



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# PUBLIC PETITIONS COMMITTEE

Tuesday 28 January 2014



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**PUBLIC PETITIONS COMMITTEE**

**3<sup>rd</sup> Meeting 2014, Session 4**

**CONVENER**

\*David Stewart (Highlands and Islands) (Lab)

**DEPUTY CONVENER**

\*Chic Brodie (South Scotland) (SNP)

**COMMITTEE MEMBERS**

\*Jackson Carlaw (West Scotland) (Con)

\*Angus MacDonald (Falkirk East) (SNP)

\*Anne McTaggart (Glasgow) (Lab)

David Torrance (Kirkcaldy) (SNP)

\*John Wilson (Central Scotland) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Gordon Buchanan

Mike Burns

Alex Fergusson (Galloway and West Dumfries) (Con)

Paula Fraser (Say No to Tesco)

Ellie Harrison (Say No to Tesco)

Duncan Orr-Ewing (RSPB Scotland)

**CLERK TO THE COMMITTEE**

Anne Peat

**LOCATION**

Committee Room 1



# Scottish Parliament

## Public Petitions Committee

*Tuesday 28 January 2014*

[The Convener *opened the meeting at 09:35*]

### New Petitions

#### National Bird (PE1500)

**The Convener (David Stewart):** Good morning. I welcome you all to this historic meeting of the Public Petitions Committee. As always, I ask everyone to switch off their mobile phones and other electronic devices, as they interfere with our sound systems. We have received apologies from David Torrance.

Agenda item 1 is consideration of three new petitions. As previously agreed, the committee will take evidence from the petitioners.

The first new petition is PE1500, by Stuart Housden OBE, on behalf of RSPB Scotland, on the golden eagle as the national bird of Scotland. Members have a note by the clerk, the Scottish Parliament information centre briefing and the petition.

Normally, of course, we would have Mr Housden in front of us, but I understand that he is on urgent business. However, we are delighted to have at the meeting Mr Duncan Orr-Ewing, who is head of species and land management at RSPB Scotland, and Gordon Buchanan, who is a very well-known wildlife film-maker.

I have also received apologies from Rhoda Grant MSP, who is the species champion for the golden eagle. She has passed on her support for the petition.

I invite Mr Orr-Ewing to make a short presentation of around five minutes, which will be followed by questions from me and my colleagues. Obviously, Mr Buchanan should feel free to intervene during our session.

**Duncan Orr-Ewing (RSPB Scotland):** I will give a very brief introduction and then hand over to my colleague Gordon Buchanan to give a bit of detail about his experience of working with the golden eagle, which is a fantastic bird.

We consider the golden eagle to be a true bird icon of Scotland, one of our most majestic animals and a suitable symbol as Scotland's national bird. We call on the Scottish Parliament to place it alongside the lion rampant, the saltire and the thistle as an emblem of this country, which we think could be achieved through simple legislation

or a parliamentary motion. We believe that there is a public mandate for that, as the bird was recently voted the biggest species attraction by Scotland's public; indeed, it polled 40 per cent of more than 12,000 votes in Scottish Natural Heritage's year of natural Scotland poll. We regard that as a sufficient public mandate to nominate the golden eagle as Scotland's national bird, and it builds on the public poll to find a national bird for Scotland that was run a decade ago by *The Scotsman* and championed by the Scottish Parliament's Annabel Goldie MSP—the golden eagle was also the clear winner of that public poll.

The golden eagle was long revered by our forebears. Many Highland chieftains wore eagle flight feathers in their headdresses as a mark of rank, and the eagle motif appears on no fewer than 18 of the historic arms of the clan chiefs. The Royal Scots Greys regiment has the eagle on its badge, and members of the Royal Company of Archers, who are the Queen's guardians in Scotland, wear a golden eagle flight feather. The species is therefore strongly attached to our culture—and, of course, no less strongly to the Gaelic culture, particularly in the Western Isles and north-west Highlands, where even to this day a good number of places have the eagle as their motif.

In his book "The Golden Eagle", which was first published in 1955, the Gaelic scholar, piper and ornithologist Seton Gordon called the species the "King of Birds".

In Scotland, there are 440 breeding pairs of golden eagles, which represent the whole of the United Kingdom's breeding golden eagle population. The species is regarded as Scottish.

We therefore think that the golden eagle is a suitable species to be our national bird.

I will hand over to Gordon Buchanan to give some reflections on his experience, as a film-maker, of working alongside that fantastic bird.

**Gordon Buchanan:** The greatest pity about golden eagles is that so few people get an opportunity to see them. Just last week, I was sitting halfway up a mountain in a very damp hide on Loch Katrine, in the pouring, driving rain and sleet—I have a very glamorous job—waiting for a golden eagle to show up.

Golden eagles have long attracted a mystic reverence, not just in recent times but going back thousands of years. They have been depicted in some of the earliest art forms. It is a bird that human beings have appreciated and, in many ways, sought to emulate. As I was sitting in the hide, there was a whoosh like Concorde going overhead as the golden eagle landed in front of me, and I found myself looking at this magnificent creature. You can marvel at the millions of years

of evolutionary forces that brought this thing into being or just appreciate its inherent beauty—and more: its power and intelligence. Scotland should have a national bird—something that we see as an emblem of our national identity—and the golden eagle is the only candidate.

**The Convener:** Thank you. Again, I put on record our thanks to you for coming along. As I hinted at in my introduction, this is the 1,500th petition that the committee has received, which is a great achievement. The Parliament has received a wide range of petitions. I have always seen petitions as a sort of window between constituents throughout Scotland and the Scottish Parliament.

I have two quick questions. First, you mentioned in your submission that having the golden eagle as a national bird would be very important for tourism. Will you say a bit more about that? Obviously, tourism is vital for Scotland, particularly for the Highlands and Islands. How will having the golden eagle as the national bird of Scotland make a difference?

**Duncan Orr-Ewing:** We think that having a national bird shows a commitment by the Scottish people to the environment. We know that tourism is a very important industry in Scotland. A huge number of people come every year to experience not just our wild landscapes but our wildlife. There are various economic studies, including on the value of white-tailed eagles to the island of Mull. We know that white-tailed eagles are worth about £5 million per annum to Mull alone and that £276 million is spent on wildlife and landscape appreciation trips to Scotland, sustaining about 2,763 full-time equivalent jobs in this country.

**The Convener:** Have you looked at Europe and, indeed, more widely to see what other countries have done in respect of adopting national birds?

**Duncan Orr-Ewing:** Many countries have a national bird as one of their symbols. In Europe, our nearest neighbours in Norway have the dipper as their symbol—we have that species here, too. Finland has the whooper swan, Sweden the blackbird, Belgium the kestrel and France the cockerel. The United States, of course, has the bald eagle. The procedure is fairly routine in many countries.

**Angus MacDonald (Falkirk East) (SNP):** I have had the pleasure of seeing golden eagles flying high in Lewis, Harris and Mull and over in Norway. This is an exciting petition, which I hope is successful. You have both promoted it well.

As you will be aware, I have a members' business debate in Parliament tomorrow to welcome the designation of the Scots pine as Scotland's national tree. It makes sense that we designate a national bird, too.

As a member of the Scottish Parliament's Rural Affairs, Climate Change and Environment Committee, I have been closely following the debate in farming and crofting circles over the past few weeks about the increase in the number of white-tailed—or sea—eagles. I am told that sea eagles, in addition to the damage that they cause lambs, are starting to crowd out golden eagles. Will designating the golden eagle as Scotland's national bird protect it from encroaching sea eagles?

**Duncan Orr-Ewing:** Perhaps not, but it would give the golden eagle greater protection, because the species would be seen as one that belonged to all the people of Scotland.

Some scientific work has been carried out on competition between the white-tailed eagle and the golden eagle, and there is little evidence of competition between them for nest sites and food availability. That is largely because, since their reintroduction, most sea eagles in Scotland nest in trees, particularly on the west coast, in places such as Mull and Skye, whereas the golden eagle tends to be a more upland, crag-nesting species—although we have tree-nesting golden eagles as well.

Some scientific work has been done on the subject, and there is currently little evidence that the species are in competition with each other. As I said, the sea eagle is also a fantastic species that many people come to Scotland to see and observe. We recognise that there are some issues around farming interests and sea eagles, but hard work is going on behind the scenes to develop a solution.

09:45

**Gordon Buchanan:** I think that recognising the golden eagle as Scotland's national bird would offer it further protection, which it needs. Over the past two centuries, the species has been persecuted. Their number has doubled in the past 100 years, but that increase is not that considerable given the on-going protection that they are offered. Colleagues south of the border who appreciate wildlife are absolutely astounded that the persecution—the poisoning and shooting—of golden eagles continues. Giving the golden eagle Scotland's national bird status will help to protect it further. It desperately needs that protection.

**Duncan Orr-Ewing:** The sea eagle is very much a coastal and riverine species, whereas the golden eagle—at least in this country—is much more an upland species.

**Angus MacDonald:** As you rightly say, Mr Buchanan, golden eagles are still being persecuted; indeed, we saw such persecution as

recently as a few months ago with a golden eagle called Fearnan in Angus. Therefore, it is clearly still an issue.

**Chic Brodie (South Scotland) (SNP):** Good morning. I think that Mr Orr-Ewing made the point that choosing the golden eagle would be a commitment by the Scottish people to the environment but, as has been said, people hardly ever see golden eagles. Can you expand on how designation would commit the Scottish people to the environment when few of them have seen a golden eagle, other than perhaps in films?

**Duncan Orr-Ewing:** Not many people see golden eagles regularly, but when they do see one, they regard the experience as awe-inspiring, as my colleague described. As we have seen in various recent public votes, including the year of natural Scotland vote, there is a huge attraction to the species. Much of the mystery that surrounds it relates to whether or not people know the good places to see it.

**Chic Brodie:** Is that because of the bird or the background against which it is professionally presented? One could argue that the osprey, which probably has as much romance attached to it, has an equivalent case.

**Duncan Orr-Ewing:** Yes. Ospreys are, of course, a lowland species, and given that they nest in the same place every year, it is quite easy to show them to the public. To date, unfortunately, we have not managed to achieve a successful public viewing site for golden eagles, but if people go to places such as Arran, Mull and Skye, which are known to be good places for golden eagles, they have a very good chance of seeing them.

**Gordon Buchanan:** The rarest sight in the countryside is a schoolchild. Having two small kids, I know that, although there is a much higher awareness of the environment in schools, it is not quite enough. I think that making the golden eagle Scotland's national bird would generate interest because there would be a tangible connection between Scottish people, including children, and that ultimate emblem of the wild. Scotland has amazingly accessible wildlife, but not enough people are prepared to get out there and do the little bit of groundwork that is needed.

**Chic Brodie:** I accept that, and I do not disagree that an aura surrounds the golden eagle. We have been talking about the species being Scotland's national bird, but the blackbird that sits outside my door waiting to be fed every morning has, I am sure, the credentials to be our national bird.

Given my earlier question, what do you mean when you say in the petition that golden eagles

"capture the spirit of Scotland"?

**Gordon Buchanan:** It is about how we see ourselves as a nation. Are we powerful? Are we intelligent? Are we survivors in the way that the golden eagle is? There are other candidates, but there is a traditional respect for the golden eagle.

At one time, the species was found throughout much of the northern hemisphere, and wherever it was found, human beings had a fascination with it. Scotland is beautiful, and the golden eagle is beautiful. Scotland is powerful, and the golden eagle is powerful. It is about making the fairly obvious link between how we see ourselves—or would like to see ourselves—and a part of our natural history.

**Duncan Orr-Ewing:** It is worth adding that, but for the persecution problem that, as one of your colleagues mentioned, prevents the bird from becoming a lowland breeding species, we would have more golden eagles in lowland Scotland, as is the case in Scandinavia. Golden eagles are found in countries such as Denmark, where the land is no higher than 140m, and they are also lowland breeding birds in Finland and Sweden. In the absence of persecution, we could look forward to that in Scotland.

**Chic Brodie:** Okay—as long as we do not go for the seagull.

**John Wilson (Central Scotland) (SNP):** The substance of my question has already been covered. It is on whether, as a result of national designation of the species, persecution would cease or lessen. As my colleague Angus MacDonald indicated, although the number of birds that have been found to have been poisoned has fallen in the past year, there are still people who will persecute the golden eagle. Unfortunately, we might see the persecution of the white-tailed eagle taking place as well.

Is enough being done to highlight and promote those two species—the golden eagle and the sea eagle—in order to discourage those who wish to go out and kill, poison or trap the birds?

**Gordon Buchanan:** The problem is on-going, and the reason that it continues to this day is that the birds live in such remote areas. Last week, I spent the whole day by the side of Loch Katrine watching a golden eagle, and I did not see another human being.

For anyone with ill intent towards a golden eagle or a sea eagle, the designation of the eagle as a national bird would be an added incentive not to go ahead with destroying a nest, or shooting or poisoning a bird.

We are talking about individuals who have their own relationship with the bird and what it means to them. Some perhaps see it as a threat to their

livelihoods, but declaring it to be a national bird might give those individuals pause for thought.

**Duncan Orr-Ewing:** It is worth remembering that it is a relatively small number of people—who are involved largely with driven grouse shooting, particularly in the east and the southern uplands of the country—who are involved in persecuting golden eagles. In most areas of the golden eagle's range, particularly in the north and west Highlands and Argyll, the species is not illegally killed.

**Jackson Carlaw (West Scotland) (Con):** The golden eagle is a magnificent bird, but I challenge your petition in two respects.

First, colleagues know that I am not terribly fussed about national things—we now have a national tree, and I am waiting to see all the tourists queuing up to come and see it. I wonder where it stops. Do we then have a national domestic animal, a national wild animal or a national grievance? The list could go on.

Secondly, the golden eagle is the symbol of an empire that once invaded large parts of Scotland and, more recently, of another empire that tried to. Within the lifetime of many people in this country, it was the last thing that their relatives saw as they were marched to their deaths. It has been a symbol of imperial power, which Scotland is emphatically not, never has been and—I hope—never will be. Is an eagle, as the symbol of imperial authority, the right national symbol for a democratic nation such as Scotland, irrespective of the merits of the bird itself?

**Duncan Orr-Ewing:** My response to that is to point to how the people of Scotland actually view the eagle. I think that Gordon Buchanan gave a very apt description of that, and it is not what you said.

**Jackson Carlaw:** I do not know that we have had a proper debate on that; I do not even know whether people have considered that point. For me, the robin is a much more accurate representation of Scotland, with its ability to face adversity and its tenacity. It is a bird that I think people across Scotland see all the time and have learned to love.

Even if there were ultimately to be an agreement that such a thing should be agreed, rather than Parliament deciding perhaps there needs to be a much more extensive debate so that people can put arguments for other natural species to be considered or arguments against the eagle.

Frankly, I am uncomfortable about what is proposed. I wonder how the eagle would come to be represented. Would it be an emblem that we would start to see? You said that you would like to see it alongside the saltire. That is very imperial. I

do not know whether you have considered that. Whether you like it or not, an eagle fluttering on a flag in Scotland would be a representation of an association with something that has some very negative as well as positive overtones.

**Duncan Orr-Ewing:** We understand that, but the public do not seem to view it in that way.

**Jackson Carlaw:** Oh!

**Duncan Orr-Ewing:** Sorry, but I am just answering your question. We have now had two public votes, one of which was carried out by *The Scotsman* and with which your former leader Annabel Goldie was involved. That gave people the option to decide what our national bird should be. The clear front-runner at that time in the poll in *The Scotsman* was the golden eagle. Latterly, in the year of natural Scotland, we had another vote. Scottish Natural Heritage conducted that as an independent arbiter and, again, the golden eagle came out as the clear front-runner.

**Jackson Carlaw:** What was the question?

**Duncan Orr-Ewing:** Well, you asked—

**Jackson Carlaw:** What was the question in the opinion poll?

**Duncan Orr-Ewing:** The original question in the—

**Jackson Carlaw:** No, the one that you have just referred to: the Scottish Natural Heritage question. What was the question?

**Duncan Orr-Ewing:** The question in the latest poll in the year of natural Scotland was about choosing between the big five species, as SNH saw it, that people regard as important in Scotland.

**Jackson Carlaw:** But that is quite a different thing, is it not?

**Duncan Orr-Ewing:** Yes, but the previous poll that was conducted by *The Scotsman* was more about what should be Scotland's national bird.

**Jackson Carlaw:** What was the question in *The Scotsman* poll?

**Duncan Orr-Ewing:** It was a poll—

**Jackson Carlaw:** I am asking you what the question was.

**Duncan Orr-Ewing:** I cannot remember the exact question, to be honest, but it was about choosing which species would be suitable as Scotland's national bird.

**Jackson Carlaw:** So how many people participated in the Scottish Natural Heritage poll?

**Duncan Orr-Ewing:** I think that the figure that I quoted earlier was 12,000.



**Jackson Carlaw:** They were asked to choose from a selection consisting of the golden eagle, the harbour seal, the otter, the red deer and the red squirrel.

**Duncan Orr-Ewing:** That is correct, but I think that there was one other.

**Jackson Carlaw:** So they were not actually asked to choose from a selection of birds.

**Duncan Orr-Ewing:** Not in that case, but the previous poll in *The Scotsman* did ask people to choose from a selection of birds that occur here.

**Jackson Carlaw:** And the question was—sorry, what was the question again? Can you remind me what you said the Scottish Natural Heritage question was?

**Duncan Orr-Ewing:** It was to choose from the big five species that SNH considered to be impressive species that occur here in Scotland and that are an attraction to the public.

**Jackson Carlaw:** Is that the same thing as saying that they were voting for it to be a national symbol of our country?

**Duncan Orr-Ewing:** No, but we think that it does give an indication of what the public see as an important and valuable species.

**Jackson Carlaw:** Okay, fine. I am not sure that I am persuaded, but I understand your position.

How would you address the point that I made earlier about us having a never-ending stream of national this, that and the next thing? Would you say that the bird is it and that, once we have a bird and a tree, that is enough? Or are you quite open to us having Parliament endlessly determining—

**Chic Brodie:** Parliament?

**Jackson Carlaw:** Well, through parliamentary motions or legislation. Would Parliament endlessly be determining that things are the national something or other?

10:00

**Duncan Orr-Ewing:** I refer to Mr Stewart's earlier comments about questions around national birds in other countries. It is quite standard procedure for countries across the world to have national trees and national birds, at least. I do not know about the other things that you mention, but those are the popular subjects for national emblems.

**Gordon Buchanan:** Perhaps this is just about where my interests lie, but I am not interested in having a national anything other than a national bird. To have a national tree is fantastic, however.

The national bird is about drawing a link for Scottish children—it is about something that they

can see and a part of their natural environment that they can be proud of. When people see the eagle as a symbol, they take that symbolism for what it means to them. It is about giving people an opportunity to have something that symbolises the wild part of our country.

I think that it should stop after this. I do not agree with having a national animal. A golden eagle covers it all—it is an emblem of the wild in Scotland. I think that, if we show people a photograph or film footage of an eagle, they do not have thoughts of imperial tyranny; they see a wild, beautiful animal.

**Jackson Carlaw:** I entirely agree with that, although what you describe is not the bird as a national symbol being represented in the heraldry of the nation, which is quite different—but thank you.

**The Convener:** I am afraid that we are very short of time, but we can have a very quick question from Chic Brodie.

**Chic Brodie:** This is on the point that you made about the public. What would the golden eagle, as a national symbol, mean to children in some of the inner-city parts of the large cities of Scotland?

**Gordon Buchanan:** I think that children living in all parts of Scotland should be given an opportunity once a year, as part of the curriculum, to get out and actually see a little bit of wild Scotland. There is nothing really being done, in that our children go to—

**Chic Brodie:** I understand that, but Mr Carlaw made the point that the robin can be seen by these children, as can sparrows, blackbirds and others. What specifically will the golden eagle mean to children in the inner parts of our larger cities?

**Gordon Buchanan:** It is a powerful, emotive symbol. That is why it is being used.

**Chic Brodie:** That is a concern. I am very supportive, and I do not necessarily disagree, but the point that Jackson Carlaw made is that we are talking about a very powerful bird. It is beautiful and it is powerful, but we have to match across Scotland. I am talking about the spirit of Scotland, which you mentioned, and that embraces more than just the Highlands and Islands. We have to have some sort of affinity and identity that embraces all our children, not just a few who might see the power and beauty of this bird in actuality.

**Gordon Buchanan:** The bird that the majority of people see most often is the pigeon. If you want to go for a populist vote, the pigeon is accessible to everyone, but it does not necessarily do the job.

**Duncan Orr-Ewing:** There is something in the aspiration. As a young person growing up, I had a

strong interest in seeing birds such as golden eagles. We need to get children outdoors, and we know that that is important. The RSPB is a big provider of environmental education.

About 70 per cent of Scotland's land area is upland by character, and the golden eagle very much symbolises that. As I said earlier, in the absence of persecution, we could expect golden eagles to be in more lowland situations and available to the schoolchildren in Glasgow and Edinburgh you are talking about. We see a strong symbolism and a chance for the future. There is a link to aspiration, too.

**The Convener:** I am afraid that we are out of time, but I ask the witnesses to hold on for a couple of minutes. We have finished with questions and points, so we now come to the summation, when the committee considers the next steps.

My own view is that it is important to take the petition forward and to seek advice from some key organisations: contacting the Scottish Government, SNH and the Scottish raptor study group would be a sensible next step. As always, committee members might have their own views about alternatives, so I invite their thoughts on the next steps. Do committee members agree to those three organisations being consulted?

**Angus MacDonald:** I certainly agree to those three organisations being consulted. When we write to the Scottish Government, would it be possible to ask whether it would be minded to conduct a consultation similar to the national tree consultation that was held by the Forestry Commission between September and December 2013?

**Jackson Carlaw:** That probably encompasses my point. The presumption that we are making is all of a sudden in favour of the concept of there being a national bird. I would like to know whether the Scottish Government thinks that that would add something. If so, does the Government feel that it would be appropriate for the public to be more widely involved in the choice of bird and for there to be a proper public debate and scrutiny around the question?

**The Convener:** That is a good point.

Are members happy to take that course of action? We will write to the three organisations that I have mentioned, and we will specifically ask the Government about holding a consultation, to be carried out with a sort of scientific poll and involving the public as much as possible. Is that a fair summary of the points made?

**Members indicated agreement.**

**The Convener:** I thank both witnesses for coming along. As you can hear, the committee is

taking the petition forward. We will keep you up to date with developments. Thank you, in particular, for coming along to give evidence on the historic 1,500th petition.

10:06

*Meeting suspended.*

10:07

*On resuming—*

### **Supermarkets (High Streets) (PE1497)**

**The Convener:** The second new petition is PE1497, by Ellie Harrison, on behalf of Say No to Tesco, on supermarket expansion on local high streets. Members have a note by the clerk, the SPICe briefing, the petition and a submission from the Scottish Retail Consortium. Sandra White MSP had hoped to attend the meeting, as she has a constituency interest in the petition but, as a member of the Justice Committee, which is meeting now, she is unable to attend and has asked that her apologies be noted.

I welcome our witnesses, who are the petitioner, Ellie Harrison, and Paula Fraser from the Say No to Tesco campaign. I invite Ms Harrison to make a short presentation of a maximum of five minutes, to set the context for the petition. After that, I will kick off with a couple of questions and then my colleagues will ask questions.

**Ellie Harrison (Say No to Tesco):** I am a resident of the west end of Glasgow. I am joined by my friend and colleague, Paula Fraser, with whom I have worked over the past year on the Say No to Tesco in Scotland campaign. The campaign, which has been completely run by volunteers such as us from around our local communities, developed in response to our frustrations in trying to prevent two new Tesco stores from opening in our area, where there are now 10 within just 2 miles. Nearly all of them have been new over the past decade, and store number 11, which we seem powerless to block, is due to open this year.

We are here to present our petition, which has been signed by more than 2,000 people and which demands that the Scottish Parliament take urgent and decisive action to empower and encourage councils and communities to stop this reckless and unwanted supermarket expansion on our local high streets. That expansion is having a devastating impact on independent food suppliers; destroying the vibrant and distinctive qualities of our favourite cities and towns; and, most worryingly, slowly but surely handing over monopoly control of our food supply to a handful of massive corporations.

It is important to stress that our petition is concerned with safeguarding one of the most fundamental human needs—our easy access to healthy and affordable food. The petition is supported by at least three MSPs—Sandra White and Patrick Harvie from Glasgow, and Alison Johnstone from the Lothian region. They will be joining us outside the Parliament at 12, following this meeting, for an official handover to John Wilson. I encourage all members who support the petition to attend that.

I will provide a bit more context. I am sure that members are aware that community backlash against the supermarket giants is not a new thing. However, in the past, campaigns have been in opposition to large out-of-town superstores, which have sucked economic activity out of city centres and created what are known as Tesco towns. Examples of that are Perth, where 51 per cent of the grocery market goes to Tesco, and Inverness, where 52 per cent ends up in Tesco's pocket.

Our petition aims to address a new problem that has emerged only over the past decade—the proliferation on our local high streets of the small local and express stores, whose size is typically under 280m<sup>2</sup>. The supermarket giants—Tesco, Sainsbury's and now Morrisons—are well aware that there is strong opposition to their expansion, which is why they are so pleased to have found a new and far stealthier way of increasing their market share. The approach allows them to skirt round the regulations, as they do not require planning permission at all, provided that they open on an existing shop site, and nor do they require a retail impact assessment, which is compulsory only for shop floors of more than 2,500m<sup>2</sup>.

I am sure that members have seen with their own eyes the alarming rate at which mini-supermarkets have been opening all round us over the past decade. Sainsbury's, which opened its first local store only 15 years ago, is opening new stores at a rate of two a week across the UK. Tesco, which is the biggest of all the retailers, has more than 3,000 stores across the UK, and the majority of them—1,600—are in the express format. Morrisons is playing catch-up. It launched its M Local stores in 2011 and has announced plans to open 100 of them across the UK this year.

Those small and supposedly more benign shops pose more of a direct threat to small independent grocers and newsagents than their superstore predecessors ever did, because they are opening right alongside the independents on local high streets, which were the few remaining places where those independents could afford to operate. The big supermarkets are surrounding the independent shops in a pincer movement, and that is a deliberate attempt to snuff out all competition.

The big supermarkets' defence is always the same—that they are creating jobs. However, it is important to acknowledge that that is a zero-sum game because, for every new minimum-wage job that is created working for one of these ruthless corporations, another far more rewarding and empowering job is lost elsewhere, as small family-owned businesses are forced to close.

The more we allow these soulless clone shops to replace alternative food suppliers that provide varied and unusual produce, the more we lose the sense of place and community and the distinctiveness of areas. Key planning documents, including the new national planning framework, seem to hold those things dear, but you in the Parliament seem unable to uphold them.

With the petition, we demand that you acknowledge the long-term threat that is posed to our society and take urgent steps to intervene before it is too late. This is a unique opportunity for Scotland to take the lead in implementing new policies to address a new problem. We need policies that can halt the relentless onslaught of the supermarket giants.

10:15

I will conclude with a few suggestions. First, we must be allowed to take into consideration the cumulative shop floor space that one company operates in an area, in order to make retail impact assessments compulsory for the opening of new stores. Secondly, members should follow the lead of George Ferguson, the mayor of Bristol, in demanding a change in the use classes of shops to put large chain stores into a separate class and thereby make planning permission for their new stores mandatory. Those changes to the planning process would make things far less frustrating for people such as us and would allow the valid concerns that communities raise to be acted on in order to prevent unwanted new stores from opening.

We call on the Parliament to help us to preserve diversity and choice in our food supply, which is important, and to support the local businesses that are at the heart of economic recovery, stability and the wellbeing of people in Scotland.

**The Convener:** Thank you. If Paula Fraser wants to respond to any questions, she is welcome to do so. For the record, I understand that you are referring to all large national or multinational chains and not just to Tesco. We must be careful about the legality of the comments that are made today.

The Scottish Retail Consortium does not share your views, does it? I have read carefully what it says. It says that large retailers bring lower prices and that the real problems are business rates,

squeezed household incomes and a loss of consumer confidence. How do you react to its comments?

**Ellie Harrison:** We have read its submission and we have done some research on who the Scottish Retail Consortium is. We discovered that it is affiliated to the British Retail Consortium, whose members include Tesco and all the other big supermarkets, so it is obviously biased.

We make it clear that we are thinking about the long term with our petition. The rate at which the supermarkets are opening stores is terrifying, and we run the risk of there being a monopoly power whereby the big four supermarkets and the newcomers, Aldi and Lidl, have a monopoly over our food supply, at which point—as we have seen in the energy sector—they will act as a cartel and hike up prices. Things may be cheaper at the moment, but that may not be the case in the long term.

Another point is that these small stores are not any cheaper. They use the Tesco brand, which people associate with out-of-town stores that stock all the cheap products but, when people go in, they find that the stores do not stock the same products. They stock more expensive products deliberately, so they end up being more expensive than local independent grocers.

**The Convener:** Is it fair to say that you see the solution as being to use planning powers to protect smaller businesses?

**Paula Fraser (Say No to Tesco):** Yes—absolutely. You said that the Scottish Retail Consortium mentioned business rates. Addressing rates is part of what can help local independent businesses, but it is definitely not all that is needed to protect small businesses. The large corporations have a lot more money and a lot more say, and they provide incentives to councils through the developments that they propose. They can do a lot that small independent businesses cannot do, and changes in planning legislation are the only thing that would make a difference for the small independent businesses.

**Chic Brodie:** Good morning. I do not think that you have helped your case today. Using words such as “soulless”, “ruthless” and “cartel” is not a constructive way of approaching the issue. I have no truck with large supermarkets and would like to see fairness in competition, but do you think that they really are “soulless” and “ruthless”?

**Ellie Harrison:** I think that the way in which these—

**Chic Brodie:** Do you think that they are “soulless” and “ruthless”?

**Ellie Harrison:** I think that they are soulless. There is a new Tesco at the end of my street,

which we could not prevent from opening. It is a clone of all the other Tesco Expresses in the area, of which there are now 10, as I mentioned. In comparison with all the other shopfronts down the Great Western Road in Glasgow, that Tesco shopfront uses very bright lights, and it has lines of fridges, which create a completely different atmosphere from that of all the other shops.

**Chic Brodie:** How Tesco brands and markets its products is part of competitive practice. Why have you picked on Tesco?

**Paula Fraser:** It is not only Tesco that we have a problem with—

**Chic Brodie:** Hold on—your petition says that it is

“on behalf of Say NO to TESCO!”

**Paula Fraser:** That is what we called our campaign when it began, because it started with the proposed opening of a new Tesco Express in our area. That sparked things off, but that does not mean that we are interested in stopping only Tesco.

**Chic Brodie:** Have you considered the competition law implications of what you are asking for?

**Ellie Harrison:** I do not think that two people lodging a petition is picking on the biggest retailer in the whole UK, which, after all, takes £1 in every £8 that is spent on shopping. That is not just groceries—

**Chic Brodie:** Have you considered—

**Ellie Harrison:** I do not think that we are picking on it.

**Chic Brodie:** My question is—

**Ellie Harrison:** Somebody has got to stick up for the small shops that are closing.

**Chic Brodie:** Would you answer my question? Have you considered competition law in your attempts to stop supermarkets having smaller shops on high streets?

**Paula Fraser:** We are not trying to completely stop supermarkets from doing anything.

**Chic Brodie:** You are—you are saying, “Say no to Tesco.”

**Paula Fraser:** No. There is of course competition law, but we have to look out for the smaller local independent retailers and do something that recognises that the buying power of the chain superstores is unfair for those retailers.

**Chic Brodie:** I know that you are talking about only food, which I will come back to in a minute,

but what would you say to Debenhams and Marks and Spencer?

**Ellie Harrison:** We are talking just about food—

**Chic Brodie:** Why?

**Ellie Harrison:** Because it is one of the fundamental things that we need to consume.

**Chic Brodie:** So is clothing.

**Ellie Harrison:** Food is different from all the other things that are sold on our high streets in that every human being needs to buy it week in, week out. People can do without buying new clothes if they really need to, but food is an essential human need.

To come back to your comment about our homing in on Tesco, I think that if you had listened to what I said in my introduction—

**Chic Brodie:** I listened very attentively.

**Ellie Harrison:** If you had done that instead of speaking over me, you might have noticed that we flagged up the fact that the problem is not just with Tesco; it is also with Sainsbury's. In the west end of Glasgow, where we come from, Tesco is employing incredibly aggressive tactics in opening new stores; in Edinburgh, Sainsbury's is employing the same tactics, and very soon other supermarkets will be doing the same in other parts of the country. As I mentioned, Morrisons intends to roll out its chain of M Local stores over the course of the year.

In different areas, different supermarkets are getting the dominant share of the market. That is what we want to try to avoid. We are not saying, "An end to all supermarkets!"; we are simply trying to prevent them from getting a monopoly in certain areas and snuffing out all competition in the form of local independent businesses.

**Chic Brodie:** Can you tell me what the results of Tesco, Sainsbury's and Morrisons were in comparison with those of Aldi and Lidl over the past financial year?

**Ellie Harrison:** Well, I looked—

**Chic Brodie:** Can you tell me what the results were?

**Paula Fraser:** Are you referring to the fact that they are not doing as well as the other companies that you mentioned?

**Chic Brodie:** That is correct.

**Paula Fraser:** Given the profits that they are still making, I do not think that that is a consideration when we are talking about their opening more and more of these stores and snuffing out local independent businesses.

**Chic Brodie:** There is no evidence that they are snuffing out those businesses. Let me ask you another question—

**Paula Fraser:** I am sorry—there is no what?

**Ellie Harrison:** There is evidence—there is evidence at the end of my street. I have spoken to the local newsagent and the grocer, both of whom say that, since the shop that we mentioned opened, their sales have dropped. They will see how it goes for the next couple of months—the shop only opened in December—but they might well pack up.

**Paula Fraser:** I am sorry, but there is a lot of evidence. Before the store opened, a store that we failed to stop opened on Queen Margaret Drive, where the newsagent on the corner and another newsagent on the same street lost 70 per cent of their sales. The fruit shop is struggling and another shop on the corner had to close and was sold to someone else, who hopes to carry on.

The opening of express stores is closing small businesses. Account is not being taken of the jobs that are lost just because Tesco creates a few jobs.

**Chic Brodie:** We can debate jobs, but we are talking about town centres. Where do the people who work in Tesco Expresses spend their money? What other shops do they go into?

**Ellie Harrison:** We are not talking just about town centres; I want to pick you up on that. We are talking about areas outside city centres—local high streets in areas where people live, where they want to be able to buy food within walking distance of their flats. As I said in my opening remarks, those are areas in which independent businesses can afford to operate. They cannot afford to operate in city centres, but they can afford to do so in the outskirts. Tesco is coming into that new market and is posing a direct threat to those businesses.

**Chic Brodie:** In relation to the legal situation and competition, where is your evidence that the six supermarkets are in a cartel?

**Ellie Harrison:** I was talking about what could happen in the future if we—

**Chic Brodie:** No, you said that there is a cartel.

**Paula Fraser:** No, she did not.

**Ellie Harrison:** No. I was talking about what could happen in the future if we do not address the issue. I referred to the energy sector, because the direction in which the energy sector has gone over the past 20 years is one whereby the big six energy companies all put their prices up at the same time. *[Interruption.]* They do all put their prices up at the same time; do not shake your head.

**Chic Brodie:** What relation does that have to the expansion of supermarkets on high streets?

**Ellie Harrison:** We cannot afford to allow that to happen to our food supply. Given the rate at which small supermarkets are opening and the rate at which Tesco, Sainsbury's and Morrisons are monopolising our food supply, we run the risk of going down the same path. Eventually, they will have complete control and we will have no alternative in where to buy our food.

There is a chapter in this—

**The Convener:** Can I interrupt you for a second? This is all very interesting, but we are short of time and I am keen to bring in as many members as I can.

**John Wilson:** Once again, many of the questions that I would have liked to put to the witnesses have been asked. As Mr Brodie did, I urge the petitioners to temper some of their language, because what they say will appear in the *Official Report*. I know that some of the comments that have been made—such as those about Tesco and minimum-wage jobs—are untrue. Tesco does not pay much above the minimum wage, but it certainly does not pay its staff the minimum wage. The witnesses need to be careful about using such language, because that will be picked up on, although they have a good case to present.

What evidence do you have to show that if Tesco, Morrisons, Sainsbury's or the Co-operative takes over a retail unit in, say, Great Western Road, it is not filling a vacuum or a hole in the retail outlets in the area? A big problem is that, on some of our high streets, we have plenty of empty shops and a reduction in retail. What should we do with those empty shops and empty spaces?

**Paula Fraser:** That issue is why we need choice and statutory powers that councils can use in different areas. The situation is different in different streets. Many streets do not face the problem with empty units that you are talking about and do not need a Tesco or a Sainsbury's to fill a space and bring footfall back to the area.

In the streets that we are talking about, there are plenty of places in addition to the local independent businesses, including many supermarkets. Bringing in more express stores will just result in those local independent businesses closing down, so it will do nothing good for our community. You probably know that about half the turnover of an independent retailer goes back into the local community, whereas only about 5 per cent of the money that is spent in chain supermarket stores goes back into the local community. There is no comparison.

10:30

**John Wilson:** One of the difficulties with that response is that you are asking the Scottish Government to take action. When the Scottish Government takes action, I expect that action to be consistent throughout Scotland. I do not expect the Government to say that certain pieces of legislation apply only in the high streets of, say, Falkirk and Stirling. We expect legislation to apply everywhere. How would we get the correct legislation in place to ensure that the policy was adopted throughout Scotland? Of course, if it were adopted throughout Scotland, it would be to the detriment of some high streets, if we follow the main thrust of your argument.

**Paula Fraser:** I do not think that the proposal would be to the detriment of some high streets. The legislation would apply across Scotland and it would mean that, in the planning process, we had some way of stopping more of the express stores opening on streets that we do not need them to open on. When we consider the cumulative square footage of supermarkets, we will be able to see which high streets have no supermarkets and need one to open. Applying the legislation in such a high street would not be a problem, and it would enable people to limit the number of supermarkets in high streets where they would cause problems and where people do not want them. A retail impact assessment would enable people to be consulted and allow a consideration of the situation in the area.

**John Wilson:** As I have said, the issue for me is that we are talking about some of the major retail chains, such as Tesco, Asda, Waitrose and Sainsbury's, and I wonder whether the same objection would have arisen if Lidl or Aldi intended to move into the retail unit on Great Western Road. Would it have?

**Paula Fraser:** Yes, because we have enough of the big supermarkets. If an Aldi or a Lidl were to open on that site, in the form of one of the express or local stores, it would pose a threat to the independent businesses that we are trying to support.

**Anne McTaggart (Glasgow) (Lab):** Miss Harrison, could you say a wee bit more about the situation in Bristol? Does the policy cover the whole of Bristol, or is it broken down to cover only specific streets and areas, as John Wilson suggested?

**Ellie Harrison:** The position was taken by the new mayor of Bristol last year. There have been riots in Bristol where the community have not wanted a Tesco to open but it has done so, against their will, and they have felt that they have had no choice but to riot outside. The mayor is trying to stop the proliferation of those small stores

and is proposing that the use class of big chain stores be changed so that, if a small, independent business shuts down and Tesco wants to move into that unit, planning permission would have to be granted, as there would be a change of use from one class to another. He sees the problem that exists and proposes that as a solution.

The policy would halt the proliferation of the stores to an extent. The problem at the moment is that the chains can do what they like and can open as many stores as they want. No one can stop them.

**Paula Fraser:** The mayor wants the policy to cover the whole of Bristol. He wants there to be a special planning deal from Westminster, so that there would be an experimental by-law that could be used to distinguish between applications from supermarkets and applications from local independent traders.

**Jackson Carlaw:** When I was a young boy growing up in the 1960s, most high streets had a Templeton's, a Galbraith's or a Co-op. Those stores then disappeared. Have we not just come full circle? Similar stores are now back on the high street in the form of Tesco and Sainsbury's stores. In terms of their size, their product offering and their contribution to local high streets, are the chains not simply bringing back Templeton's, Galbraith's and the other supermarkets that I remember being on streets in Glasgow's west end such as Queen Margaret Drive and Great Western Road? That is partly where I grew up, as I was at school there and lived there for some time. Have we not just come full circle, with a move away from out-of-town stores to chains once again being represented in our local communities?

**Paula Fraser:** Even if we are seeing those stores coming back, I do not see how that is a good thing for local independent traders who are trying to sell their goods and are already supplying what we need. The new stores are unwanted.

**Jackson Carlaw:** I am trying to suggest that your perspective is somewhat limited to quite a short timescale. I know where you are, so I will give you two examples: Giffnock and Troon. My constituents have been dancing in the streets since local branches of Tesco, Sainsbury's and other chains opened in their communities. Invariably, they moved into abandoned Woolworths stores, which had lain empty since the demise of Woolworths. In Giffnock, we then saw the American Whole Foods Market store arrive, the butcher, deli and grocers are all prospering and a kosher food shop has opened. In Troon, the butcher, deli, fish shop and baker all thrive perfectly happily alongside a small Tesco that has moved into an abandoned Woolworths unit. I begin to wonder whether you are inviting us to

legislate for Great Western Road and Queen Margaret Drive.

**Paula Fraser:** No. I think that you are completely wrong—

**Jackson Carlaw:** Well, I am not completely wrong because I have just identified two communities that contradict your argument.

**Paula Fraser:** You are wrong in that we are not trying to legislate for Queen Margaret Drive and Great Western Road. There is a bigger problem. If you look at the number of people who are campaigning against big supermarkets opening stores, particularly express stores, you will see that it is a problem not just in those two streets.

**Jackson Carlaw:** Do people shop in them?

**Paula Fraser:** Of course, some people shop in them. Some people are given no choice because of all the local independent businesses that have shut down.

**Jackson Carlaw:** That is where I invite you to help the committee. I would like you to submit written evidence that details specifically which shops have closed in Great Western Road and Queen Margaret Drive directly as a consequence of a small local Tesco opening.

**Paula Fraser:** Okay. It might be too early for Great Western Road—

**Jackson Carlaw:** I understand that 10 such stores have opened—they have obviously been crippling. Shops close all the time for a legion of competitive reasons, so I have not been persuaded, but I am willing to follow up whether other stores in the community have closed entirely as a result of the advent of a local Tesco.

**Paula Fraser:** I will be able to give you evidence of the ones that have closed on Byres Road, as well—not only because of Tesco. As I said, the issue is not only about Tesco; it is about there being so many such stores.

**Jackson Carlaw:** Byres Road now has a Waitrose, and it used to have a Somerfield. It has always had supermarkets.

**Paula Fraser:** Yes, but it has not always had the number of supermarkets that it now has. It now has Marks and Spencer and Tesco Express alongside Waitrose, Iceland and Farmfoods. Those are all in the same street.

**Jackson Carlaw:** When I was younger it had as many stores as that, they just had different names. Although you have identified the modern branding of those stores, historically there were other stores, which I have named, that operated in exactly the same communities. People shopped in them, too, but the other, independent, food retailers survived perfectly happily alongside them

because there were people who preferred to go to those independent stores. However, I am willing to see the evidence and follow up the number of stores that say that they closed for that reason alone.

**The Convener:** The witnesses will have picked up that we have, unfortunately, run out of time. However, I ask you to hold on for a few seconds, please. We are at the summation stage, so there will be no further questions to you or us. Jackson Carlaw has recommended that we seek further information.

**Jackson Carlaw:** Sorry, convener. I did that rather off my own cuff, without going through you.

**The Convener:** Not at all—it was a very sensible suggestion that we seek further information from our witnesses. Do members agree to that?

**Chic Brodie:** It must be definitive. Shops have faced an economic situation, so the evidence must be definitive and applicable, as Jackson Carlaw said. If the witnesses do not mind, I would also like to know what the implications are for the customers in terms of price competition. It must be fairly rabid if there are six stores sitting next to each other.

**The Convener:** Do members wish us to get that information before deciding whether to ask the Scottish Government and the Federation of Small Businesses in Scotland for further information, or should we do those things in parallel?

**John Wilson:** I think that we should do those things in tandem. We need to write to the Federation of Small Businesses in Scotland, as a number of small retailers are members of it and we might get further evidence to back the petition. The petition indicates that the number of small businesses has declined due to the encroachment of some major retailers.

Given that the discussion has concentrated on the Glasgow area, I suggest that we write to Glasgow City Council, asking for its views on the petition and whether it has identified any impact from the number of express or small outlets of the major chains. Marks and Spencer has expanded quite dramatically in the city centre, never mind in the outlying Byres Road and Great Western Road area.

I also suggest that we write to local authorities that have town centre managers, asking for their views on the encroachment of Tesco Express, Sainsbury's, Waitrose or Morrisons stores, to find out whether we are seeing a large development of small retail units being used by the major supermarket chains.

**The Convener:** Do members agree to that?

**Members indicated agreement.**

**Angus MacDonald:** I agree with John Wilson's view that we should contact town centre managers and put in a pitch that we should approach Falkirk Council. A very good team works in town centre management there, and I am sure that it would be delighted to provide some evidence.

One of the most salient points that we have heard this morning is the need for a retail impact assessment focusing on the cumulative effect of smaller stores on a particular area. When we write to the Scottish Government, I would like us to ask its opinion on the introduction of a retail impact assessment for smaller stores in a particular area, as that might help.

**The Convener:** Do members agree to that?

**Members indicated agreement.**

**The Convener:** The witnesses will have picked up that we are continuing the petition. We will write to a number of relevant bodies, including the Scottish Government, the FSB and town centre managers. We will also ask the Scottish Government specifically about retail impact assessments, and we have asked the witnesses to supply us with a bit more evidence.

Thank you both for coming along and giving us evidence. It was a very dynamic and stimulating debate. There are strong feelings on the issue, and you put your case very well.

10:42

*Meeting suspended.*

10:44

*On resuming—*

## **A9 Average Speed Cameras (PE1503)**

**The Convener:** The third new petition is PE1503, by Mike Burns, on behalf of the average speed cameras on the A9 are not the answer campaign, on a review of A9 speed camera proposals. Members have a note by the clerk, the SPICe briefing and the petition.

Members will wish to be aware that Mr Burns has sent the clerking team 10 emails with a large number of attachments. The attachments are correspondence to and from a third party and Transport Scotland, freedom of information requests, two documents of 608 and 544 pages, and minutes and other papers relating to the A9 safety group meetings. It appears that, in all, Mr Burns has sent more than 1,000 pages.

The emails have been forwarded to committee members, but I understand if they have not had the time to consider them. The clerk has asked Mr



Burns to summarise the numerous emails and attachments to highlight the main points that he wishes the committee to consider.

I welcome Mr Burns and thank him for coming along to the meeting. I invite him to make a short presentation of a maximum of five points to set out the context, after which we will move to questions.

10:45

**Mike Burns:** Thank you very much for giving me your time today. The 600 and 500-page documents are almost identical, so the larger of the two will give you all the information.

I am the creator of a Facebook page that started off as a gripe against the proposal to install average speed cameras along the entire length of the A9 from Dunblane up to Inverness. The campaign developed into something that I did not expect—indeed, sitting here is beyond what I expected to happen with the campaign.

We are not anti speed cameras. It is very clear that we cannot say that there is no speeding on the A9. Our problem is that, on the basis of the evidence that we have received through freedom of information requests for statistical analysis and road modelling, the proposals do not accurately cover what causes the vast majority of accidents on the A9. The petition is not about dualling the A9; we are well aware that that will take a considerable time, although it is a disservice for any Administration, past or present, to say that another Administration is to blame. The problem has been going on for decades. Enough is enough—the Highlanders are fed up.

We are sitting here watching billions of pounds being poured into infrastructure projects in the south of Scotland, such as the M74 and the Forth bridge. At the last count, the Minister for Transport and Veterans advised that £138 million had been spent on the A9. That was an advance of around £88 million on the initial £50 million figure that Transport Scotland had used to justify the proposals.

Average speed cameras do not address the main problems because, according to the official accident statistics, in the previous nine years more than 550 accidents were caused by bad overtaking manoeuvres and fewer than 30 were attributed to excessive speed. Transport Scotland and the Scottish Government have a moral and legal obligation to address directly the known root causes of accidents in order to prevent deaths on the A9.

The road is a vital artery to the north of Scotland. Inverness and the Highlands have undergone relentless expansion, as has green industry, and we do not have the infrastructure to

cope with those expansions. We are asking the Public Petitions Committee to review all the evidence, the modelling, the timelines that are being used by Transport Scotland and the composition of the A9 safety group to ensure that it is completely and utterly satisfied that every effort has been made to address the fundamental root cause of the majority of accidents, which is overtaking, until the dualling of the road is complete.

**The Convener:** Thank you very much, Mr Burns. You managed to keep to your time, which is impressive. I have two quick questions. Have you looked at how average speed cameras work in the rest of Europe?

**Mike Burns:** Yes. We have been looking at average speed camera systems. We focused on the A77, which is the example that Transport Scotland and the A9 safety group focused on. The average speed camera proposal in its original incarnation, which was 136 miles, would have been the second longest on the planet. There is nothing to compare to it except in Australia, which has vastly different road conditions and design from what we have in Scotland.

We have also looked at alternative camera control systems that would address more directly issues such as overtaking and manoeuvring into spaces that are left between lorries.

**The Convener:** Clearly, you have issues with the A9 safety group. In the autumn, I attended one of its meetings along with a number of other MSPs. Is the composition incorrect? Should ordinary drivers who use the road be involved? What is your main issue with the group?

**Mike Burns:** As far as we can work it out, the A9 safety group has, in essence, worked behind closed doors since its establishment back in 2012. Its minutes show that the safety group set up a communications sub-group to develop a website to share information. However, that did not appear until after the campaign had started and there was significant media interest. We also note that the A9 safety group has not published any meeting minutes since August 2013, with the possible exception of two evidence pieces in October, so we have not been kept up to date with what is going on.

The board's composition does not include any group that can realistically represent the car drivers who make up more than 95 per cent of the traffic on the A9. There is no involvement of, for example, the Automobile Association or the Institute of Advanced Motorists, which has also been very critical. The composition seems to focus primarily on councils, Police Scotland, Transport Scotland, heavy goods vehicle groups and public transport groups.

**The Convener:** You are enthusiastic about trying to get reform of that group so that it is more representative of ordinary drivers.

**Mike Burns:** In order to instil public confidence in the decisions that it has made, it is imperative that the group is representative of those who use the A9. As a campaign, we received an invitation not to participate in the group but to comment on how its communication could be improved. There was no formal offer of involvement, although I would not personally seek that because I do not believe that I can represent every A9 user—I can represent only the people who have signed up to the campaign.

**Chic Brodie:** Good morning. I think that we understand the anguish of people who travel or who have travelled on the A9. I live in Ayr. I have lived there since before and after the installation of the average speed cameras, and I have noticed that the average speed has dropped considerably. I participate in and ensure that. Why could that measure not work for the A9?

**Mike Burns:** The statistical evidence that has been produced shows that none of the mean speeds on the A9 breaches the speed limit, according to Transport Scotland's official website. The formula, which was provided by the Transport Research Laboratory, suggests that average speeds would drop by at least 6mph. There are distinctions within that modelling and the statistics that have been used, but that suggests that the current average speed is already below the legal speed limit. The biggest problem with the A9, which came across loud and clear through the Facebook campaign, the online petition and the independent survey that we paid for and ran, is frustration with slow-moving traffic.

There have been developments. The 50mph HGV trial that has been announced has been a massive boost to our campaign, and we are starting to think that people understand the issues. However, average speed cameras will not stop bad overtaking. The proposed spacing for the model, which clearly does not yet exist—according to freedom of information responses, no design or model of a speed camera system for the A9 exists, which raises the question how they managed to come up with such a proposal when they have not decided on physical locations for the cameras—would have 4-mile gaps between cameras, meaning that a car could easily do 80mph for 2 miles and 60mph in the next 2 miles and still have an average speed that probably would not activate an average speed camera.

**Chic Brodie:** It works between two cameras, however. On the A77, a person can do 80mph and then 60mph between one set of cameras and average the speed over whatever distance they travel.

**Mike Burns:** Yes, but the point is that overtaking is deemed to be the major cause of incidents on the A9, and average speed cameras do not stop bad overtaking. Anecdotally, they may reduce the desire to overtake, but they do not directly prevent people from performing the lethal overtaking manoeuvres that anybody who drives up and down the A9 will have seen on an almost daily basis.

**Chic Brodie:** That is not my experience on the A77.

Do you not think that there is a lot of experience and a lot of analysis in all the groups that are represented on the A9 safety group? Why do you disavow that group?

**Mike Burns:** I disavow it because it does not represent the 95 per cent of A9 users who are car drivers. I am not disputing the job that it has done, and it certainly has a lot of experience. The current head of the A9 safety group, Stewart Leggett, was a member of its previous incarnation—the A9 road safety group—back in 2006. That group considered proposals that we reintroduced in the 20-point interim plan, but nothing has been progressed since 2006. That is eight years in which proposals to improve safety have not been advanced although there has been continuity between the two groups, with the same person having been a member of both.

**Angus MacDonald:** You made an interesting point about the fact that the AA, the RAC or the Institute of Advanced Motorists do not sit on the board of the A9 safety group. Have you made any approaches to elected representatives in your area to suggest that they should be on the A9 safety group?

**Mike Burns:** We certainly made the point directly to the chair of the A9 safety group when the campaign started. Because the A9 safety group had in essence been working behind closed doors, with no website or public displays of information and no minutes published, people did not know what was going on and were caught by surprise. It was only when the big announcement came out of the blue that people sat up and said, "Hang on, how have they reached this decision?" I believe that Transport Scotland then worked frantically to get the information out, but it was information that the group itself said should have been put out more than a year earlier. Why did it take a campaign to force the information out?

I believe that Transport Scotland's offer to invite me and Conor McKeena, who is involved in the heavy goods vehicles at 50mph campaign, to address the A9 safety group was meant in good faith and was well intentioned. However, the fact that campaigners were invited to address a committee on its poor communication rather than

to engage and talk about why the safety group has got its strategy wrong indicates a significant lack of understanding about why people were so frustrated and angry about the proposal when it was launched last year.

**Angus MacDonald:** Did you accept that invitation?

**Mike Burns:** The meeting did not proceed. Transport Scotland said that it would speak to the A9 safety group to clarify that the invitation would be okay. That is referenced in one of the freedom of information requests—document 13/01358, I think. It never advanced past that point. I asked for a formal invitation to be sent to ensure that everything was kept above board and that people knew what was going on, but that was never received.

**Angus MacDonald:** I have driven on the A9 regularly for the past 30-odd years and I have seen drivers taking some hair-raising chances when overtaking that were pretty akin to playing Russian roulette. Your original submission refers to the dualling of the A9 that is planned but not imminent. You also refer to the need for

“realistic interim solutions which address real issues”.

What should those interims solutions be? Can you give the committee some examples?

**Mike Burns:** I can certainly give some examples. We published a 20-point interim plan. I do not claim that the plan was right and I do not claim that it was wrong. The aim of everything that we have done was to promote a national public debate on the A9 that has needed to happen for years. Some of our suggestions were deliberately controversial, because we found out that other things were happening in the background. For example, at a practical level, respondents to the surveys on Facebook said that we need more speed limit signs because there are multimodal speed limits—the limits can vary for a car-derived van, a passenger car, a coach or a lorry. However, from reading the A9 safety group minutes, it looks as if speed limit signs have been removed during the past two years to remove roadside furniture. That causes problems for people who are not familiar with the area.

We also had the suggestion of the double chevron system, which is used primarily on dual or triple-carriageway roads. However, the added benefit would be to people who are unfamiliar with the A9, particularly those from continental Europe, in showing them the actual direction in the centre of the carriageway. We raised that idea and, thanks to Perth and Kinross Council, we found that it was considered in 2006 but never progressed as an idea for the A9. It was the fourth item on the agenda on 15 June.

We also looked at whether there are ways to get people off the A9 as an interim solution. We have a Highland railcard scheme from Inverness that works for the north and west Highlands. As a stopgap, that could be offered to people who are travelling to the south of Scotland from Inverness to encourage modal shift and get people off the road. As someone who drives the A9 every week, I hate driving that road. I know that I am taking my life in my hands, not due to my driving but due to people making hair-raising overtaking manoeuvres. I would be comfortable saying that, as I drove down this morning, I saw at least two or three people nodding off and swerving on to the other side of the road. It is just shambolic having to deal with that.

We came up with other solutions. One was the deliberately controversial idea of banning cyclists from the A9. Personally, I do not see why someone would want to cycle on the A9, but lots of cyclists do. When we delved into that a bit further, cyclists said that they were using the road because the A9 cycle path is not fit for the job so they are forced on to the A9 to complete the Land's End to John O'Groats ride, for example.

There is a wide range of issues. There are systems that are used on the continent that enforce spacing between slow-moving vehicles to avoid platooning and allow safer overtaking. There is also the perceived poor maintenance of the A9. Road surfaces have been average at best, although there seems to have been a bit of an effort recently to improve them south of Pitlochry. However, many overtaking lines are obstructed by overgrown trees and foliage that has not been cut down for decades. The video “A9 Highland Highway”, which was made when the road was constructed, shows that, in the original design of the road, there should be very clear overtaking distances. However, this morning, for example, I counted six tree canopies that blocked off a mile and a half overtaking view on a corner just north of Bruar.

11:00

**Jackson Carlaw:** I sympathise and agree with everything that you have said about the A9 and the need to dual it. I was in the motor industry for 25 years and saw some of the horrendous wrecks that arrived, some of which had involved fatalities. Is the point of average speed cameras not that they allow more reaction time by having motorists drive at a slower speed? I understand what you say about the facts showing that only 2 per cent of accidents were the result of speed as opposed to 50 per cent being the result of overtaking manoeuvres, but that might disguise the fact that the overtaking manoeuvre led to an accident because of the reaction times of other motorists.

However undesirable average speed cameras might be as an alternative to dualling, they slow down traffic—as they do on some motorways, where the restriction is 50mph—and have been chosen entirely because the judgment is that motorists will be able to react better at that restricted speed than at the normally allowed speed. Might it not be that average speed cameras allow people to react better in the event of the sort of inappropriate overtaking that you talk about and that the ultimate consequence of that might be that some accidents are avoided?

**Mike Burns:** That might be the case. When we look closely at the figures that Transport Scotland has provided, it seems to be anticipated that accident rates will rise for the first year or two after the installation of any system before they fall. Average speed cameras might allow more reaction time, but they do not stop platooning or enforce spacing to allow people who have done the slower-move overtake to pull in safely. Regular drivers of the A9 have seen that problem alarmingly frequently.

It is unfair to pinpoint HGVs only. Slow-moving traffic can be in the form of caravans and tourists who are not familiar with the area enjoying the scenery. Why not? We encourage tourism in the Highlands. Average speed cameras might slow down the traffic, but the effect of slowing down the traffic further when the average speeds are already slow is to increase frustration. According to the people whom we surveyed, that is more than likely to increase risky overtaking manoeuvres even if they are at a slower speed.

The other side of the coin is that Transport Scotland and the A9 safety group were adamant that no traffic would divert on to alternative routes as a result of the scheme. The independent survey that we carried out showed that nearly 50 per cent of people who responded would consider moving to routes such as the A82 as an alternative. Those roads are already struggling and do not need extra traffic to be diverted on to them as a result of drivers seeking to avoid an average speed camera system.

**Jackson Carlaw:** That would be as a result of their experience. I did not actually identify HGVs in my comments.

**Mike Burns:** No, but I was just trying to cover it.

**Jackson Carlaw:** I simply return to the point that a motorist is better able to respond to an unexpected incident when driving at 50mph than when driving at 70mph. If your argument is that the introduction of speed cameras will not prevent all accidents, that has to be correct, and I do not dispute it. However, I am not wholly persuaded—I would like to find out more—that introducing a lower average speed limit will not ameliorate the

consequence of some of the inappropriate driving that you say happens. I am not wholly persuaded, because drivers who are restricted to 50mph will be able to react to that inappropriate driving safely in a way that they cannot do when they are driving at 70mph. On balance, I am not entirely persuaded that it is such a black-and-white argument as you are making it.

**Mike Burns:** If someone overtakes at 70mph, that will probably not even activate an average speed camera. The problem is that we would then be relying on an expectation that drivers will adapt their behaviour and slow down. The point of the camera is to catch somebody. If somebody does an overtaking manoeuvre at 70mph, they will still get away with it.

**Jackson Carlaw:** No—with respect, it is not. I have lived in Troon for some time, so I am familiar with—

**Mike Burns:** I lived down in Glasgow and used the A road for five years, so I know it as well.

**Jackson Carlaw:** The introduction of cameras was not about catching people speeding; it was about getting people to adjust their behaviour. Indisputably, that has happened. Cars now drive to a 50mph restricted limit and not to a higher limit. Drivers do not speed up between cameras. They understand that they have to adjust their behaviour. I was not a big fan of the introduction of cameras, but it is not technically correct to say that drivers have not adjusted their behaviour. I think that they have.

**Mike Burns:** In that case, the question that I would pass back to you is: what is the tourist volume on that road compared with, for example, the A9? An important point that has arisen from Transport Scotland—

**Jackson Carlaw:** I would say that the tourist volume is fairly great.

**Mike Burns:** Is it as great as that on the A9, where people have been stuck in queues for four hours?

**Jackson Carlaw:** I am sorry, convener. I know that you do not want us to get into this discussion, but I have to say that those who try to go down that road on a sunny day will soon realise that most of Glasgow is going in the same direction. I think, therefore, that the tourist volume is as great as that on the A9.

**Mike Burns:** This is important because, according to information released by Transport Scotland on the patterns of speeding offenders, the vast number were not in cars registered in Scotland but in hire cars registered in the Birmingham and West Midlands area. If Transport Scotland's A9 safety group is going to launch a speed awareness campaign, will it be taken into all

the car hire depots for people who are about to drive their hire cars away? That is the level of awareness raising that we need. After all, we have seen evidence of and, indeed, experienced people who are unfamiliar with the road driving dangerously on it because they do not understand the set-up or lane control. Some of them do not even know what the speed limits are, because the signs have been removed.

**Jackson Carlaw:** I accept what you say, but I think that, if I were to be confronted with one of those motorists, I might be able to adjust my manoeuvring more easily if I were restricted to 50mph than I would be if I were driving at 70mph. All I am saying is that a lot of accidents happen as a result of reaction times as much as anything else, and the average speed camera proposal is designed to give people more reaction time on what is, as you have accurately identified, an extremely dangerous road about which drivers feel huge frustration. I just wonder whether you are right to dismiss the contribution that speed cameras could make.

**Mike Burns:** I have never dismissed their contribution—

**Jackson Carlaw:** But you are obviously opposed to them.

**Mike Burns:** I am opposed to them as the only solution. The campaign has made it clear from the start that it does not object to the use of average and fixed speed cameras as part of a wider model. For example, fixed speed cameras have been used successfully on the A90 at Laurencekirk to slow traffic on the dual carriageway to 50mph. Transport Scotland knows that there are problems at junctions on the A9 and could, as Highland Council has suggested, quite easily slow down speed limits at the junctions to address those issues.

**The Convener:** I am afraid that we have run out of time, Mr Burns, but I ask that you hold on for a couple of minutes.

**John Wilson:** I just want to make two quick points, convener. First, I remind Mr Burns of the heavy volume of traffic on the A77, which after all is one of the main routes from Ireland into the UK. The traffic going in the other direction is also quite heavy. Secondly, in the evidence that you provided with the petition, you refer to FOI requests to Transport Scotland and say that

“only 28 accidents according to Transport Scotland ... are due to breaking the speed limit”

but

“550 accidents in the same time frame were caused by overtaking.”

What timeframe are we talking about?

**Mike Burns:** From 2004 to August 2013. We do not have any figures from that point, because the freedom of information request took two years.

As for your comment about the A77, all I would say is that it is not 136 miles long. The length of the A9 means that the effects are amplified severely. If the scheme were to apply to only single carriageways, there might be more public acceptance of it but, as it stands, the public is not convinced that anyone knows what is really going on on the A9.

**John Wilson:** Did Transport Scotland provide any figures on how many of the accidents caused by overtaking happened on the A9's dualled and single-lane sections respectively?

**Mike Burns:** Not specifically, but they are in the 600-page document that details all the accident figures. My understanding is that 77 per cent of the accidents on the A9 were on single carriageways, and that that is where the problem seems to be.

**John Wilson:** That 75 or so per cent of accidents could be down to drivers' frustration at having to travel behind slower-moving vehicles.

**Mike Burns:** Yes. Those of us who have had to drive for four or five hours to get the 100 miles from Inverness to Perth will agree that that is undoubtedly the case.

**The Convener:** I am sorry, but I will have to cut you off there, Mr Wilson.

This is not a question but just a number of observations for the record. I am sure that you will agree, Mr Burns, that the statistics show that our safest roads are motorways, followed by dual carriageways and single carriageways, with single-track roads at the bottom of the heap.

**Mike Burns:** Yes.

**The Convener:** Like you, I am a regular traveller on the A9 and my experience is that the mixture of dual and single carriageways and two-plus-one stretches makes things quite confusing, particularly for tourists who are not familiar with the road. They are probably thinking, “Am I still on the dual carriageway?” or, “There's an overtaking lane opposite me, but I'm on the single carriageway.” That can be dangerous and there is no doubt that it can cause or contribute to accidents.

**Mike Burns:** Absolutely.

**The Convener:** We now move to the summation. There will be no more questions or points, Mr Burns, but I ask you to stay where you are for the moment.

A number of points have been raised and I think that it certainly makes sense to talk to the Scottish

Government and Transport Scotland, particularly the A9 safety group, about the issues in the petition. Does the committee, first, agree with that course of action and, secondly, wish to suggest any other groups that we might write to?

**John Wilson:** It has been suggested that we ask the AA, the RAC and the Road Haulage Association for their views on the petition.

**Jackson Carlaw:** We should also hear from Police Scotland. Moreover, I suggest that, when we write to those groups, we ask for the most up-to-date and latest information on the A77.

**The Convener:** It would be sensible to have that as a comparator.

**Angus MacDonald:** When we write to the A9 safety group, would it be possible to ask whether it has considered inviting the AA and the Institute of Advanced Motorists on to it? I also suggest that we write to the Freight Transport Association as well as the Road Haulage Association.

**The Convener:** I think that it would be good to get the views of the Institute of Advanced Motorists.

Do members agree with the various options that have been suggested?

**Members indicated agreement.**

**The Convener:** As you will have picked up, Mr Burns, we will continue your petition and write to all the organisations that have been mentioned. We will discuss the matter at a future meeting and the clerks will keep you up to date with developments. We are certainly keen to find out the further information that your petition seeks. The issue is important; after all, as I think you pointed out, the A9 will be the longest stretch of average speed camera road in Europe.

**Mike Burns:** It will be second longest in the world. The longest is in Australia.

I should also say that we have carried out private surveys and have offered the results to all the bodies that are involved. If the committee would like to access those results in full, I would be happy to provide them.

**The Convener:** On behalf of the committee, I thank you for that offer.

Thank you for coming along, Mr Burns. I suspend for a minute to allow the witness to leave.

11:11

*Meeting suspended.*

11:12

*On resuming—*

## Current Petitions

### Free Methanol (Ban) (PE1376)

**The Convener:** Agenda item 2 is consideration of 11 current petitions, the first of which is PE1376 by James McDonald on banning the presence of free methanol in all our manufactured products and our diets. Members have the clerk's note and the various submissions. I invite comments from the committee, but I am sure that members will have seen from their papers that the Scottish Government receives advice from the Food Standards Agency in Scotland and does not intend to run an awareness campaign. Moreover, the results from the Hull study do not indicate any need for action to protect the health of the public, and the European Food Safety Authority has concluded that aspartame and its breakdown products are safe for human consumption at current levels of exposure. As always, however, it is up to the committee to decide what its next steps with regard to the petition will be.

**Chic Brodie:** I realise that the petition has been going for some time and that the Hull study is now complete, but the fact is that we have just received an update from the FSAS. From the fair amount of reading that I have done and having listened to both sides, I am not sure that simply following the FSAS guidelines necessarily closes down the matter. I therefore ask that the petition be kept open until we get the full FSAS report.

**The Convener:** Thank you. What are your views, Mr Wilson?

**John Wilson:** I, too, am happy to keep the petition open. With regard to the wider debate, I am aware of other opinions that are coming out, particularly from the United States, so before we close the petition we should ensure that we have the most up-to-date and relevant information for consideration.

11:15

**Anne McTaggart:** I am not really sure what more we can do. We have received an array of information.

**The Convener:** Is the suggestion that we should ask SPICe to do a bit more work on the issue and give us an update?

**John Wilson:** That would be helpful. Although the petitioners referred to the European Food Safety Authority, I know that debates are taking place and research is being carried out in the United States. I want to ensure that we have the

most relevant and up-to-date analysis of the impact that the issue is having on food standards in Europe and across the world. I would hate us to drop the petition only for a major report to be produced that spurs the World Health Organization to say that it has decided to take action on the matter, and for us to find ourselves in a position in which we fall behind because we have not considered that information.

**The Convener:** In that case, the suggestion is that we continue the petition for specific action, which is for SPICe to do an update. Is that acceptable?

**Anne McTaggart:** I am not opposed to that.

**Jackson Carlaw:** I am with Anne McTaggart on this. There will always be a further report, there will always be somebody commissioning a report and there will always be someone who wants to embark on another report. However, if we intend to come to a conclusion based on the update from SPICe, then fair enough.

**The Convener:** Do we agree to the suggested action?

**Members indicated agreement.**

### **Wild Animals in Circuses (Ban) (PE1400)**

**The Convener:** The second current petition is PE1400, by Libby Anderson, on behalf of OneKind, on a ban on the use of wild animals in circuses. Members have a note by the clerk and the submissions.

There are two options. One is to close the petition on the basis that the Scottish Government has begun consulting on the issue that is raised and the petitioner has stated her intention to submit views to the consultation. The other is to defer consideration of the petition to a future meeting to await the outcome of the Scottish Government consultation on the issue.

**Jackson Carlaw:** The petition encouraged us to ask the Scottish Government to introduce a ban. If the Scottish Government is consulting on the matter, we have fulfilled our obligation. It is not for us to progress legislation to effect a ban. If the Government is doing that, then fine.

**The Convener:** The situation is certainly moving on.

Do members agree to close the petition, under rule 15.7?

**Members indicated agreement.**

**The Convener:** I thank Libby Anderson and OneKind for the petition, which we hope will achieve success.

### **Miscarriage (Causes) (PE1443)**

**The Convener:** The third current petition is PE1443, by Maureen Sharkey, on behalf of Scottish Care and Information on Miscarriage, on investigating the cause of miscarriage. Members have a note by the clerk and the submissions.

This was a thoughtful and good petition, but I think that there is now an argument for closing it, under rule 15.7, on the basis that the Scottish Government has stated its clear support for the current Royal College of Obstetricians and Gynaecologists guidelines, and the organisations that were contacted did not support the investigation or the offer of testing for women following a single miscarriage, for the reasons that are set out in their responses.

**Jackson Carlaw:** I support your suggestion. I seem to recall that, the last time we addressed the petition, we had not received a submission. It was subsequently received, but it has not altered the balance of opinion. I am grateful to the petitioners for submitting the petition but, given everything that we have heard, we are now in a position to close it.

**The Convener:** Do we agree to close the petition?

**Members indicated agreement.**

**The Convener:** I thank Maureen Sharkey for her work. She and her group spent a lot of time and effort on the petition.

### **Judiciary (Register of Interests) (PE1458)**

**The Convener:** The fourth current petition is PE1458, by Peter Cherbi, on a register of interests for members of Scotland's judiciary. Members have a note by the clerk.

Members will recall that it was decided that the petition should be considered again once Chic Brodie and I had met the Lord President. We had a useful meeting with Lord Gill last week and we discussed what the petition is calling for and the current procedure for members of the judiciary to recuse themselves. Lord Gill confirmed that a recusal in a case is noted in the minute of court proceedings, which is part of the formal court process, but no central aggregate records of individual recusals are kept. That means that it would be virtually impossible for an ordinary member of the public to detect how many recusals there have been across Scotland at any particular time or whether any individual sheriff or judge has recused him or herself.

Lord Gill explained in more detail why he feels that a register of judicial interests would not be workable. The principal reason is that a judge cannot predict what might arise in each and every

court case that might come before them. In any event, the petition seeks a register of pecuniary interests, and such a register would not address some of the concerns raised by the petitioner such as the concern about undeclared family relationships.

However, following a suggestion from me and Chic Brodie, Lord Gill has undertaken to check with the courts administration to see whether the information technology systems can be adapted to provide aggregate information about recusals, and he has undertaken to write to me on that in the next couple of weeks. Clearly, we are still awaiting that response. However, if it is possible to organise that information as suggested, it will mean that ordinary individuals with an interest will be able to find out how many recusals there have been across Scotland and by which sheriffs or judges.

My personal view is that, although that step does not include accepting the petition, it is practical and it moves things in the right direction. I am merely reporting that to the committee. Chic Brodie may wish to add some comments.

**Chic Brodie:** It was a reasonable meeting. The Lord President also drew to our attention the fact that members of the board of administration of the Scottish Court Service have to register their interests. Therefore, unbeknown to us, their interests were already in the public domain. I think that the letter will include a wider understanding of that and that he will talk to his colleagues about expanding that.

**The Convener:** That is true. Just so that members are totally in the loop, I add that only a small number of judges are involved in this, but the procedure that Lord Gill is going to look at has some merit.

My suggestion to the committee is that we wait until we get the full letter from the Lord President, which—to pick up on Jackson Carlaw's point—will not be forever; it will be in the next couple of weeks. We will then be able to look at the issue in full. I have just summarised my account of the meeting, but I would like to see the Lord President's view.

**Jackson Carlaw:** I only observe that, but for the belligerence of the committee in pursuing the issue, no letter would be forthcoming and there would be no investigation, explanation or other actions arising from it. That rather vindicates the tenacity with which we have pursued the matter.

**John Wilson:** Convener, was any kind of record kept of the meeting that took place between Lord Gill, you and the deputy convener? Were minutes taken?

**The Convener:** The clerk was present and took notes in the meeting. It was not an official meeting of the committee so we do not have an *Official Report* of it, but if you want an account of the meeting we can certainly provide it.

**John Wilson:** It is just that one issue that arose was that Lord Gill refused to come to the committee and give evidence, and the compromise position was that the convener and the deputy convener would meet him. In the interests of natural justice, I want us to have something, as a committee, that we can put on the record to declare what took place at that meeting. We can then satisfy future petitioners that we will not be in a position to hold private discussions with individuals when we ask for evidence from them that could basically lead to them avoiding putting something in the *Official Report*. That has been my position all along on this debate with Lord Gill—that we required something to be put in the *Official Report*.

I welcome the fact that Lord Gill is going to write to the committee with a fuller, more detailed explanation of what actually happens in the judiciary in terms of recusals and the declarations of interest. We have moved forward slightly, but there is still an issue about Lord Gill's refusal to come to give evidence to the committee.

**The Convener:** There is no difficulty about providing an account of the meeting. I informed Lord Gill at the start of the meeting that we would be making a summary of the key points. I wanted him to be clear before he said anything that that was the nature of the meeting.

As committee members know, Chic Brodie and I met Lord Gill with the committee's agreement. We did not meet him in a secret way. I do not want to reopen the debate at this stage, but members will also be aware of the issue that Chic Brodie raised—that, under the Scotland Act 1998, we do not have the power to summon a judge or a sheriff to appear before us. Members will note from the Justice Committee that, if a judge, a sheriff or indeed the Lord President wishes to attend a committee voluntarily, he or she is able to do that. Chic Brodie was very thorough in pursuing that point with the Lord President.

I will make sure that that note is contained in the papers for the next meeting. In a sense, we are putting on the record what happened.

**Chic Brodie:** I was going to make that point. Under section 23(7) of the Scotland Act 1998, judges and leaders of tribunals—funnily enough—are not compelled to appear before committees or to provide documents. I find that wholly unsatisfactory and I believe that it is a flaw in the act. I have looked at the evidence and the parliamentary report that was produced in—I



think—1998, and the argument for that seems to have disappeared in the mists of legal jargon. In fact, there was hardly any debate on the issue. Prior to the creation of the Supreme Court, judges were required to register their interests, but all of a sudden it transpired that they were not required to do that, and that happened without much debate. We need to ask what happened and why that decision was made. However, that is an on-going issue and not one for the committee to pursue at this stage.

All in all, the meeting with the Lord President was fairly favourable, and I thank the committee for allowing me to participate in it.

**The Convener:** Do members agree that we should await the Lord President's letter and discuss what course of action to take once we have it in front of us?

*Members indicated agreement.*

**The Convener:** I thank members for their contributions, and I thank Chic Brodie for coming with me to the meeting with the Lord President.

### **Planning (Protection for Third Parties) (PE1461)**

**The Convener:** The fifth current petition is PE1461, by William Campbell, on protection for third parties in the planning process. Members have a note by the clerk and the submissions.

Before I invite comments from members, I again put it on the record that I have known Mr Campbell for a number of years and have dealt with him, wearing a variety of hats, on various issues.

We have a number of options. One is to close the petition under rule 15.7 on the basis that the circumstances that are described in it are a matter for the police and do not fall within the scope of the land use planning system. The committee could, of course, take any other action that it considers appropriate.

Regretfully, I suggest that we close the petition on the basis that I cannot see anywhere else for us to go. However, if committee members have any insights that I do not have, I will be happy to hear them.

Do members agree to close the petition?

*Members indicated agreement.*

**The Convener:** I thank Mr Campbell for the sentiment of his petition on what is an important issue. However, if any of the circumstances that he describes arise, that is clearly a matter for the police.

### **Scottish Living Wage (Recognition Scheme) (PE1467)**

**The Convener:** The sixth current petition is PE1467, by Andrew McGowan, on behalf of the Scottish Youth Parliament, of which he is a member, on a Scottish living wage recognition scheme.

I think that circumstances have overtaken the petition in that the Government fully supports the principles of the living wage campaign and will fund the Poverty Alliance for a one-year pilot of an accreditation scheme that is designed to increase the number of employers who pay the living wage.

I thank Andrew McGowan for his excellent petition and, on the basis of the explanation that I have given, suggest that we close it under rule 15.7. Is that agreed?

*Members indicated agreement.*

### **Young People's Hospital Wards (PE1471)**

**The Convener:** The seventh current petition is PE1471, by Rachel McCully, on behalf of the Scottish Youth Parliament, of which she is a member, on young people's hospital wards. Members have a note by the clerk.

Regretfully, I recommend that we close the petition under rule 15.7 on the basis that the responses that the committee has received demonstrate that health boards have suitable provision and services for young people and there is little support for extending the upper age limit for such provision to 25 years.

I thank Rachel McCully for an extremely thoughtful petition and for all the work that she does as a member of the Scottish Youth Parliament.

I invite views from members.

**Chic Brodie:** This petition and the previous one were submitted by members of the Scottish Youth Parliament. I think that we should encourage more participation by not just members of the SYP but young people in general. The amount of work that the petitioners put into producing the petitions and coming to speak to the committee is a credit to them. We should actively encourage that.

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

Do members agree to the suggested course of action?

*Members indicated agreement.*

### **Alzheimer's and Dementia Awareness (PE1480)**

**The Convener:** The eighth current petition is PE1480, by Amanda Kopel, on behalf of the Frank

Kopel Alzheimer's Awareness Campaign, on Alzheimer's and dementia awareness. Members have a note by the clerk.

There are a number of options, but I think that it is particularly important for us to write to the Cabinet Secretary for Health and Wellbeing about the Scottish Government's plans for dementia sufferers under the age of 65 and to seek details of the review. I got the opportunity in a question to the cabinet secretary to raise the issue of free personal care for under-65s, which is crucial in relation to the petitioner's concern for dementia sufferers.

I seek members' views on the petition.

11:30

**Chic Brodie:** I may be wrong, but I understand that Ms Kopel is to meet—or has met—the cabinet secretary.

**The Convener:** One option is to invite the cabinet secretary to come and speak to us about this crucial petition, which addresses the huge area of younger dementia sufferers. Do members agree that we should invite him to come and give evidence to us?

**Jackson Carlaw:** Yes and no. The cabinet secretary has met the petitioner and has promised to close the loophole. It might be appropriate in the first instance to write and ask how he proposes to do that, as his response may satisfy our needs. I do not particularly want to call the cabinet secretary before us if a solution is in prospect. If we were not entirely happy about what we heard from the cabinet secretary, we might then wish to question him.

**The Convener:** We will not close down the option of having the cabinet secretary here. We will ask him for information in the first instance and, depending on his response, it might not be necessary to have him here. Is that an acceptable solution?

**Members indicated agreement.**

**The Convener:** Thank you.

### Single-room Hospitals (Isolation) (PE1482)

**The Convener:** The ninth current petition is PE1482, by John Womersley, on isolation in single-room hospitals. Members have a note by the clerk and the submissions. I welcome the Rt Hon Alex Fergusson MSP, who is in attendance on the petition as he has a constituency interest in it.

Welcome to the meeting, Mr Fergusson. I invite you to give any views that you may have in support of the petition.

**Alex Fergusson (Galloway and West Dumfries) (Con):** Thank you for that welcome, convener. I am grateful for this opportunity to say a few brief words in continued support of the petition, which has emanated from my constituency and was brought to the fore by the decision by Dumfries and Galloway NHS Board to build a new hospital that is to have only single rooms for patients.

Members will be aware of all the arguments, and I do not wish to repeat them, as that would be a complete waste of your time and mine. However, I point out to the committee that I am receiving an increasing number of representations on the policy as more and more people become aware of it. As with a lot of these things, when it was first announced a lot of people just saw "new hospital" and did not see the details. However, people are becoming more and more aware of the detail now.

I have considerable sympathy with the case for having single rooms in hospitals for children and young people, but I am very much coming from the point of view of elderly people, of which Dumfries and Galloway has a disproportionate amount of the number in Scotland. The hospital will cater for a disproportionate amount of elderly people. It is more and more being brought to my attention that such people very often draw a considerable recuperative benefit from the ability to share rooms when recuperating.

I find that the rather top-down attitude that is being displayed in not properly consulting patients' representatives in particular goes a bit against the grain when putting this type of policy into place. There are options for health boards to have a mix of accommodation in hospitals for clinical reasons. It has been made fairly plain that the Dumfries and Galloway NHS Board was certainly not encouraged to do that, even if it wanted to. To be fair, I am not convinced that it did want to, but the possibility was never looked at.

My main cause of concern, however, is the complete lack of consultation with patients' representatives. I find it quite enlightening that in an online survey by the *BMJ*—it might not be scientifically delivered, but we cannot doubt the proper right of the *BMJ*'s subscribers to give their views on the issue—57 per cent of the 1,060 doctors who responded were against the policy of single-room-only hospitals.

I do not know what committee members' thoughts on the petition are, but I simply ask that you take my thoughts into account as you continue your deliberations on it.

**The Convener:** Thank you. Can I have comments from members? Jackson Carlaw is looking at me expectantly.

**Jackson Carlaw:** I am always interested in Mr Fergusson's arguments for homoeopathic medicine, but I am not entirely convinced. There are single rooms across Europe and the rest of the world and in private hospitals, and there are clinical reasons for going in that direction. I am perfectly happy with the suggestion that we write to the Scottish Government to ask it to ensure that the views of patients and the public—including the petitioner's views—are sought to inform the proposed review. However, I have not yet heard a convincing argument against the clinical benefits that will be derived from having hospitals that have only single rooms.

**Chic Brodie:** I understand the concern, and I have heard some comments from the area about the lack of consultation, so I support the petition.

When we first considered the petition, I raised the question of the cost implications and whether we were getting better value. It would be instructive, in writing to the Scottish Government on the clinical aspects of single rooms versus multi-bedded rooms, to ask in addition for evidence that single rooms are also cost effective. Clearly, the patients come first but, being a cynical person sometimes, I suggest that we consider asking the Government to share information with us—for example, on what the cost in Dumfries and Galloway might have been if plans had been made earlier and views sought on multi-bedded rooms.

**The Convener:** Do members agree on the course of action that Jackson Carlaw has identified and the additional point that Chic Brodie has made?

*Members indicated agreement.*

**The Convener:** As you can see, Mr Fergusson, we are going to write to the Scottish Government and add in a cost element as well. We will continue the petition, and keep you and the petitioner up to date. I thank you very much for taking the time to come in and make your submission.

**Alex Fergusson:** Thank you for your time, convener.

### **Schools (Religious Observance) (PE1487)**

**The Convener:** The 10th current petition is PE1487, by Mark Gordon and Secular Scotland, on religious observance in schools. Members have a note by the clerk and the submissions. A number of late submissions have been received and have been circulated. Copies have also been put on members' desks, but I am conscious that members may not have had time to absorb all the late submissions.

Before I invite contributions from members, I point out that the clerk has received

representations from the clerk to the Education and Culture Committee, which has indicated that it is keen for the petition to be referred to it, as it expects the issue to be relevant to the work that it is currently doing. That is normal practice. If there is a relevant workstream in another committee, we get an alert and can refer the petition to that committee if members agree to do so.

I now throw open the issue for contributions and members' views on whether we should refer the petition to the Education and Culture Committee as part of its workstream.

**John Wilson:** I would be content to refer the petition on to the Education and Culture Committee if it is considering the issue as part of its workstream. We would expect to pass it on to that committee eventually, so if it is willing to take it on at present, then so be it.

**Angus MacDonald:** Given the recent interventions in the debate by the Church of Scotland and the Humanist Society regarding the call for a time for reflection rather than a time for religious observance, and the knock-on effect of an argument this morning from the Free Church of Scotland, which fears the impact on schools of such proposals, the petition is clearly developing arms and legs, and I agree that it should be referred to the Education and Culture Committee.

**The Convener:** I think that we all agree that it is a very important issue, and it is important that the relevant committee considers it. Do members agree to refer the petition under rule 15.6.2 of standing orders to the Education and Culture Committee as part of its remit?

*Members indicated agreement.*

### **Secret Society Membership (Declaration) (PE1491)**

**The Convener:** The 11th and final current petition today is PE1491, by Tom Minogue, on the declaration of secret society membership by decision makers. Members have a note by the clerk and the submissions, and a note from the petitioner, copies of which have been put on members' desks.

As members will note, Mr Minogue has indicated that he does not wish to proceed with the petition. Before we talk about the individual case, I suggest that we ask the clerk to report back at our next meeting with advice on where we stand once a petition has been heard by the committee. Do we now have ownership over the petition and the right to make that decision, or are we obliged to close a petition if the petitioner has pulled out at any stage? That issue has not come up in my experience in the past three years, and it is important in the longer term that we get a clear

administrative line on it as a guide for future petitions.

I will deal with the issues one at a time. First, do members agree that we should ask the clerk to find out and report back at a future meeting?

**Members** *indicated agreement.*

**The Convener:** We next have to deal with Mr Minogue's petition. Clearly Mr Minogue has spent a lot of time and effort on the petition and has given us a lot of submissions. For one reason or another, he now wishes to withdraw the petition. Mr Minogue has sent me some comments, which I am in the process of replying to. Mr Minogue should get a reply to his letter at the end of this week. Nevertheless, he has intimated that he wishes for the petition to cease from today. I seek advice from the committee on how to deal with it.

**Chic Brodie:** In view of that commentary, without overpersonalising things I say that perhaps my robust questioning did not help Mr Minogue. Convener, I hope when you reply to him that you will encourage him to be a lot more accurate in his comments, some of which are completely distorted and incorrect and, frankly, should not have appeared in his letter. On the basis of his wish to withdraw, and subject to the caveat that he does more checking in future, I think that it is better that we do that.

**John Wilson:** Based on your opening remarks about the petition, I am keen to get a definitive view on whether the committee can continue with the petition if the petitioner decides to withdraw it. Before intimating that he wanted to withdraw the petition, the petitioner had suggested that we should seek the views of other organisations. We have not had responses from the other organisations from which we sought views.

I would have liked to have got some of the views. I was surprised at the Crown Office and Procurator Fiscal Service's response to the committee. I would have liked it to submit something, even if that was similar to that of Sheriffs Association, so that we could refer to it. The Crown Office just does not want to respond to the issues raised.

I would also have liked to seek the views of the Scottish Human Rights Commission so that we could have a definitive response on whether it is appropriate that a register of membership of organisations should be kept and on what rights individuals have not to declare membership of particular organisations.

**Anne McTaggart:** I think that it is important that we await further clarification before making any decisions on the matter.

**Angus MacDonald:** It is unfortunate that the committee has spent some time on the petition

only for the petitioner to abandon it. Following on John Wilson's point, I note in the evidence a reply from the Grand Lodge of Antient Free and Accepted Masons of Scotland saying that it finds it disquieting that no freemason has been asked to give evidence during the process.

As long as I have been on the committee, we have never been in this position where a petition has been abandoned, and I am keen to get further advice at the next meeting.

**The Convener:** As I am sure the committee has gathered, one option is to continue the petition, get advice from the clerk on where we are in administrative terms and make a decision at the next meeting. We have a considerable amount of time before our next meeting so we will have time to do that. We can then take a considered view and we will not have delayed our action by much.

**Jackson Carlaw:** I advocate a different course of action, which is that, before considering Mr Minogue's request to abandon the petition, we close it under our own aegis, on the basis that the evidence that we have received gives no credence to the petitioner's arguments. If we closed the petition, the question of our considering his request to withdraw the petition would not arise.

**The Convener:** We have agreed that we will take advice on the general point, but you suggest that we should close the petition, irrespective of the petitioner's view.

11:45

**Jackson Carlaw:** I would prefer the petition's destiny to lie in the committee's hands. Notwithstanding the general advice that we are to receive, one proactive way to achieve that would be to close the petition before we consider Mr Minogue's request. Closing it is a perfectly viable option and I might have advocated it in any event, on the basis of everything that I have read.

**The Convener:** We do not normally have votes in the committee, but I do not see why we should not have one today, if members feel strongly about the matter. If Mr Carlaw proposes that we should close the petition, I can treat that as a formal motion.

**Chic Brodie:** I agree with the proposal. The committee does a fairly good job of highlighting issues, and many petitions are in the stream.

To be frank, I would have preferred it if Mr Minogue was here. If we are to spend more time on the petition, we should get some definition of the process, as has been suggested. However, it would be unusual for us to spend more time on a petition that the petitioner wants to abandon. It takes two to tango. In this case, we would be tangoing on our own.

**The Convener:** I take it that you support Mr Carlaw's suggestion.

**Chic Brodie:** I do.

**The Convener:** As no member takes a contrary view, we have decided to close the petition, in the light of the arguments that Jackson Carlaw and others have made. Separately, we will seek advice on what to do in the future if a petitioner wishes to withdraw their petition. We hope to have that information at our next meeting.

I thank members for their contributions.

*Meeting closed at 11:47.*



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