, so that those agencies can work in tandem to attack the root causes of offending behaviour. The report says that offenders must return to the community

"better 'equipped' to cope with the challenges of their lives".

We must ask ourselves how we help people to cope with the poverty that drove them to offend, the violence in the family or community in which they live, and the addictions that they are fighting. Is it realistic to expect reduced rates of reoffending without addressing those challenges? That is the key question.

I will quickly touch on two matters that the report mentions. The report makes a valuable contribution to the debate when it quotes the following statement by a witness in the committee's inquiry:

"we know that officers are recruited essentially for custody and restraint purposes and that they are paid a very low wage."

The report also says that just

"80 prison staff are engaged full-time in the delivery of programmes"

to do with rehabilitation.

That is a signal that we have to ask the Scottish Prison Service to re-examine its systems. Rather than techniques of custody and restraint, techniques of rehabilitation have to be given greater priority in officers' training.

I will finish by asking the minister a question. It seems to me that there may well be a role for mentors in the prison service. Young men can be influenced by other young men, so if young men have come out of prison and been effectively reintegrated into society, can they be used as role models? They may have a bigger influence than the authoritative style of custody that young men in prison presently face.

16:25

Mrs Mary Mulligan (Linlithgow) (Lab): I came to this inquiry late but I support the Justice 1 Committee's reasons for taking it on. I thank the convener and the committee clerks for helping me

to get up to speed quickly so that I could play a part in the report.

Deciding what we mean by rehabilitation is central to the discussion. I agreed—as did Bruce McFee—when Apex Scotland said that the term that we use should probably be "reintegration". I accept that there will be exceptions, but people generally offend because they feel excluded from the society that they live in. They feel no ownership or involvement and therefore feel no responsibility.

If people feel included, they are less likely to offend. I acknowledge that children and families also give us a place in our community, and I will come back to that point, but one way in which most of us feel part of our society is through our work. Work is central to many people's lives—but how much more difficult it is for people to find work if they are illiterate or innumerate. Statistics show that many prisoners have difficulties with reading, writing and numbers. One way of helping them to reintegrate would be to help them develop those skills while in prison.

I acknowledge that it can be difficult to identify prisoners' needs for help with literacy and numeracy. Many prisoners will try to hide their problems. It is therefore important that the SPS increases its efforts in assessing prisoners so that resources can be properly targeted at basic skill needs. I draw members' attention to the recommendations in paragraphs 84 to 86 of the Justice 1 Committee's report.

If we are serious about rehabilitation, it must be properly funded. From what the committee saw, and from what we heard in evidence, I believe that the SPS is spending more than the £2.2 million for staff costs that it was able to identify. The Audit Scotland figure of £30 million for "correctional opportunities" is probably closer. However, the disparity in the figures is a problem. How can we ensure that money is spent effectively and is delivering results if we are not sure how much is going in? I urge the SPS to consider Audit Scotland's recommendations on how better to identify spend on rehabilitation. That would allow us to ensure that we do not make unreasonable savings from a budget that we all—from what I have heard today—consider to be important.

I said that I would come back to the issue of families. From evidence given to the committee, it was clear that a prisoner's family has a significant impact on that prisoner's ability to reintegrate. Those who keep family ties are more likely to have a reason to address their behaviour. One prisoner whom I met at Glenochil said that he was looking forward to returning to the outside world. He had developed a new relationship and, for the very first time, was making plans for his future.

Like other members, I acknowledge that distance and transport issues can cause problems. However, the message from the committee's report is that rehabilitation is an important part of the penal process. A message that we have to get across to everyone is that rehabilitation is in the interests of the offender, yes, but it also benefits victims or possible future victims. Furthermore, society and the community at large will not suffer the ill effects of illegal behaviour.

I support the view that rehabilitation is important, as expressed by the committee in paragraph 13 of its report, but I recognise that prisoners are individuals and that rehab packages have to be tailored. I also believe that the packages have to continue when offenders are back out in the community, so that they can be supported in fully reintegrating. Prison services and continuing community services have to be joined up.

The report contains many points that I hope the Executive will take on board and use to make progress on rehabilitation.

16:30

Richard Lochhead (North East Scotland) (SNP): I, too, welcome the report. I want to concentrate on the importance of drug rehabilitation in our prisons, which is a subject that I have raised time and again with successive ministers over the past six years.

Drug rehabilitation must be put higher up the political agenda in Scotland because it is an area in which we can make a huge difference to communities and to people's lives. As someone who represents Grampian in the Parliament, I have been closely involved in addressing drug-related crime for the past six years. We must remember that over that period Grampian has had some of the worst drug-related crime statistics. The local police say that between 70 per cent and 80 per cent of crime in the region relates to drugs. The governor of the local prison at Craiginchies says that more than 70 per cent of the prisoners are there for drug-related crime. If we really want to make a difference to people's lives and cut crime rates, drug rehabilitation should be much higher up the agenda.

I suggest that delivery should be focused on the prisons, where there is a captive audience. I was very interested in a statistic from a study in England that revealed that 664 addicts had committed 70,000 offences over a three-month period. I would be surprised if equivalent figures north of the border were much different. One can easily argue that in Scotland tens of thousands of offences are committed by a small number of drug addicts in similarly short timescales year in, year

out. Why on earth are we not making the task of trying to cure such people of their drug habits while they are in prison a much higher political priority? That would enable us to break the cycle of crime, imprisonment and drugs and get rid of the revolving-door syndrome that we keep talking about.

The case for drug rehabilitation stacks up economically. As I can never get Scottish statistics, I must again refer to statistics from south of the border, which say that it costs £3,500 per prisoner to deliver a drug rehabilitation programme in an English prison. The figure for a Scottish prison might be similar, but I do not know—one can never get such information out of the Scottish Prison Service or Executive ministers. It costs roughly £33,000 per annum to keep someone in prison in Scotland. The economic case for rehabilitation stacks up—that is not to mention the cost of drug-related crime to our communities, which would be cut if we were to cut the number of people who commit such crime.

In my experience, the delivery of drug rehabilitation programmes in our prisons has been plagued—and, in some cases, continues to be plagued—by a number of issues. The report that we are debating is effective in highlighting the lack of availability of resources and drug rehabilitation programmes. That must be addressed, as must the high turnover among staff who deliver such programmes. I have come across statistics that show that addiction nurses leave every few months and have to be replaced, which in some cases leads to a halt in the delivery of programmes. I hope that that situation has improved over the past few months.

Overall staff shortages in our prisons cause problems. I am aware that on several occasions rehabilitation work—not just on drugs, but in other areas—at Craiginchies prison in Aberdeen has had to stop because the prison officers involved had to go and do escort duties. The recent report by the chief inspector of prisons for Scotland said that the drug-testing centre at Craiginchies had to close for 176 days between 2003 and 2004. For 169 of those 176 days, the closure was due to the fact that prison officers had been diverted to escort duties.

Hugh Henry *rose—*

Richard Lochhead: I know that that issue has been addressed by the Government, but there are many other examples of staff shortages causing problems. The fact that we have overcrowded prisons and staff shortages means that adequate rehabilitation programmes cannot be delivered. That is why MSPs such as me bang on about why overcrowding and shortages of prison officers must be addressed if we are to carry out effective rehabilitation.

Drug rehabilitation works. I will again make use of English statistics because no Scottish ones exist. The Rehabilitation of Addicted Prisoners Trust, which delivers many of the rehabilitation programmes south of the border, says that only 16 per cent of the prisoners who graduate from its programmes are reconvicted, whereas 43 per cent of non-graduates of its programmes are reconvicted. Rehabilitation programmes work, so let us push the issue higher up the political agenda. That would make a significant difference to cutting crime in our communities and would save a lot of misery for the many families who have members who are drug addicts. For goodness' sake, let us have Scottish statistics and information. I ask the Government to start to measure the success of existing rehabilitation programmes so that we can find out how to improve them.

16:34

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I begin by referring to Colin Fox's speech, which was characteristically thoughtful. I am reminded of the tale of Horatio Bottomley, a well-known MP in the first part of the last century who was eventually imprisoned. Another MP who was on an official visit to the prison found him sewing mailbags and said, "Ah, Bottomley—sewing?" to which Bottomley replied, "No, reaping." In some way, the story typifies the idea of punishment in that era.

I say with respect that, in his speech, Patrick Harvie showed that he may not have thought through his philosophy on the issue. Perhaps in a future debate we should try to define the point at which punishment should come into play. Sad to say, human nature is such that punishment has a role to play. Where the dividing line between punishment and rehabilitation is to be found and how to avoid the revolving door are subjects that we will have to think about again in another debate.

Pauline McNeill cut straight to the chase by saying that the effectiveness of rehabilitation is a moot point. Many members asked why rehab is not available to prisoners on shorter sentences of six weeks to four years. MSPs are elected to the Scottish Parliament for four years; we know that four years is a long time. I therefore find the lack of rehab during those sentences astonishing. Although I was not party to the report, I fully support the recommendation that consideration should be given to rehab for people on shorter sentences.

The minister drew our attention to the improvements that the SPS has made. Indeed, he also alluded to the arrangements for prisoners on release. Again, we will need to look at the matter in greater depth at another time.

Bruce McFee made a good contribution to the debate. He took us back to the 1960s idea that it is only normal that people do not get rehab before they leave prison. He also highlighted the issue of suitable alternatives to short custodial sentences.

Margaret Mitchell made a thoughtful speech in which she, too, drew attention to issues arising from sentences of six weeks to four years. She spoke about the contribution that support from prison officers can make.

Richard Lochhead advanced the crucial argument that we are not concentrating enough on the issue of drugs. I endorse absolutely what he said. We know that the drug problem is out there: drugs are the cause of much sadness and the reason why people go into prison and prostitution. I do not doubt the figures that Richard Lochhead gave. No doubt he is right to say that it costs £33,000 a year to keep someone in prison. It might be cheaper to send them away to Eton or somewhere like that.

Jeremy Purvis: That might be a worse punishment.

Mr Stone: It probably would be a worse punishment. We could ask Jamie McGrigor about that.

This speech will be my last contribution to a Justice 1 Committee debate. I have been on the committee but a short time. Next week, a motion will be laid before the Parliament to transfer me to the Enterprise and Culture Committee. I will be back with Alex Neil—already my Justice 1 Committee colleagues are looking very pleased to hear that I am leaving them.

I thank my committee colleagues for putting up with a member who quite often was not at meetings. I pay particular tribute to the clerks for their support. Having never served on a justice committee before, I had to embark on a steep learning curve. Although I did not reach the top, my time on the committee has been useful. I give thanks to committee members, clerks and, indeed, the Deputy Minister for Justice.

16:38

Bill Aitken (Glasgow) (Con): Like other members, I compliment the Justice 1 Committee on its comprehensive and thoughtful report. Obviously, a considerable amount of research and work went into its preparation.

Notwithstanding the slightly eccentric contribution from Patrick Harvie, most members agree that custody has three purposes: the protection of society in serious cases, punishment and rehabilitation. The measure of success of rehabilitation is the reduction in overall offending or the cessation of criminality by the individual

concerned. None of us in the chamber is happy with the results that we have seen in relation to the effectiveness of rehabilitation. All of us are well aware of and deeply concerned about the fact that the reoffending rate is so high.

Patrick Harvie: Bill Aitken talks about measuring the effectiveness of rehabilitation. I would like to underline the fact that my speech was intended to question the role of punishment and not to rule it out, so will he tell the chamber how we should measure the effectiveness of punishment?

Bill Aitken: Again, as I said, the effectiveness of punishment has to relate to the frequency or, indeed, the cessation of criminality. Unfortunately, over the past number of years, a bias away from punishment has grown in the system and the overall figures may reflect that.

One of the principal arguments in the committee's report relates to the attitude of the Scottish Prison Service regarding short sentences. The SPS has got it totally wrong. There is room for rehabilitation in all but the shortest sentences. I hope that the minister will lean on the SPS to put some work into that.

The assessment that the committee proposes is interesting. It could be applied not only to the duration of the sentence, but to the type of person involved. Some criminals are professional and incorrigible. However, the vast majority have probably drifted into crime as a result of unemployment and drugs. I have great respect for Apex Scotland and other organisations that do so much to get people who have been convicted and served custodial sentences back into work—some, of course, for the first time, which raises questions about the benefits system, although we cannot explore that matter here.

Jeremy Purvis: Will the member give way?

Bill Aitken: I am sorry, but I am short of time.

As Mary Mulligan pointed out, literacy is another important aspect, on which a lot of work has to be done. However, as has been said in many debates, one of our principal problems is drugs and the drug culture. The Executive must be criticised for not doing enough to reduce the level of drug taking in prison. I remember visiting Barlinnie prison in the first year of the Parliament and seeing a unit to which prisoners could volunteer to go to stay clear of drugs—the existence of such a unit was in itself an indictment of the system. The people there were working hard, but there was a secondary problem—as soon as the prisoners were released from prison, the temptation of drug pushers came their way. Not enough is being done in respect of external rehabilitation. The Justice 1 Committee is correct to point out that external agencies should be doing more.

We will see what happens as time advances, but none of us is happy about the success rate of rehabilitation in prison. There has to be a lot more work and consideration, but the committee is to be congratulated on its efforts.

16:42

Mr Kenny MacAskill (Lothians) (SNP): The report is short, as is the debate, but a considerable number of matters have been raised, including literacy and numeracy skills, the role of families in rehabilitation, tackling drugs and the importance of social work departments interacting with organisations within and without prisons.

We welcome the fact that the report seeks to bring together and harmonise two fundamental issues—prison and rehabilitation. Prison is an unwelcome necessity in our society and—unless we believe in utopia—it is here to stay. Rehabilitation is a by-product of prison, not its primary function. The Justice 1 Committee is to be commended for reviewing the effectiveness of rehabilitation and prison and for seeking improvements. There is no suggestion of an immediate cure for problems, because there is none. We need to enhance and improve what we have and bring in innovative measures, but there is no silver or magic bullet. The report is welcome and worthy and should be treated as such.

Prison and rehabilitation are distinct. I agree with the deputy minister and disagree with Mr Harvie. The primary function of prison is the punishment of offenders and the protection of the public. That is its core value. Following from that is rehabilitation, but rehabilitation is not the primary purpose of prison. People are not sent to prison to be rehabilitated. If we wish to rehabilitate people because they have a drug or alcohol addiction, we should send them to whatever organisation exists to address that problem. The primary reason for sending somebody to prison is that they have committed an offence that our society views as of such magnitude that it can be marked only by a prison sentence and/or that they are such a danger that they require to be confined for the safety and security of the rest of society.

Rehabilitation is important, because we live in a society in which we do not wish prisoners to break rocks, work in the salt pans or simply eat porridge. A democratic, civilised society has a duty to do what it can to reintegrate people who are in prison. The important point that I take from the report is that, in many instances, we need to drive at reintegration, not rehabilitation. Many members mentioned the importance of maintaining family links and dealing with numeracy and literacy skills. We must address those issues, because they go back to the reasons why people are in prison in the first place. In many cases, they are there because of deprivation or addiction.

We must consider how to fine tune the system and ensure that treatments that take place in prison continue outwith it. However, we delude ourselves if we suggest that the aim of prison is to rehabilitate, although prison can assist in that. When we confine people or punish them, we have a duty to do our best to reintegrate them into society, but that can never be the core or kernel, because prison is simply not capable of that. We can ensure that, as far as possible, we have a seamless system, that families can attend and that we provide drug and other addiction services, but, fundamentally, we must recognise that the primary role of prison is to punish and protect. While prisoners are in the care of society, we must do our best to rehabilitate them, but that is a distinct matter. The Justice 1 Committee has done a worthy job in showing how the two issues interact, but we must accept that they are distinct.

16:46

Hugh Henry: I agree entirely with the point with which Kenny MacAskill finished his speech: prison is used to protect the public from the behaviour of individuals. We punish individuals in that way when we deem their offences to be significantly serious, but, while they are in prison, we have an obligation to consider how we can encourage them to change their behaviour and how we can prepare them for reintegration into society. With that in mind, we must get smarter at evaluating the impact that our interventions have on prisoners. I accept that the issue is complex with many interacting variables, but we need to know whether what we are doing makes a difference and, if so, what part makes the biggest difference. I hope that the research will continue to examine the most effective methods.

Christine Grahame: Given Dr Loucks's evidence to the Justice 1 Committee that a person is six times less likely to reoffend if they keep up family contact, what steps will the Executive take to have more family contact officers in prisons, following the Cornton Vale model?

Hugh Henry: I intended to come to that issue. Pauline McNeill, Christine Grahame and others mentioned the importance of family contact, which we recognise. The most recent prisoner survey showed that 91 per cent of prisoners are in regular contact with someone outside the prison and that four in 10 prisoners receive weekly visits. As that contact is important, we are reviewing the role of the family contact development officers. We want to ensure that staff are used correctly and that interventions are appropriate. If we can improve on the service that they deliver, we will do so.

I will touch on the issue of short-term prisoners. The minister, Cathy Jamieson, and I have said several times that there are people in prison who

should not be there and that we need to find alternatives for them. We recognise the futility of some very short sentences. Much of our recent work has been focused on those issues. However, it is wrong to say that the SPS does not work with short-term prisoners, although we need to be realistic about what short-term prisoners can obtain from the SPS. The SPS tries to help short-term prisoners who have addictions and attempts to stabilise drug users. It also assists short-term prisoners with health problems, provides help with identifying accommodation and employment opportunities and supports and facilitates family contact.

As some members have said, there are significant issues with literacy and numeracy. However, it is not realistic for us to ask the SPS to undo during a very short sentence the damage that has been done in someone's life. We need to strike a balance and ensure that we deliver what is appropriate whenever we can.

Jeremy Purvis touched on the home detention curfews. The Minister for Justice said in evidence to the Justice 2 Committee on the Management of Offenders etc (Scotland) Bill that it is estimated that around 25 per cent of those released on home detention curfews would have additional conditions attached that provide for interventions to reduce offending behaviour.

Margaret Mitchell asked about the definitions of short-term and long-term sentences. The distinction in the legal definitions was drawn in the Prisoners and Criminal Proceedings (Scotland) Act 1993, which the Conservative Government of the time introduced. We all acknowledge that things have moved on and we need to consider not just what is happening with those who are in prison short term, but alternatives to their coming in.

Margaret Mitchell also raised the issue of having adequate staffing levels to allow rehabilitative work, which relates to Richard Lochhead's complaint about prison staff being dragged away to perform escort duties. If my memory serves me right, Richard Lochhead opposed the measures that we took to ensure that prison staff were not dragged away in that manner. That is an example of inconsistency.

In general, the debate has been good and we have heard useful contributions. All of us across the parties in the chamber agree that significant work needs to be done. I hope that we can agree about the purpose of prison and I look forward to the committee's recommendations helping to inform our approach to rehabilitation in prisons in the period to come.

16:52

Stewart Stevenson (Banff and Buchan) (SNP): Given that I speak as the deputy convener of the Justice 1 Committee, I will start on a consensual note by highlighting one thing on which the deputy minister and I clearly have exactly the same policy: we both went to the hairdresser this week to let the sun in at the top.

I hope that colleagues will not misunderstand me when I say that I know many people who are currently in prison—of course, they are mainly staff rather than prisoners. On an administrative matter, I know that the convener of the committee, Pauline McNeill, had to leave the debate early. There was no discourtesy intended; she had a long-arranged meeting with a minister. Sometimes parliamentary business fights against such things. I know that she and other members of the committee will read the *Official Report* carefully. We thank all those who contributed to the debate; everyone has said something worth listening to.

The committee has received responses to its report from both the SPS and the Executive. I will examine those responses and consider the extent to which they address what the committee said in its report and what was said in the debate today. The SPS's initial response—as it is described—states:

“in custodial settings ... imprisonment – and particularly short-term imprisonment – tends to make things worse rather than better”.

There is broad consensus on that. It also states:

“Rehabilitation requires the willing and indeed consistent co-operation of the offender if it is to make a difference.”

The committee's report is about rehabilitation in prison, although it became apparent almost at once that rehabilitation could not, must not and shall not finish at the prison gates. Indeed, prison is merely an opportunity to commence rehabilitation; certainly in only a very few instances is it the opportunity to complete rehabilitation. Therefore, we must not raise overly our expectations about what the Prison Service can do on its own. Indeed, the response from the SPS makes the point that

“offence-specific work is ... positive ... for a whole raft of reasons, though the impact on subsequent recidivism is likely to be marginal.”

That reflects the reality of the situation. As Kenny MacAskill and others have said, prison is not rehabilitation in itself; it is merely an opportunity to start the process of rehabilitation.

The committee's report has a significant number of recommendations, although I might argue with the SPS's belief that there are 35 of them. The SPS makes the fair point that implementing all the recommendations will require the investment of

additional money that it does not currently have. Perfectly properly, what the committee has done has been ambitious, but we have not imposed undue constraints by setting timetables for the implementation of all the recommendations. I hope that the recommendations will stand the test of time, will be prioritised and will, over time, be resourced to ensure that they are implemented.

The SPS says that it will need to evaluate the impact of implementing the recommendations to determine the likely value for money of each proposal. We cannot gainsay that. The effect of implementing many of the recommendations—and, indeed, of doing many of the things that we do in the criminal justice system—is extremely long term. We will not know whether we have made real differences for, perhaps, a decade. However, within that decade, we must make decisions that assume that the interventions that we are going to make will have particular effects. We must not draw back from acting on a number of the recommendations in the report if the consensus is that they will deliver value, even if there is currently an absence of objective, factual feedback that says that they will definitely work. We have to go forward on the basis of believing that they will work and we have to test that belief against the information that becomes available over time.

I welcome the fact that—if I have read the SPS's response correctly—the task force of the international round-table for correctional excellence is chaired by the SPS. That shows leadership on the part of the SPS.

The SPS and others will know that I have not always been its firmest friend. However, when I kick lumps off it, I do not deny that many excellent things are done in the service. I welcome the fact that Alec Spencer and Tom Fox are at the back of the chamber, listening carefully to what we have been saying today.

The SPS's response makes observations about the complex interactions that exist in relation to reconviction data. That is absolutely factual and we must be careful in that regard. The response adumbrates a number of reviews.

The Executive's response to the committee's report is perhaps not entirely clear in relation to what we said about literacy and numeracy. It refers to the learning for life programme. I hope that that programme is addressing the committee's concerns in that regard. I think that it probably is.

The Executive makes the rather bold claim that the SPS believes that an outcome of the Management of Offenders etc (Scotland) Bill will be the elimination of offending behaviour. Would that I could accept that that is true.

As the minister said, 6,808 people were in prison last night. However, let us not forget that that means that 5 million people were not in prison last night. When we put people in prison, we do so for the benefit of those 5 million others. Furthermore, although most people in our prisons come from our most impoverished communities, we must never forget that the overwhelming majority of people in those communities are law abiding and deserve our support.

I close by repeating the obvious. Rehabilitation can start in prison, but in our efforts we must ensure that there is continuity of rehabilitation from prison, through release and into the community, for as long as it takes.

Business Motion

17:00

The Presiding Officer (Mr George Reid): The next item of business is consideration of business motion S2M-2790, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a business programme.

Motion moved,

That the Parliament agrees the following programme of business—

Wednesday 18 May 2005

2.30 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Enterprise and Culture Committee Debate: 3rd Report 2005, Restructuring Scotland's Tourism Industry: Report on the Review of Area Tourist Boards

followed by European and External Relations Committee Debate: 1st Report 2005, An Inquiry into the Promotion of Scotland Worldwide: The Strategy, Policy and Activities of the Scottish Executive

followed by Business Motion

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 19 May 2005

9.15 am Parliamentary Bureau Motions

followed by Ministerial Statement: Follow-up to the Audit Committee Report on Argyll and Clyde Health Board

9.45 am Executive Debate: Tackling Serious and Organised Crime - Developing Strategic Partnerships

11.40 am General Question Time

12 noon First Minister's Question Time

2.15 pm Themed Question Time—Health and Community Care; Environment and Rural Development

2.55 pm Executive Debate: Voluntary Sector and the Social Economy

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 25 May 2005

2.30 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Executive Business

followed by Business Motion

followed by Parliamentary Bureau Motions
5.00 pm Decision Time
followed by Members' Business
Thursday 26 May 2005
9.15 am Parliamentary Bureau Motions
followed by Scottish National Party Business
11.40 am General Question Time
12 noon First Minister's Question Time
2.15 pm Themed Question Time—
Enterprise, Lifelong Learning and
Transport;
Justice and Law Officers
2.55 pm Stage 3 Proceedings: Prohibition of
Female Genital Mutilation (Scotland)
Bill
followed by Parliamentary Bureau Motions
5.00 pm Decision Time
followed by Members' Business—[*Ms Margaret
Curran.*]

Motion agreed to.

Parliamentary Bureau Motion

17:00

The Presiding Officer (Mr George Reid): The next item of business is consideration of a Parliamentary Bureau motion. I ask Margaret Curran to move motion S2M-2786, on approval of a Scottish statutory instrument.

Motion moved,

That the Parliament agrees that the draft Producer Responsibility Obligations (Packaging Waste) Amendment (Scotland) Regulations 2005 be approved.—[*Ms Margaret Curran.*]

The Presiding Officer: The question on the motion will be put at decision time.

Decision Time

17:01

The Presiding Officer (Mr George Reid): There are three questions to be put as a result of today's business. The first question is, that motion S2M-2764, in the name of Iain Smith, on behalf of the Procedures Committee, on its fourth report of 2005, on private legislation, be agreed to.

Motion agreed to.

That the Parliament notes the Procedures Committee's 4th Report 2005 (Session 2), *Private Legislation* (SP Paper 334); agrees that the changes to Standing Orders set out in Annexe A to the report be made with effect from 12 May 2005, but agrees that new Rule 9A.1.4A shall not apply to any Bill introduced before 5 September 2005.

The Presiding Officer: The second question is, that motion S2M-2762, in the name of Pauline McNeill, on behalf of the Justice 1 Committee, on its third report of 2005, on its inquiry into the effectiveness of rehabilitation in prisons, be agreed to.

Motion agreed to.

That the Parliament notes the recommendations contained in the Justice 1 Committee's 3rd Report 2005 (Session 2), *Inquiry into the Effectiveness of Rehabilitation in Prisons* (SP Paper 291).

The Presiding Officer: The third and final question is, that motion S2M-2786, in the name of Margaret Curran, on approval of a Scottish statutory instrument, be agreed to.

Motion agreed to.

That the Parliament agrees that the draft Producer Responsibility Obligations (Packaging Waste) Amendment (Scotland) Regulations 2005 be approved.

A90 Upgrade

The Deputy Presiding Officer (Murray Tosh):

The final item of business today is a members' business debate on motion S2M-2367, in the name of Nanette Milne, on a call for action on the A90. The debate will be concluded without any question being put. I invite those members who are leaving the chamber to do so as efficiently, quickly and quietly as possible.

Motion debated,

That the Parliament notes with concern the number of road accidents on the A90 north of Aberdeen between Tipperty and Balmedie; further notes the significant number of new houses in and around the Ellon area which have added to the high volumes of traffic on this already congested road, and considers that the Scottish Executive should take action to upgrade this stretch of road as a matter of extreme urgency.

17:03

Mrs Nanette Milne (North East Scotland)

(Con): I am pleased to have been given the opportunity to bring the vexed issue of the A90 north of Aberdeen back to the Parliament for debate. It is five years, almost to the day, since my colleague David Davidson secured the Parliament's second members' business debate on the subject—five years during which north-east MSPs from across the political spectrum have raised the issue with ministers; five years of increasing traffic flow; five years of injuries due to road accidents; and five years of failure by the Scottish Executive to resolve the problem.

I fully agree with all those who seek a dual carriageway road all the way from Aberdeen to Peterhead, but I decided to focus on the stretch between Balmedie and Tipperty because of the increasing frustration and anger that is expressed by users of that stretch of road as they travel each day between Aberdeen and Ellon and beyond and because of the urgent need for an upgrade of the road to dual carriageway standard.

An electronic petition by Iain McDonald of Ellon attracted 2,606 signatures in the two months between 28 February and 30 April. That is by far the largest number of signatures that any e-petition to the Parliament has attracted to date. Anyone who has read the comments that the petitioners have added will know that the local community is incensed by the everyday hold-ups and delays that are caused by the stretch of road and is concerned about the regular toll of accidents and the near misses that are a daily occurrence. In the past 10 years, there have been about 100 accidents that have resulted in injury, which must surely give the Minister for Transport cause for concern.

As was pointed out in the previous debate on the issue, the Tippetty to Balmedie stretch of the A90 remains the only length of single carriageway between Ellon and Dundee, excluding the part of the road that goes through the city of Aberdeen. Cars and buses remain the only form of transport in that corner of Scotland. Park-and-ride schemes are gaining popularity, but buses, too, are held up on the single carriageway part of the road. The delays inevitably lead to driver frustration and risky overtaking. Accidents are a common result. Environmental concerns arise, because exhausts from idling engines pollute the atmosphere at congested peak times.

It is now fully three years since the Scottish Executive agreed to fund a Scottish transport appraisal guidance multimodal assessment of the Balmedie to Tippetty section of the A90, to consider options for upgrading the route. I understand that the findings of that report went to the north-east Scotland transport partnership on 3 February this year and that NESTRANS promised to respond formally by the end of February, following which the minister's decision was expected. It is three months since then, and still we have no decision.

It is small wonder that the road's users are furious. Every month of delay brings more frustration and accidents. The traffic flow, which has increased by 30 per cent since 1992, continues to increase as a result of major housing developments in Ellon, Newburgh, Balmedie and other settlements in that part of Gordon and Buchan.

I hope and expect that the minister will say today that action will be taken in the very near future. If that action is not dualling the road, public anger will be enormous. Iain McDonald said on 25 April:

"It will be at least another 5 years before the Western Peripheral Road is built round Aberdeen. We don't want to wait another 5 years before this road is upgraded."

As the minister prepares to move on to higher things, I hope that he will approve a dual carriageway from Balmedie to Tippetty as a tangible legacy to the north-east of his tenure as Minister for Transport. I look forward to his response to the debate.

17:07

Nora Radcliffe (Gordon) (LD): I thank Nanette Milne for securing a debate about a section of road that is notorious in the north-east. The Tippetty to Balmedie stretch of the A90 is a single carriageway in what is otherwise a dual carriageway between Aberdeen and Ellon. Members who represent the north-east have argued since the Scottish Parliament's inception in 1999 for that stretch to be upgraded. Our first

Minister for Transport and the Environment, Sarah Boyack, reviewed all the road projects that were on the stocks when she took office and identified the top 10. The project that we are discussing was in the next tranche just below the top 10, so it was recognised as a high priority to deal with at that time.

The bit that I know best is at the north end of the dual carriageway, where the road becomes a single carriageway. I have seen more nasty and dangerous near misses there than I care to think about. The main access road into Balmedie from the west cuts across the dual carriageway just yards before it becomes single carriageway. The single carriageway starts with a straight stretch of road, a couple of hundred yards along which is an exceedingly popular inn on the left, which traffic enters and exits. A right-hand turning lane has recently been created for that inn, so people dice with death to pass traffic before the dual carriageway runs out and are then faced with a straight stretch that is deceptively wide because of the turning lane. That is a recipe for disaster and it is amazing that a disaster has not happened yet. For road safety, it is important to dual the single carriageway as soon as possible.

Nanette Milne mentioned the growth in the population using the road. Ellon is a growing town that hopes that its economic development will prosper. No rail access is available north of Aberdeen into Banff and Buchan or for goods going into and out of Ellon, so everything travels by road. The economic development of Ellon and areas further north into Banff and Buchan demands decent infrastructure, which means dualling the road.

I am sure that my other north-east colleagues will add their voices to the argument. The case is extremely strong for tackling this dangerous leftover bit of single carriageway and dualling it as soon as possible, which would benefit the north-east as a whole and Ellon and Banff and Buchan in particular.

17:10

Richard Lochhead (North East Scotland) (SNP): I, too, congratulate Nanette Milne on securing the debate, which comes five years after a similar debate was secured by her colleague. Five years after we debated the issue in 2000, we are again calling for the A90 to be upgraded, particularly the stretch between Balmedie and Tippetty. I also want to speak about the road beyond that stretch, because we are talking about all of the A90 north of Aberdeen that is single carriageway. However, those of us who regularly drive on that stretch understand the frustrations that local residents have expressed. People in that part of the world have to drive because there are

virtually no other forms of transport available. There may be irregular bus services, but the vast majority of people must drive to work.

In the five years since we debated the issue, the travel-to-work area for Aberdeen has expanded. As Nora Radcliffe said, Ellon has dramatically expanded. As a result, even more people use the roads, but the A90 has not been upgraded. Nanette Milne referred to the many accidents that have resulted from the increase in traffic, and all of us recall the day recently when there were two accidents on that stretch of the A90, after which many constituents contacted us about the lack of progress in upgrading the road. Such accidents create havoc for the thousands of people who try to reach work in Aberdeen and lives are put at risk.

We could look further north and consider the north-east communities north of Aberdeen. A single carriageway goes beyond Ellon to Banff and Buchan. That is a crucial issue, as there are major industries in that part of the world—I refer to the St Fergus gas terminal, Peterhead power station, the fishing and farming communities and so on. The area is a major economic area, but it does not have major roads or a modern transport structure, which leaves it at a disadvantage. If the western peripheral route is built but the A90 north of Aberdeen is not upgraded, there is a danger of having some of the most modern transport infrastructure around Aberdeen joined to an antiquated single carriageway between Tipperty and Balmedie and north of Ellon.

It would be madness to build the western peripheral route—which would perhaps come out at Blackdog—and have a single carriageway joined to it. My concern is that the western peripheral route will act as a magnet for new investment to the area, but areas in the north-east beyond could be stuck with a single carriageway and at a further economic disadvantage. Any new investment in the area could stay around the western peripheral route, where there will be economic advantages and easy transport links. That is a concern.

We must remember that farming and fishing communities need more support. Today, hauliers and people involved in forestry, farming and fishing lobbied the Parliament. All of them suffer because of the single carriageway and they all seek a boost from the Government as a result of having to contend with other issues. They talked about the impact of the working time directive and rising fuel costs. Modernising the A90 north of Aberdeen would give a welcome boost to people in those industries.

Members call on the minister today to give a definite timescale for decisions and good news. We want to know when investment will be

forthcoming. I plead with him to make the debate worth while and valuable by making an announcement that will progress the debate to the next stage so that we do not have to lodge similar motions to the one that Nanette Milne lodged. We do not want to be frustrated or have to come back to look for good news. I plead with the minister to give us and—more important—the residents who are affected and the communities in north-east Scotland good news.

17:14

Richard Baker (North East Scotland) (Lab): I congratulate Nanette Milne on securing the debate. Members in the north-east have received many representations on the issue, which is reflected in the cross-party concern that has been expressed during the debate. There is concern not only about the congestion on the A90 between Tipperty and Balmedie and the potential for further congestion with developments in Ellon, but about meeting the Executive's aspirations for safety on our roads—Nanette Milne was right to highlight that.

Like other members, I have received communications from people who have been exasperated by lengthy journey times on the roads, and I wrote to the minister to highlight some of the concerns that have been expressed to me, and of which other members have spoken tonight. The minister's response pointed out that the Executive had previously advised NESTRANS that it would fund a multimodal assessment of the Balmedie to Tipperty section of the road, with £100,000 being invested in that. The study was to examine a range of options for improving the road. We have heard about the preferred options, which have been mentioned by people who have been in touch with us and by members. The latest NESTRANS progress summary states that an Executive response is still awaited to its submission on possible trunk road schemes, in which the A90 between Balmedie and Tipperty is discussed.

It strikes me that the debate comes, therefore, at an opportune time, as the minister weighs up what action should be taken to address this important issue. The concerns that are being expressed tonight reflect the widespread desire for the Executive to make a timely decision on how the situation can be resolved. The minister is well aware of the many demands for improved transport infrastructure in that part of the north-east, and it is right that members have reflected on the needs beyond Aberdeen, in the north and in Banff and Buchan. However, although there are other important issues around the need to improve the infrastructure, especially north of Aberdeen, the A90 between Balmedie and Tipperty needs to

be addressed and has been waiting to be addressed for quite some time.

It is important to acknowledge the significant progress that has been made so far in developing transport in our part of Scotland, with the western peripheral route and the proposal for the crossrail scheme. I hope that we are making progress on that, too. I hope that the welcome commitment that the Executive has shown to improving transport in north-east Scotland indicates that it will take action to address the concerns that have been expressed about the A90 not only in this debate, but by many people over a considerable time. I look forward to hearing the minister's response.

17:16

Mr David Davidson (North East Scotland) (Con): Having read a speech that I made five years ago this week, I was tempted simply to trot it out again and say that nothing much has changed. However, I must be honest; we now have a minor roundabout outside an industrial estate in Ellon and some minor works have been done around the Hatton bends.

Nevertheless, I will refresh the minister's memory and remind him of what I asked for five years ago: I called for the Hatton bends to be straightened because it was, and still is, a terrible accident black spot. I asked for dual carriageway all the way from Aberdeen to Peterhead and for the Aberdeen western peripheral route to be brought forward. The reasons for all those requests were road safety, economic development, housing development, the need to reduce congestion not just in Aberdeen, but to the north and north-west of the city, the need to tackle pollution in general and the lack of public transport. The few buses that were running were a cause of increased congestion on the road into Aberdeen, because if they stopped and there were no lay-bys the traffic ground to a halt.

I have mentioned the few little improvements that have been made, but I am very disappointed. I remind the minister while he is still the Minister for Transport—we do not know for how much longer—that tonight is an opportunity for him, as a north-east MSP, to appear to understand the social and economic needs of north-east communities and to use his influence. That influence is undoubted and will no doubt get much greater if he achieves the great advancement that he seeks and becomes—perhaps—Deputy First Minister with, possibly, a brief for transport. However, I see that the minister is doing nothing different from usual; like the previous transport minister, he has ducked and dived. Neither of them has made decisions on improvements in the area. Yes, we have a commitment to the Aberdeen western peripheral route, but there are

problems with that—to which I will return—to do with connecting the north part of the A90 in Aberdeenshire with the south part of the A90.

Banff and Buchan has had its economy hammered by the closure of RAF Buchan, by cutbacks in agriculture and by the destruction of our fishing and fish-processing industries by the common fisheries policy. It is a scandal that the pan-European highway grinds to a halt at the Bridge of Dee—it is as if everything north of that does not exist. Why does the highway not go on to Peterhead, as was suggested in our roads plans a long time ago? The first Scottish minister to be responsible for that was Sarah Boyack. I spoke with her this evening, and she said, "It's not my fault now. Ask the current minister." So, I am asking the current minister.

The two authorities in Peterhead harbour are working together to try to expand the activities of the port. There has been an improvement in the marketplace for sea transport, but no port can compete seriously if it does not have good road or rail—or both—connections.

As Richard Lochhead said, some fuel protesters were in Parliament today, but they were not just here to talk about the fuel protest; they were also talking about the working time directive and the major threat to business in the north-east if hauliers cannot operate their lorries properly. A real dual carriageway all the way from the north-east will give an economic spur to brownfield sites around Aberdeen and to the north of Aberdeen. The lorry drivers will be able to go further more safely, and there will be fewer deaths. I ask the minister, as I asked the previous ministers who were responsible for transport: what price should we put on lives? Far too many lives have been lost on the A90 through Aberdeenshire.

Although a lot of inadequate measures have been taken, Nanette Milne is talking about a specific area. That is a green light; if we do not have a dual carriageway to the north of Aberdeen, it is pointless to think that the western peripheral route will be of any benefit to the communities to the north and north-west of Aberdeen. I ask the minister again, before he leaves his post—assuming that he is victorious; I give him my vote—will he give us a sensible answer about what timescales are involved in the decision-making process about dualling? On what other aspects of connection through the western peripheral route is he going to make announcements? Why is it that he has gone back on what the previous minister said to me some years ago, to the effect that the southern part of the western peripheral route was set in tablets of stone? What caused the further delay of having five routes, two of which do not meet the criteria for the Aberdeen western peripheral route and two

others of which do not have a Scottish transport appraisal guidance assessment? All those would connect together to form a sensible approach by the minister, on behalf of the Executive, that would tell the people of the north-east that they are getting a fair share of transport infrastructure development in Scotland.

17:23

Stewart Stevenson (Banff and Buchan) (SNP): Presiding Officer, I got a signal that I could take 20 minutes for my speech—I will see what I can do.

As the member for Banff and Buchan, I open by gently advising some on the Conservative benches not to talk down Banff and Buchan. The case for improved transport into the north-east of Scotland is not based on the narrow self-interest of the people and businesses of the area, although they would undoubtedly benefit; it is much more substantial than that. We are a net contributor to the economy of Scotland and it is to the detriment of Scotland if the area is not invested in to enable us to raise our game even further. Indeed, in 1987, when my colleague Alex Salmond was elected, unemployment in the Banff and Buchan constituency was 1.2 times the Scottish average; today it is 0.4 times the Scottish average. Under Alex Salmond's benevolent leadership or dictatorship—call it what we will—we have exploited the opportunities with which nature, business and the climate have presented us. That might not be entirely down to Alex Salmond, but it certainly is in some part. However, we demand the opportunity to make even more of a contribution, and it is that on which I base my speech. There are challenges in Banff and Buchan, but there are also opportunities, which are much more important.

In that vein, I do not limit my ambitions in the way in which Nanette Milne does. I thank her for the opportunity for the debate, which is welcome. However, I think that we should have a dual carriageway all the way to Fraserburgh, not one that stops at the small town of Peterhead, although of course Peterhead is a very important town.

At last there has been some slight progress on the northern part of the A90. Today I received information about the Hatton bends tender. In the debate five years ago, Alex Salmond welcomed the commitment of the Executive to doing that work. The tender will go out on 26 May and the work will start on 22 August and continue for 45 weeks. Let us hope that the interruption is not too much.

The Minister for Transport (Nicol Stephen): The member has stolen my speech.

Stewart Stevenson: I am sorry if I have stolen the minister's speech, but I have shown how we in Banff and Buchan are well wired into what is going on. We will be better wired in with better roads.

Some statistics on injuries and deaths will help to anchor the debate. Between 1999 and 2003, six fatalities per year occurred in Aberdeen, whereas 25 per year took place in Aberdeenshire. That is despite the fact that the populations of the two areas are broadly similar, albeit that Aberdeenshire's is slightly bigger. Research shows that 50 per cent of accidents happen within two miles of home, so the problem is perhaps even more significant than that ratio would suggest. The total number of accidents for the period is 556 in Aberdeenshire and 424 in Aberdeen. Those figures demonstrate, perhaps not conclusively but illustratively, the nature of the problem.

After BEAR Scotland Ltd took over the maintenance of the part of the A90 that is the subject of tonight's debate, as well as the other parts of that road, some important issues became apparent that people had not previously realised. For example, BEAR had not realised that the A90 north of Aberdeen was the only part of its empire in which no alternative transport medium was available. Whereas every other bit of trunk road that BEAR was given connected places that, in the event of the road being blocked, could be accessed by railway, no railway goes to Ellon, Peterhead or Fraserburgh. Much though I might like such a railway to be built, I suspect that the cost to benefit ratio would make it unreasonable for me to demand one. However, once the Borders railway opens, mine will be the only parliamentary constituency in Scotland with neither an airport nor a railway. That illustrates a key point.

The fact that only a single carriageway goes to Peterhead produces effects that not all people might realise. For example, I am told that the speed limit on single carriageways for heavy goods vehicles is 40mph. Therefore, such vehicles travel at only two thirds of the speed at which they could travel if they were on a dual carriageway. That not only slows down commercial traffic to its detriment but increases the likelihood that queues of cars will build up, the drivers of which experience tremendous frustration. Frustration is one of the key causes of accidents. The minister might care to think about that issue.

Alex Salmond said in the debate in 2000:

"I greatly welcome the progress on the Hatton bends ... I welcome the minister's commitment to the project."—*[Official Report, 10 May 2000; Vol 6, c 496.]*

It has, indeed, been a sair fecht and a long time.

I find it slightly ironic—as a mathematician, I always notice these things—that the debate on

that day was on motion number S1M-737, in the name of David Davidson. In the north-east, we ain't jetting our way to a new transport infrastructure. If the Minister for Transport can tell us different, he will have our eternal gratitude.

17:28

The Minister for Transport (Nicol Stephen): I congratulate Nanette Milne on securing tonight's important debate on a scheme that I agree has taken too long to progress. I also congratulate Nora Radcliffe and Malcolm Bruce, who is the local MP, both of whom have regularly lobbied me and previous transport ministers for the upgrade.

Proposals for improving the stretch of road to which the motion refers go back much longer than the six years that Nanette Milne mentioned. In 1996, a scheme progressed to the stage at which a draft order was published and objections were received. However, no local public inquiry was held. Prior to that, there was a previous scheme for an on-line upgrade of the road. Given that history, which stretches way back, I can understand the frustration that exists at the lack of progress in upgrading the road.

As Nanette Milne mentioned, the STAG appraisal that was commissioned in early 2002 was not completed until November 2004. As had been agreed by the Executive, the STAG appraisal report was then treated as a draft final report, which was passed to NESTRANS for comment. That happened towards the end of the year.

Nanette Milne also mentioned that NESTRANS has now made quite significant technical comments on the draft final report. Those comments have been received by the Scottish Executive but, given their nature, they have to be discussed with the consultant involved, and we shall ensure that that happens between the consultant, NESTRANS and the Executive officials involved as quickly as possible, and I shall ensure that that work is completed quickly. As soon as that is done, I will receive a report on the outcome and will reach an early decision on the best way forward.

I was deeply concerned at the recent tragic accident on that stretch of road, and I am aware of the frustration and great inconvenience caused by delays when there are road accidents or significant congestion on the route. The Executive has paid close attention to the representations made by the local communities served by the route. We shall fully investigate the circumstances of the recent fatal accident and take appropriate short-term measures based on the recommendations of the technical report. However, I realise that short-term measures are

not enough, and I am determined to make a positive announcement about the improvement of the Balmedie-Tipperty section of the A90 as soon as possible.

Meeting closed at 17:31.

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