

JUSTICE 2 COMMITTEE

Wednesday 24 January 2001
(*Morning*)

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JUSTICE 2 COMMITTEE

1st Meeting 2001, Session 1

THE OLDEST COMMITTEE MEMBER

*Ms Margo Macdonald (Lothians) (SNP)

CONVENER

*Pauline McNeill (Glasgow Kelvin) (Lab)

DEPUTY CONVENER

*Mrs Lyndsay McIntosh (Central Scotland) (Con)

COMMITTEE MEMBERS

*Scott Barrie (Dunfermline West) (Lab)

*Christine Grahame (South of Scotland) (SNP)

*Euan Robson (Roxburgh and Berwickshire) (LD)

*Karen Whitefield (Airdrie and Shotts) (Lab)

*attended

CLERK TO THE COMMITTEE

Lynn Tullis

SENIOR ASSISTANT CLERK

Alison Taylor

ASSISTANT CLERK

Fiona Groves

LOCATION

Committee Room 3

Scottish Parliament

Justice 2 Committee

Wednesday 24 January 2001

(Morning)

[THE OLDEST COMMITTEE MEMBER *opened the meeting at 10:03*]

Ms Margo MacDonald (Oldest Committee Member): Good morning and welcome. I want to start by questioning the method of electing a committee convener. If the oldest MSP present does not act her age, and if nobody can guess her age by looking at her, where is the justice in singling her out in this way when she is doing nobody any harm and wants just to totter off quietly into the sunset? Perhaps we should look again at standing order 12.1.6. Why should the meeting not be chaired by the youngest, or the baldiest, or perhaps the one with the most beautiful eyes?

Before I discharge the duty that my birth certificate has placed upon me and ask for nominations for the convenership of the Justice 2 Committee, I want to put on record my great regret that the Parliament took the decision to create a second justice committee. I believe that I am not alone in thinking that that decision was unwise and will not be appreciated or understood by the electorate or by professionals in the Scottish justice system. However, nothing is set in stone. The first devolved Scottish Parliament is still wearing L-plates and, should the experience of having two justice committees with identical remits teach us that one properly resourced committee with perhaps two sub-committees would be a more efficient and logical way of doing business, we should not shrink from saying so. I have consistently opposed the creation of a second justice committee but I accept Parliament's decision on the matter.

In a moment, I will ask for nominations for the convenership and deputy convenership, but first I want to state that my negative vote for a member will not reflect anything other than my disappointment that the previous agreement between business managers, which was applied to the election of other committee conveners and deputy conveners, has not been applied to this committee. My negative vote should not be taken as an indication of a lack of confidence in, or support for, the committee member who is chosen as convener. Instead, it will be a protest that my age enables me to make at what I consider to be a short-sighted and misguided way of dealing with the volume of work that was expected to fall to the

Justice and Home Affairs Committee.

This old dear has now had her say. Do any other old dears—or young people—want to say something?

Christine Grahame (South of Scotland) (SNP): As a slightly younger old dear than Margo MacDonald, I too want to say that my remarks are no reflection upon either Pauline McNeill or Lyndsay McIntosh. I have made that plain to them informally and I want to make it plain formally now.

I, too, opposed the creation of the second justice committee and I know that three parties were against it in the Parliament. However, the main issue today is that the principle that has been applied consistently to the other committees for the allocation of convenerships and deputy convenerships has not been applied to the Justice 2 Committee. That those positions were not allocated in the same manner as previously was improper, whether the committee concerned was this one or any other committee that became the Parliament's 17th committee.

I, too, will therefore vote against the nominations for convener and deputy convener as a vote against the misapplication and distortion of a principle on which the Parliament has operated to date. I hope that the Parliament will return to operating on that principle, because, if we start to abandon the principles and guidelines, we will be in deep soup. We are not doing what the Parliament was set up to do.

Regrettably, I will vote against Pauline McNeill and Lyndsay McIntosh, but I hope that they appreciate why I will do so.

Interests

Ms MacDonald: As members are probably aware, a declaration of interests is called for at this point. The declaration should only be general, along the lines of “I confess to being an axe murderer”, or some such thing.

I declare that I have a daughter who is a solicitor and a daughter who is a police officer. I have no further interests to declare.

Christine Grahame: I declare that I am not an axe murderer. I am probably the most unpleasant thing next to that: I was a practising solicitor and a member of the Law Society of Scotland.

Mrs Lyndsay McIntosh (Central Scotland) (Con): Are today's declarations further to those that we made in the Justice and Home Affairs Committee?

Lynn Tullis (Clerk): As the committee is new, we have to start with new declarations.

Mrs McIntosh: We treat this as a completely new committee?

Ms MacDonald: Yes. That is part of my protest.

Mrs McIntosh: In that case, I confess to having served on the bench in Motherwell district court and having an interest in the affairs of justices of the peace and the District Courts Association.

Karen Whitefield (Airdrie and Shotts) (Lab): Must new members make a declaration even if they have no interests? That has been required on the Social Justice Committee—is it required here, or do we declare only if we have interests?

Ms MacDonald: I could tell that you did not have any interests to declare.

Karen Whitefield: Thank you.

Convener

Ms MacDonald: The Parliament has agreed, on a motion of the Parliamentary Bureau, that the convener will be chosen from among the Labour members of the committee. I invite nominations.

Mrs McIntosh: I nominate Pauline McNeill.

Ms MacDonald: I accept that nomination. Are we agreed that Pauline McNeill be chosen as convener?

Christine Grahame: No.

Ms MacDonald: In that case, I declare that Pauline McNeill has been duly chosen.

Christine Grahame: I said that I do not agree.

Ms MacDonald: I know, but I had counted those who are in favour. Please excuse me for not having a formal count. We will have a division now.

FOR

Barrie, Scott (Dunfermline West) (Lab)
McIntosh, Mrs Lyndsay (Central Scotland) (Con)
McNeill, Pauline (Glasgow Kelvin) (Lab)
Robson, Euan (Roxburgh and Berwickshire) (LD)
Whitefield, Karen (Airdrie and Shotts) (Lab)

AGAINST

Grahame, Christine (South of Scotland) (SNP)
Macdonald, Ms Margo (Lothians) (SNP)

Ms MacDonald: The result of the division is: For 5, Against 2, Abstentions 0.

Pauline McNeill was chosen as convener.

Ms MacDonald: I congratulate Pauline McNeill and hand over to her. That was short but sweet.

The Convener (Pauline McNeill): Good morning and thank you for electing me as convener. I thank Margo MacDonald for taking the chair. Who is to say that we would not have voted for her as having the most beautiful eyes, if we had been asked to vote on that basis.

I am conscious of some members' strong feelings, to which I will be sensitive. By my count, five members of the committee previously served on the Justice and Home Affairs Committee, so there will be some continuity.

When we have our discussion under item 6, which may be taken in private, I hope that we will take the approach of allowing members who had a specific interest while they served on the Justice and Home Affairs Committee to continue that interest—if they would like to—and, perhaps, of looking at new areas of interest to develop. I hope that members will be able to continue their commitment to the whole area of justice and home affairs.

Deputy Convener

The Convener: Are there any nominations for the post of deputy convener?

Scott Barrie (Dunfermline West) (Lab): I nominate Lyndsay McIntosh.

The Convener: I accept that nomination. Do we need to put that to a vote?

Christine Grahame: Yes.

The Convener: There will be a division.

FOR

Barrie, Scott (Dunfermline West) (Lab)
McIntosh, Mrs Lyndsay (Central Scotland) (Con)
McNeill, Pauline (Glasgow Kelvin) (Lab)
Robson, Euan (Roxburgh and Berwickshire) (LD)
Whitefield, Karen (Airdrie and Shotts) (Lab)

AGAINST

Grahame, Christine (South of Scotland) (SNP)
Macdonald, Ms Margo (Lothians) (SNP)

The Convener: The result of the division is: For 5, Against 2, Abstentions 0.

Mrs Lyndsay McIntosh was chosen as deputy convener.

The Convener: Congratulations, Lyndsay.

Europe Familiarisation Scheme

The Convener: Agenda item 4 is the appointment of a delegate for a visit to the European Parliament. This item previously appeared on the agenda at the Justice and Home Affairs Committee.

The visit is part of the Parliament's Europe familiarisation scheme and is intended mainly for conveners, but that does not mean that another member of the committee could not attend. The delegate must be available for a briefing session, which will take place on 19 February. What do members think that we should do?

Christine Grahame: When is the visit to the European Parliament?

The Convener: It will take place on 19 to 21 March.

Christine Grahame: Can you clarify the purpose of the visit? If we can decide what we want to get from the visit, that would give us an idea of who we want to send.

The Convener: The visit has been organised by the Presiding Officer's office as part of a familiarisation programme. So far, most committees have elected that their convener go, but the decision is open to us. A previous briefing on Europe made it apparent that we should pay more attention than we do at present to what is coming out of Europe. We are all in the same boat, since our knowledge of Europe is pretty limited.

When we discuss our forward work programme, we can discuss what we want to get from the visit. However, I think that we want to find out what mechanisms we can use to scrutinise regulations. We might not want to wait until the visit to consider that. I would have thought that that would be a primary concern for the committee.

Ms Margo MacDonald (Lothians) (SNP): With all due respect, going to the European Parliament is fine for networking and so on, but it is not the place to learn about the policy-making procedure of the European Union. Such a huge amount of regulation is coming through now, as a result of the European convention on human rights, that it would be advisable for you, convener, to have talks with whoever you talk to and ask to go to speak directly to some of your opposite numbers.

The European Parliament is not the main place to go to, because of the way in which the European Union is structured. As justice is still not fully incorporated, I suggest that there are other more appropriate institutions that you could visit. But you could go to the European Parliament as well—you would have a nice time.

The Convener: Does anyone have strong feelings about going?

Christine Grahame: It would be useful for the convener to go, but if she were to demur, I would not mind going, as I have an interest in European affairs.

Our previous briefing was interesting—we are all beginning to get alerted to things that sort of snuck in the back door. We have entitlement, albeit restricted, to make representations on how European legislation affects Scottish justice, particularly criminal and civil law.

I am not unhappy about the convener going but, if she has better things to do in March, I would be willing to go.

10:15

The Convener: Bearing in mind all that has been said, particularly by Margo MacDonald, we can investigate the possibility of who we would like to meet that would match up with our interests.

If the committee agrees, I will attempt to go to the European Parliament and, in the event of my being unable to go, Christine Grahame will take my place.

Christine Grahame: Okay—although it is up to other members.

Mrs McIntosh: I am happy to support Christine Grahame's application. We will have Christine on the subs' bench in the event that the convener is unable or unwilling to go.

The Convener: Are we all agreed?

Members *indicated agreement.*

Items in Private

The Convener: Agenda item 5 is a decision on whether to take our remaining agenda items in private. Are we agreed?

Ms MacDonald: No.

Christine Grahame: I do not mean to be difficult, especially given the way that things have gone this morning, and given that many of us had quite good relationships on the Justice and Home Affairs Committee, which I hope will continue. However, item 6 concerns an issue that is very important for us and I would like it to be taken in public so that it is included in the *Official Report*. We can go then back and compare what we wanted to do with what has been done. It is important that we operate in public as far as is humanly possible, rather than behind closed doors. I would be most unhappy to discuss the item in private.

Ms MacDonald: I support what Christine Grahame has just said. I remind the convener of our visit to the Glasgow sheriff courts. The people we met there showed a complete lack of understanding of why the Scottish Parliament should have two justice committees. We must have open and public discussion of the reasons behind that decision.

The Convener: That is fine, but item 6 is a discussion of the paper on how the committee will operate, not of the reasons that led to there being a Justice 2 Committee.

Christine Grahame: I acknowledge that that debate is over for the time being. I accept that the item under discussion is about how the two committees will operate.

The Convener: The problem is that the paper that we are to consider under item 6 is a private paper. It was discussed in private, I think, with the Justice 1 Committee.

Christine Grahame: That is a different matter. That was an informal meeting between the Justice 1 Committee and the Justice 2 Committee. This is a formal meeting of the Justice 2 Committee, with a publicly available agenda.

Mrs McIntosh: May I make an alternative suggestion? Why not discuss the paper in private and minute our forward work plan? That would give us—dare I say it—the best of both worlds, as we could speak freely and then minute what we have decided to do.

Karen Whitefield: I agree with Lyndsay McIntosh's suggestion. I thought that we would have our discussions in private, but we could ensure that the outcomes were made public, so that people could be clear about what we decided.

Christine Grahame: With respect, outcomes do not tell people what issues were debated; they just show what the majority has decided. It is very important that we debate publicly how the justice committees will operate so that anyone who is interested in following the proceedings of the Justice 2 Committee can see how we have reached our views on that. That will not make us a hostage to fortune and will not cause any difficulty. To do otherwise—simply to publish some kind of conclusion—would not make plain the issues and difficulties that we may have foreseen and flagged up. Some people in the Executive require to know the difficulties. We will certainly face difficulties; we will not have to try to make them.

The Convener: I want to clarify something with the clerks. Will the paper that we have previously discussed be made public once the amendments have been agreed?

Lynn Tullis: If that was the committee's desire, certainly it could be made public.

The Convener: How does Christine Grahame feel about that? We can discuss the document and amend it but, when it is finally agreed, that document could be made public. In effect, it would be the publicly available code of practice by which we will operate.

Christine Grahame: That comes some of the way to taking forward the honest and genuine difficulties that I anticipate we will meet in issues that will come before the two justice committees.

The Convener: Having served on the Justice and Home Affairs Committee with Christine Grahame, I appreciate the problems and I am determined that this committee will work in a harmonious way with the Justice 1 Committee. I am also clear that we have to avoid duplication.

Christine Grahame: If there is a clear undertaking that the paper that we come up with will be made public, I am content.

I may be freelancing—I have not discussed the issue with my colleague—but, in that situation, we would have something on paper that could be debated thereafter. We could return to it if we felt that difficulties were arising or if we found better ways for the two committees to deal with issues. Euan Robson, who is in the fortunate position of being a member of both committees, could be our diplomatic emissary from the Justice 1 Committee. I am content if the paper is published once it has been amended.

The Convener: Is that agreed?

Members *indicated agreement.*

10:20

Meeting continued in private until 11.37.

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