

PROCEDURES COMMITTEE

Tuesday 16 November 1999
(*Morning*)

© Parliamentary copyright. Scottish Parliamentary Corporate Body 1999.

Applications for reproduction should be made in writing to the Copyright Unit,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The
Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now
trading as The Stationery Office Ltd, which is responsible for printing and publishing
Scottish Parliamentary Corporate Body publications.

CONTENTS

Tuesday 16 November 1999

	Col.
STANDING ORDERS.....	171
SCOTS.....	185
CORRESPONDENCE.....	191
LIAISON	191

PROCEDURES COMMITTEE

7th Meeting

CONVENER :

*Mr Murray Tosh (South of Scotland) (Con)

COMMITTEE MEMBERS :

*Donald Gorrie (Central Scotland) (LD)
*Janis Hughes (Glasgow Rutherglen) (Lab)
*Gordon Jackson (Glasgow Govan) (Lab)
*Mr Andy Kerr (East Kilbride) (Lab)
*Mr Gil Paterson (Central Scotland) (SNP)
*Michael Russell (South of Scotland) (SNP)

*attended

THE FOLLOWING MEMBERS ALSO ATTENDED:

Mr Brian Monteith (Mid Scotland and Fife) (Con)
Iain Smith (Deputy Minister for Parliament)

COMMITTEE CLERK:

John Patterson

SENIOR ASSISTANT CLERK:

William Venters

ASSISTANT CLERK:

Jim Johnston

Scottish Parliament

Procedures Committee

Tuesday 16 November 1999

(Morning)

[THE CONVENER *opened the meeting at 10:02*]

Standing Orders

The Convener (Mr Murray Tosh): Welcome to the seventh meeting of the Procedures Committee. We have quite a lot of paper in front of us, but we have been over much of it previously—he said hopefully. We might manage to get through it without getting bogged down in revisiting issues.

With regard to the committee's priorities, three reports have come to us that we have not had the opportunity to examine fully. Those reports are on issues 41, 42 and 43. In addition, chapters 12 and 17 of the standing orders have been subject to some change since our previous discussion, in that there have been suggestions from the Parliamentary Bureau on how we might tackle the issue of temporary or deputy conveners. Changes to those chapters interrelate with issues 41, 42 and 43.

We are invited to approve a draft report and the changes to standing orders consequent upon it; we have approved most of it already. It would be more appropriate to look at annexe 3 before we examine the report itself, because the report will simply reflect the changes that we make to standing orders.

Having confused everybody with that, I refer the committee to annexe 3. It contains a chapter-by-chapter report on the amendments—including the consequent amendments—that we have previously agreed. Everything in chapters 2 and 5 was discussed at our previous meeting.

Issue 42 refers to rule 6.6 of the standing orders. The document to which I refer is in the report that was before us at our previous meeting—I am sorry that the documents are not numbered for easy cross-referencing—and it outlines the problem that the Finance Committee mentioned. The papers that are before members are the brief paper on commissioning a report that went before the committee, a note on the Finance Committee remit from the clerk of the committee and a note on the remit of the Finance Committee from Mike Watson.

The issue is that the Finance Committee is unable to examine a number of the areas that it

wanted to explore; it has suggested that its remit be amended by the insertion of the words:

“other matters relating to the administration of public finance in Scotland.”

Those words are written into the draft standing orders as new rule 6.6.1(d). Rule 6.6.1(c) now reads:

“(c) Budget Bills; and—”

We have incorporated within the standing orders the request from the Finance Committee to have its remit extended. The significance of that is that is that it allows the committee to examine more than simply budgetary issues. It can, for example, examine issues relating to the Barnett formula and other matters that are important to the committee.

I hope that I have made that clear. Are members willing to accept that amendment, which relates to the remit of the Finance Committee?

Members indicated agreement.

The Convener: That takes us to issue 43 and rule 6.11 of the standing orders, which relate to the Subordinate Legislation Committee. In a letter, the clerk to the committee outlines the committee's proposed amendment, which is incorporated in new rule 6.11.1(a)(ii), which states:

“subordinate legislation not laid before the Parliament but classified as general according to its subject matter.”

The committee wants to draw in more subordinate legislation—the Scottish statutory instruments—including those that are not necessarily laid before the Parliament. William Venters will explain what that means in terms of legal or judicial statutory instruments.

William Venters (Senior Assistant Clerk): I had a chat with the clerk to the Subordinate Legislation Committee this morning. He indicated that many rules for sheriff courts and Court of Session procedure are made by statutory instruments, but are not laid before the Parliament. That committee would like to see them.

The Convener: Does that exhaust the range of additional items of subordinate legislation? I understood from our earlier conversation with the clerk to that committee that there are additional instruments, which do not fall within that legal definition.

William Venters: The possibility was raised that other subjects could be included, but I am not in a position to give more explicit guidance on that.

The Convener: The clerk to that committee attempted to explain the situation to me by referring to matters that derive from Westminster legislation. The letter that we received from Alasdair Rankin indicated that there would be a letter from the Minister for Parliament, but we have

not received it. Can Iain Smith expand on that point?

The Deputy Minister for Parliament (Iain Smith): I cannot at this stage—the issue is still being fully considered, and I hope that that letter will come to you early.

The Convener: That presents us with a difficulty. While I have no difficulty on the legal instruments, I do not understand the additional points that we might have to take on board. I am not suggesting that there is anything inappropriate in what is proposed, but we must know what is being asked of us. That might mean that if we cannot clarify the matter, the issue might be lost as one of our priorities. I suggest that we meet later this week or early next week to examine that issue and to try to bring about a successful conclusion so that we do not lose the opportunity to include the issue in our final report on the standing orders. That requires that the Executive clarify urgently what it wishes to do.

Donald Gorrie (Central Scotland) (LD): The proposed wording seems to be omnibus. It is not restricted to legal issues, but covers everything.

The Convener: When I first read that, I thought that it went beyond omnibus. I thought that it would give the committee a remit to examine matters that were not related to Scottish statutory instruments. I do not understand what is meant by the word “general”. This appears to me to be almost a vires issue, which goes beyond the remit of this Parliament.

Gordon Jackson (Glasgow Govan) (Lab): I am interested to know what the word “general” means in that context.

The Convener: Does anybody know? John?

John Patterson (Committee Clerk): No, I am afraid that I cannot help.

The Convener: We are a little under-prepared. I suggested to Alasdair Rankin that we would appreciate some clarification. While I am apologetic about the need to do so, we will have to hold a brief additional meeting.

Donald Gorrie: I thought—and this might be a stupid idea—that the word “general” referred to issues not specific to a subject covered by a committee of the Parliament, but that is a layman’s guess.

Gordon Jackson: That is as good a guess as any.

Michael Russell (South of Scotland) (SNP): Could we have a brief note that defines what the word means and then, if necessary, we can have another meeting? We would like to understand this.

The Convener: If we do it that way, we will be approving the change unless there is any subsequent objection. We will be using a sort of negative statutory instrument procedure. I am wary of that because we risk doing so to spare ourselves—as busy people—the inconvenience of a further meeting. I would rather know what I will be agreeing to than to agree only to find out that I do not like it and that I want to object.

Michael Russell: Could we combine the two?

The Convener: Yes.

Michael Russell: We could have a note to explain that to us and we can then wait on you at your pleasure.

The Convener: I like the sound of that, but I am not sure that it is covered by the standing orders.

Iain Smith: Or by the Standards Committee.

The Convener: That deals with chapter 6.

We have discussed previously the matters relating to chapter 7. The same is true of chapter 8, which contains references to sub judice.

Michael Russell: I might be being slow, but does issue 41 relate to chapter 9, and are we coming to that? It is about the financial memorandum and is a substantial matter.

John Patterson: That is dealt with in chapters 17 and 9.

Michael Russell: It is an essential matter.

The Convener: Chapter 17 is of some concern.

There is nothing new on chapter 11, so that takes us to chapter 12 and the issue of deputy conveners and temporary conveners. We discussed that extensively at our previous meeting. Members will recall that in relation to deputy conveners we find ourselves tangled in the matter of political balance among deputies. We agreed that the best way to handle that was to try and take the sting out of it by having a deputy convener only when the convener could not attend or chair the meeting—the falling-under-a-bus syndrome sprang to mind.

The bureau has discussed our proposals and has indicated its desire to retain the principle of a deputy convener in the standing orders, as you will see in section 2A of chapter 12 of the draft standing orders, where the appointment of deputy conveners is written back in again. I think that it would be appropriate, at this point, to ask Iain to explain the thinking behind that. The committee had gone through it all and had decided against it; we are now being asked to reconsider.

10:15

Iain Smith: As we are still testing the water as

to how committees operate, we would like to be able to review the position on deputy conveners in a few months'—or perhaps even years'—time. If, in future, it were decided that it would be sensible for committees to have deputy conveners, we would like to be able to do so without having to go through the rigmarole of changing standing orders. The intention is to go ahead and appoint temporary conveners, but to leave the door open for the Parliament, at some future date, to decide that committees should have deputy conveners.

The Convener: With respect, if we adopt the standing orders now, and retain the provision for deputy conveners, you must then determine a method for appointing deputy conveners. That will bring up the issues that were put to us in the first place, such as how to accommodate the need for delicate party balances.

Iain Smith: I accept that that issue will have to be resolved if the Parliamentary Bureau decides to put a motion to the Parliament to appoint deputy conveners.

The Convener: You said "if". In effect, the Parliament is working unconstitutionally, in that we have not, so far, implemented such a measure. I do not see any way in which you could, legalistically, justify not having acted upon that. Surely, having come to your decision, and having got us to drop our proposal for temporary conveners, you have to move quite urgently on deputy conveners.

Iain Smith: The idea—which comes from the bureau, not just the Executive—is not to drop the proposal on temporary conveners: it is simply to have an enabling clause in the standing orders to allow the appointment of deputy conveners if the Parliament so decides. If, at some point in the future, the bureau and the Parliament decide that they would rather have deputy conveners than the temporary convener arrangement, they are able to do so.

The Convener: Would the temporary convener arrangement fall when deputy conveners came in? Logically, it should.

Iain Smith: Yes. Paragraph 8A of the draft says that when a committee does not have a deputy convener, the temporary convener comes into effect.

It might be helpful if the wording of paragraph 2A of the draft were changed slightly, to say that the Parliament may decide, for each committee, on a motion of the Parliamentary Bureau, to appoint deputy conveners. At the moment, it does not say that, and is a little unclear. The clause that I just suggested would be a "may" clause, and thus enabling.

The Convener: Therefore, you would amend

paragraph 2A to read:

"The Parliament may decide, for each committee, on a motion of the Parliamentary Bureau—

(a) to appoint deputy conveners;

(b) the political party whose members shall be eligible to be deputy convener of the committee; or

(c) that the deputy convener shall be chosen from the members not representing any political party."

Iain Smith: That makes it clear. It is an enabling provision that allows the Parliament to do that if it so wishes.

The Convener: Let me throw that open for discussion.

Michael Russell: That is a neat solution. I accept that Parliament is at present acting unconstitutionally, in that there are no deputy conveners. The appointment of deputy conveners is a political issue that has not yet been agreed. This is a useful compromise—the position of deputy convener remains in theory, but it may be that, at some future date, this or another bureau will wish to bring deputy conveners into being. However, because there are no such people at the moment, we require a mechanism by which committees can continue to meet if the convener is absent. I was attracted by the temporary convener solution when the clerks first suggested it. It is a useful vehicle, and gives us a neat solution that almost squares a difficult circle. I am happy with it: it accords with what the bureau wants and with the best thinking of the committee.

The Convener: Is that the general view? Are we all agreed?

Members indicated agreement.

The Convener: All right. Chapter 12 is taken care of. Everything in chapter 13 was dealt with previously, and there were some small points in chapter 15 that we dealt with at the previous meeting.

There were some fairly substantial changes in chapter 17. Issue 41 was flagged up at the previous meeting. The papers that members have include the short report that came to that meeting of the committee, asking whether we wanted a full report. They also include my letter to Tom McCabe, Sir David Steel's letter to me, and Tom McCabe's letter to me, including his memorandum and proposal. Although I had that memorandum at the previous meeting, members had not seen it beforehand, so there is a lot of substance in today's papers. In effect, the draft standing orders incorporate the recommendations of the Executive, rather than a proposal put forward by the clerks, which would have tackled the difficulty by extending the time from three months to six months. Before I go any further, I will ask John Patterson to explain that.

John Patterson: In the middle of the first page of chapter 17, there is a paragraph in square brackets. It says that more flexibility is needed for financial resolutions than is given by rule 9.12.6 of the standing orders. Our initial approach was to consider extending the three-month restriction in the rule to six months. Members will appreciate that this is a matter of business management, to give the business managers more flexibility. However, that approach has to be considered alongside the option set out in Mr McCabe's letter, which is to suspend the standing orders as indicated in rewritten rule 17.2, also on the first page. That option would allow rule 9.12.6 and its restrictions to fly off were a motion from the bureau to be received.

The Convener: The problem is that stage 1 of a bill and a financial resolution, if required, must be taken within three months of each other. We had thought that extending that time limit would deal with the difficulty, which seems to affect only that particular process. Iain, as I understand it, the Executive, and therefore subsequently the bureau, are not happy to do that, and want to proceed on the basis of suspending standing orders. That seemed a bit strange to me.

Iain Smith: There are certain advantages in taking the route of suspending standing orders. They go beyond the simple issue of the time scale for a financial resolution. We had found that there were some difficulties in dealing with emergency legislation, when a number of standing orders had to be suspended. At present, the problem is that standing orders have to be suspended for a specific meeting, as opposed to for a specific item of business. For the emergency legislation, it would have been helpful to be able to suspend the standing order for the item of business, so that all procedures could have been gone through with the necessary suspensions. There would be some benefit in going ahead with the change, irrespective of the decision on the time scale for a financial resolution.

On the issue of the financial resolution, the reason for suspending the standing orders rather than changing the time scale is that it would probably be helpful to keep the target of dealing with both stage 1 and the financial resolution within three months of a bill being lodged. There are times when that might not be possible. For private members' bills, there will be no pre-legislative scrutiny before the bill is lodged; the committee might therefore wish to take longer to investigate the bill during stage 1. It might be difficult for a committee to conduct its inquiries in time, especially if the bill is lodged during one of the lengthier recesses.

That is part of the problem with the flexible rolling programme, which extends over four years

rather than over a specific parliamentary year. Legislation might be lodged just before the summer recess, giving committees no time to look at it. The ability to suspend a standing order to allow matters to be left for another couple of months would be helpful. It would give flexibility to the Parliament, to allow it to conduct its business and control its timetabling a bit better.

The Convener: Why, in paragraph 17.2, have you deleted "any member" and proposed the insertion of "the Parliamentary Bureau"? Although I understand the point that you made about financial resolutions, that deletion and that insertion represent a significant shift in power from the situation that was envisaged when the consultative steering group considered these matters.

Iain Smith: The intention is to show that the clause is for the benefit of Parliament and not for the benefit of the Executive. If the wording is "any member", the Executive could try to force business through by suspending standing orders; if it is "the Parliamentary Bureau", there has to be at least an attempt to reach consensus in the Parliamentary Bureau, rather than use the weighted majorities in the bureau. The idea is that the Parliamentary Bureau is there to protect the minority members and individual members from abuse by the Executive.

The Convener: That is a noble interpretation of the role of the Parliamentary Bureau, if I may say so.

It struck me that you were asking us to do something that you were asking us not to do in every other aspect of our work. In all the other issues that we have considered, the line that Mr McCabe and you took, and the line that the Parliamentary Bureau has taken, has been, "These are very early days. We do not yet really know how things will work. Please go slowly and tread gently, and do not change anything substantial until we have more experience." Yet there is now a proposed change involving the suspension of standing orders that seems to be quite radical and based on very little experience. It seems to be out of synch with your general approach.

Iain Smith: It depends on one's opinion of the purpose of the change. The purpose of the change is to allow flexibility if problems with standing orders arise that we have not yet envisaged. We do not yet know which other problems we may find with the standing orders. We have dealt with the ones that we have come across so far, but this change would allow flexibility to look at individual issues as they arise, and, I hope, to resolve them.

As I said, the reason for inserting "the Parliamentary Bureau" is to protect Parliament,

and to ensure that Parliament decides, rather than the Executive.

Donald Gorrie: I am not a great standing orders person. However, to build standing orders on the assumption that they will be regularly suspended does not seem to me to be at all a clever idea. What is the purpose of the original rule? Presumably, it is that parliamentary legislation should take some account of its cost. Is there any purpose in the three-month rule, or in having any other time limit? Could not the purpose of the standing orders be addressed in some other way? I would need a lot of convincing that one can build a whole edifice on the assumption that one will regularly remove one of the stones. To do so seems daft.

Michael Russell: I was generally comfortable with the proposal when the bureau discussed it, but the explanatory note that John Patterson has written disturbs me quite a lot now. It suggests that a member would no longer have the right to move a suspension of the standing orders for either Parliament or committee business, and that such a suspension would require a decision of the Parliament. That is extremely inflexible.

Donald Gorrie is right on a general point: building in a provision that says that we will have to suspend standing orders in order to do some things means that the standing orders are, by definition, defective.

There might be a way round the problem. Given that there will be a further review of standing orders in the spring, if the time were changed to 12 months, that would mean that nothing that was introduced between now and the spring would be in any great difficulty or danger. The 12-month period would be entirely flexible to cater for anything that was introduced from now on.

We will observe the three-month limit for the two bills that are creating the problem at the moment. Essentially, with a 12-month limit, anything introduced from now on would have to be taken by the end of next year, by which time we would have looked at the standing orders again and had the opportunity to consider the matter more fully. I am not saying that there is anything especially wrong with the Executive's proposal, but I would be more comfortable—because of the issues that have been raised—if we took the easier route of allowing 12 months. We could put the issue on our list of things to be considered in the full review of the standing orders next May. I am uncomfortable about removing rights from individual members, and the Executive's proposal appears to do so.

10:30

The Convener: It appears to me that there is more in this proposal than a response to the

specific difficulty that gave rise to it, about which I am entirely sympathetic. We should try to help the Executive smooth things along and assist the bureau to handle business within reasonable time scales, but this proposal seems to have wider implications.

Janis Hughes (Glasgow Rutherglen) (Lab): I agree with Donald that standing orders should not be suspended lightly. If the bureau were responsible for moving such a motion, that would counter claims of abuse, from whatever side they come. Could the clerks clarify what is meant by:

"The suspension of standing orders for the purpose of committee business would require a decision of the Parliament"?

What implications would that have for committees? Can you foresee difficulties?

John Patterson: Our point is simply that the proposal builds in more inflexibility.

Janis Hughes: Is that a point of principle, or do you think that the proposal would cause practical difficulties? I know that that is difficult to predict.

John Patterson: It might do.

Mr Andy Kerr (East Kilbride) (Lab): Iain was fairly honest in saying that this proposal might have wider implications and in explaining why the amendment had been put before us. I am comfortable with it because, although it offers flexibility, there is a built-in control mechanism. This power should not be used willy-nilly, and the reference to the Parliamentary Bureau is there to ensure that the system is not abused.

I agree with what Murray said about the proposal going further than we envisaged, but there is a pull-back in terms of the bureau's role in exercising the power to move a motion for suspension of standing orders. I am more relaxed about this than some others around the table. The proposal goes further than we originally envisaged, but it includes a defence against abuse.

The Convener: You have said that, and the memorandum attached to the minister's letter mentions the bureau's role

"as a safeguard against this procedure being abused".

The only motion that we have had so far to suspend standing orders came from the bureau and related to the emergency legislation, for which the power was used entirely responsibly. It is curious to proceed on the basis of avoiding an abuse when no one has exploited the system. I am familiar from other arenas with the idea of suspending standing orders, and it is a useful facility for allowing a meeting to disentangle itself if it gets caught up in some sort of procedural nightmare caused by the inflexibility of its rules. It

is a useful and flexible mechanism to have at one's disposal. However, I am uncomfortable with the idea that it should be used only when the bureau has debated that in advance. That is not what the power to suspend standing orders is for. It exists to deal with the unanticipated rather than the anticipated.

I endorse Donald's point that to proceed on the basis that standing orders might be suspended regularly because procedures are not robust enough is to hit the wrong target. We should ensure that our procedures are as robust as they can be and build in the most flexible mechanism for digging ourselves out if they prove insufficiently flexible in practice. With respect, I do not think that that is done by making provision for the suspension of standing orders on a motion of the bureau.

Iain Smith: It is my understanding that standing orders as presently framed do not allow committees to suspend them. It has been suggested that our proposal amounted to a change to the present position, but I do not think that it is.

I understand the points that are being made. I am not unsympathetic to the view that it is appropriate for members to be able to move a motion to suspend standing orders. We need to consider the change that is being proposed, which relates to suspending standing orders for a specific item of business. The idea is that when the suspension relates to an item of business, with respect to which it may be in force for several months, it should be moved on a motion of the Parliamentary Bureau. It may be that a change to the wording of our proposal is required so that it relates only to items of business and not to specific meetings. That would mean that any member could still move a motion to suspend standing orders at a meeting.

The Convener: How do members feel about that? Iain's suggestion is—if I have misunderstood him, he should butt in—that we disentangle the two proposals: in other words, that we should not replace "member" with "Parliamentary Bureau", but should introduce the phrase "for any item of business".

Any motion lodged by the bureau to suspend standing orders will, in any case, be moved by a member—presumably by the minister. As I understand it, the Executive's concerns relate to the substance of the original proposal, which was to be able to suspend standing orders for a particular item of business if it cannot be handled within standing orders. I am more sympathetic to that, although, in the longer term, I would rather we had standing orders that did not need to be suspended.

Michael Russell: That is a step in the right direction and accords more closely with the bureau's intention when it discussed this issue. However, we are now in danger of having three balls in the air. First, there is the issue of timetabling financial memoranda, which can be dealt with in the interim by increasing the time limit from three months to 12 months. Secondly, there is the issue of the regular suspension of standing orders and the rights of members to be involved in that process. Thirdly, there is the issue of suspending standing orders because that is necessary to deal with a piece of legislation, rather than because of the circumstances of the meeting.

The last two issues are complex, and I am not sure that we should rush into making a decision on them. The problem of what to do about financial resolutions strikes me as being capable of resolution, pending our review of standing orders next year, by substituting 12 months for three. We can take on board the other issues in our fuller review. They are complex issues and, as Donald rightly points out, they have implications for the way in which standing orders as a whole operate.

The Convener: We had suggested an increase to six months, but I have no difficulty with making it 12. What Mike has just said appeals to me as it is in line with how we have attacked every other issue—by solving the immediate problem and embarking on a longer-term process of examining the underlying issue in the light of experience, taking into account the wider implications.

Janis Hughes: I support that, convener. If we start to split things up, we may get into a difficult situation from which it will be hard to escape. We should opt for the delaying tactic.

The Convener: Could the Executive live with that? We would increase the time limit from three to 12 months to deal with the immediate and any conceivable future difficulty but, as part of the committee's forward work load, we would consider the whole issue of the suspension of standing orders and how it should apply to specific items of business.

Iain Smith: My concern remains that if we come across an unforeseen difficulty with the existing standing orders when dealing with a piece of legislation, we will have the same problem and may end up not being able to resolve it within standing orders.

The Convener: In that case, under existing procedures a member could move a motion for the suspension of standing orders.

Iain Smith: As I have said before, the problem with that is that the present wording of standing orders allows for their suspension only for a specific meeting. If we are trying to deal with a problem that will arise at several different

meetings in the course of a bill's passage—when it comes before the Parliament, when it come before a committee and when it comes back before the Parliament—it is necessary to suspend standing orders repeatedly to deal with the same item of business, rather than to do it once and for all.

Michael Russell: We should debate that issue more fully, rather than implement a change now. I appreciate the problem and accept that it exists. It is right that the Executive has drawn it to our attention, but I am sure that we cannot solve it, even by careful drafting, at this meeting.

Donald Gorrie: On the whole, suspending standing orders is used by the establishment to push through measures to which there is opposition. We need to be careful about reducing the chances of people who want to fight a vigorous rearguard action, whether on the Adults with Incapacity (Scotland) Bill or on hunting. They deserve a proper hearing. Suspending standing orders once for an item whenever it is debated is the wrong approach. The people who are sponsoring a measure should have to go through that procedure every time that it is debated; that will encourage them to stay within the rules. I would need to be persuaded further of the need for any change, so Mike's suggestion is a good one.

The Convener: Iain, how often will the problems with time limits arise? Presumably they will arise only at the very outset.

Iain Smith: The problem has as much to do with recesses as it has with when Parliament is sitting.

The Convener: That would be covered by Mike's suggestion to increase the time limit to 12 months.

Iain Smith: Members' bills will be affected more than Executive bills because they do not undergo pre-legislative scrutiny, which may mean that committees take longer to deal with them at stage 1 than they would Executive bills, on which there will already have been consultation and so on.

Michael Russell: This has a great deal to do with the work load of committees. It has become an issue because of the experience of the Justice and Home Affairs Committee, which is having to complete stage 1 consideration of two bills before Christmas because the three-month clock is ticking. I understand that the committee also wishes to consider as a priority the Abolition of Poindings and Warrant Sales Bill, which means a further concentration of its work load. If three bills were lodged together and all of them went to the same committee, its work load would be impossible, even if there were no difficulty in terms of public reaction. The Executive is being very responsible about timing the introduction of bills so that that does not happen at the moment.

The Convener: Would the proposal for an extension of the time limit to 12 months remove that difficulty?

Michael Russell: Yes.

The Convener: I think that we have reached a degree of consensus on that. We have agreed that we should have another brief meeting to consider the issue that we discussed earlier. Members will have an opportunity to raise any further points at that meeting, if they wish. We have explored the implications of this proposal as much as we can in the light of the understanding that we have been given, but I am happy to make provision on the agenda of our forthcoming meeting for re-examination of any aspect of this issue that we have overlooked. That is fair to everybody, given that people may want to go away and think about the outcome of this meeting.

Iain Smith: I want to make two general points. First, the Executive has not had a great deal of time to examine the proposed changes. We will submit a letter if we would like any technical changes to be made, which can be considered at the committee's forthcoming meeting. Secondly, because I have a tidy mind, I am not happy with the numbering of changes to standing orders. As these will be, in effect, the first standing orders of the Scottish Parliament, they should be numbered consecutively. On the first page of the draft document, for example, rules should be numbered 3, 4, 5, rather than 3, 3A, 4. I hope that when these are submitted as draft standing orders they will be renumbered.

John Patterson: They will be.

The Convener: At the moment, we cannot do that without changing the numbering in the reports. When we issue annexe 4, the fully revised set of standing orders for the report to Parliament, we will take that into account.

For our next meeting, we should ask the clerks to come up with a revised standing order replacing the three-month time limit with a 12-month limit, so that we can approve that. As things stand, that is the committee's decision, subject to further consideration.

Thank you for your patience during that wander through annexe 3. The draft report will now be reworked to take into account the decisions that we have made on annexe 3. At the moment, the document is a draft for purposes of information, but it will absorb and encompass the changes that have been agreed and will form the basis for the report that will be submitted to the Parliament, which will have to approve the revised set of standing orders. We are still hopeful that that will happen before the turn of the year. That is our target, and we are hoping to be given a time slot for it.

Michael Russell: I understand that it is the Executive's intention to respond to the report, so that its response can form part of the debate on that. That is entirely welcome, although the Executive has been kept closely informed throughout this process. However, we set ourselves the clear target of implementing the changes to standing orders by the end of November. Given that some of these changes are important in terms of public perception of the Parliament, it is absolutely essential that space is made in the business programme—I say that in the hope that the Executive is listening—before 16 December to debate and implement the revised standing orders. I understand that implementation of changes is instantaneous once they have been adopted. Is that right?

10:45

John Patterson: The motion can make it so.

Michael Russell: I think that we should do that. We will reconvene in January. We need some time to prepare for the new format for questions and other matters. The report will also have to be printed and supplied to members. Therefore, we must keep things moving.

The Executive needs to have the report within the next week or so, so that we can get its response and get a debate scheduled. As far as I am aware, the Executive is sympathetic to doing that.

Iain Smith: Absolutely.

The Convener: It is fair to lay down markers, although implementation is a matter for the bureau and the Executive.

Scots

The Convener: If everybody is content about what has been decided, we can move to item 2, which is the Scots language. This matter has been remitted to us by Sir David Steel, and we have copies of his correspondence from Rob Fairnie and David Purves.

We should be aware that our remit on this is quite narrow. Much of what is proposed, particularly in the correspondence from Mr Fairnie and Mr Purves, is a matter for implementation and budget expenditure that is not within our remit. It is largely a matter for the Scottish Parliamentary Corporate Body, which holds that budget.

I am not entirely certain that some other matters are in our remit, but it is appropriate for us to discuss and take a view on issues such as the *Official Report*, the swearing of oaths, and so on, which relate to business in the chamber.

The issues paper addresses those matters: first,

the use of Scots in the oath of allegiance; and, secondly, the use of Scots in the Parliament and in the *Official Report*. We cannot address the issue of signage, as that is not in our remit. If members wish to explore that issue, we will listen to all points of view, but I think it is only those two matters that concern us here.

I have no difficulty with the idea that we should offer members a Scots language oath. I think that it was an oversight not to make one available. I dare say that, if it had been available, some members might have chosen to repeat their oath in the Scots language.

As I understand it—perhaps I should ask the official report to report on this—the official report is geared to receiving a whole speech in Scots, if notice is given, as it is with Gaelic. It is the responsibility of any member who wishes their remarks to be wholly or partly recorded in Scots to give notice and then to check how their speech has been reported. Speeches can be in Scots, if members want that, but a degree of responsibility lies with the member.

I am not sure what else we can do, but obviously the people who have written to Sir David feel that more could be done. I see that Mike Russell has a suggestion.

Michael Russell: I do not have a suggestion, but wish to express strong support for Scots. This morning I received a copy of "A Scots Grammar" in the post from the author, David Purves. As I had already purchased one, I now have two copies—one will be an ideal Christmas gift for somebody. In his letter David, who is an authority on this, says that he feels like one of the last of the Mohicans.

There is a feeling that Gaelic, which I have learned and greatly support, gets substantial support, but that Scots is often forgotten. We should not forget it. It was a major oversight that the oath was not available in Scots. Having taken the oath in Gaelic, I would certainly have taken it in Scots as well. We must ensure that the oath is available in Scots next time.

I know that we have a narrow remit, but that does not mean that we should not express our views. The lack of Scots signage is a considerable difficulty. It should be rectified in the new building, and I hope that consideration will be given to rectifying it in that distinguished Scots building that we temporarily occupy at the top of the Mound.

Equally, in the *Official Report*, I know that notice has to be given, but I hope that the official report will be sensitive—as I notice it is—to the use of Scots phrases and words. I hope that we will be encouraged by that as we read the *Official Report*, and that we will no longer be ashamed to use the language with which many of us were brought up, and which all of us treat with affection and respect.

The Convener: We have had many splendid examples of the use of Scots. I am sure that none of us is remotely ashamed to speak in that way. I have no difficulty with passing the suggestion forward to the corporate body that it should consider signage in the new building. It might demur a little about signage in our present building.

Mr Brian Monteith (Mid Scotland and Fife) (Con): I apologise for not giving notice sooner. I only recently found out that this item was on the agenda this morning.

The Convener: From the radio?

Mr Monteith: No. I was e-mailed about it.

You are quite wise to draw attention to the present arrangements, which I accept. They allow the degree of participation in Scots that most members probably feel they could give.

However, I am concerned when I hear Mike Russell talk about the signage. I refer the committee to the issues paper, which talks about the oath of allegiance and affirmation. It explains that, although it may have been a mistake to miss out a Scots oath or affirmation, the oath or affirmation was provided in Cantonese, Hindi, Gujarati, Urdu and Punjabi, which were identified as the most popular non-English languages in Scotland. I suggest that to choose to have signage in Scots as well as in Gaelic and English, but then to leave out those other languages would be absurd.

It may be that Scots has a great deal to offer to our current form of English. There is much in what we say that is drawn from it. But to suggest that people might want a whole report in Scots when it is not spoken in the chamber, or signage in Scots when it is not the common language that is used in Scotland, is to take this too far—almost to the point of political correctness. That will only serve to expose this Parliament to further ridicule that we would be wise to avoid.

Michael Russell: I take up your challenge for a full report in Scots. We could easily do that.

The Convener: We should ask Brian Monteith to repeat his argument in Scots.

Mr Monteith: I would be tempted to tell you to away and bile yer heid.

The Convener: You say that regularly,

Michael Russell: It is often said to him as well.

Mr Gil Paterson (Central Scotland) (SNP): What is wrang with the whole thing is that we have to give notice that we will speak in Scots, even though it is the language of the Scots and is what the common people use. That can be demonstrated in almost every radio or television

interview with children or adults, in which normal Scots people can be heard speaking very slowly—almost like foreigners—because they are thinking in Scots and speaking in English. You just need to travel the streets of Leith, Glasgow, or anywhere else, to find out what the real language is. It is a pity that the Parliament does not promote the Scottish language effectively.

I am a Scots speaker, but I am speaking English now. No one coming before a Parliament should need to say that they are going to speak in Scots. We have all got guid Scots tongues in wir heids in any case, so the reporters should be able to pick that up.

Scots should be a common and ordinary thing. The fact that we are having a debate suggests that there is a problem. The big, continuing problem is that people are told from an early age by teachers, parents and others to speak properly when they are speaking Scots. It is perceived to be the language of a gypsy or someone who is not quite whole in their being. The sooner that changes the better. It disnae happen when people speak in Dutch, although that is a derivative of German. It would be unthinkable that a meeting like this would take place there.

Something needs to be done. Speaking in Scots should be an ordinary thing. It should no be hyped up; it should be allowed to drift in of its own volition, without putting barriers in its way. People should not have to put up a flag and say that they are going to speak in a particular way today.

The Convener: The problem is that Scots is not the same from one end of the country to the other. There are words in Rob Faimie's letter that I have never heard anyone say. There are some words whose meaning I can only work out from the context. It is not wise to speak in that style for the *Official Report* without ensuring that there are reporters who are familiar with the various Scots dialects, there being many regional dialects in Scotland. It would be sensible for someone who wanted to have a letter like Rob Faimie's printed in the *Official Report* to ensure that someone was present who knew what all those words meant, and how to spell them.

If members want to make points in Scots, they should do so sensibly. That does not show any disrespect to anybody, any more than it is disrespectful to tell people who speak Gaelic that the official report cannot cope with Gaelic unless notice is given. Presumably, the official report has to have an ear for whether Western Isles or Argyll Gaelic is spoken, as there are differences of vocabulary and pronunciation there too.

Michael Russell: I do not think that we should have a linguistic debate on this matter—

The Convener: It is difficult to avoid it.

Michael Russell: The point that you made about Gaelic is simply not true. Quite clearly, there are dialect words in Gaelic as there are in English, and different words are used in different circumstances, but there is no doubt that virtually every word that is spoken in Gaelic in the chamber will be clearly understood by every Gaelic speaker. Certainly accents differ throughout the country, but they, too, are easily understood.

One of the problems with Scots is that there is occasionally, perhaps, a tendency for what a colleague calls hyper-Scots, which is when one goes into overdrive to ensure that everything is expressed in Scots. It is far better to be relaxed and natural about Scots, as David Purves and others are. I have to condemn Mr Monteith's view that there is something politically correct about this. There is nothing politically correct about giving a place in the sun to a language of Scotland that is, as Gil Paterson said, spoken by its people. That is not politically correct; it is human rights.

Janis Hughes: We should confine ourselves to what is within the remit of this committee. I do not have a problem with the oath being offered in Scots. We should not exclude anybody, no matter what languages they want to speak. However, for the *Official Report*, and other administrative reasons, we have to have some sort of—I do not like to use this word—standardisation. I agree with Murray Tosh that there are so many different dialects that it would be difficult to tie people down. We should consider what is in our remit. Signage comes under the remit of the bureau. We should not take this further than consideration of the oath in Scots.

The Convener: Does anyone disagree with that?

Michael Russell: I disagree profoundly with that. The oldest colonial trick in the book—I am sorry, Janis—was to say that people should not speak the language that they wanted to speak because it could not be understood, and that we should all speak the same language. Let a thousand flowers flourish and a thousand ideas contend. Let people speak what they have learnt to speak and let the official report catch up with them.

The Convener: We are saying that the oath should be provided and allowed in Scots. Do we agree on that?

Members: Yes.

The Convener: We are saying that the issue of signage should be remitted to the bureau.

Michael Russell: To the corporate body.

The Convener: To the corporate body. Do we agree on that?

Members: Yes.

The Convener: Thirdly, if members want to speak Scots, they should be allowed to do so, and it should be recorded in the *Official Report*. Does anyone disagree with that?

Members: No.

The Convener: So what is the area of disagreement?

Michael Russell: That is not what I was hearing around the table, but if we are all agreed on that, I am delighted.

Mr Paterson: Can I counter something that was said? In Switzerland three languages are reported in all situations, and dialects, too, are picked up. We are talking about a derivative, if you like, of the English language, but the minds of some people are struggling with the idea of recording it properly.

The Convener: I do not think that there is any difficulty with recording it.

Mr Kerr: You started this debate by recommending a course of action that I do not think has been contradicted by anybody. Therefore, I think that we are getting into a right fankle for nothing. I am concerned about the way in which certain people are conducting this debate.

The Convener: Absolutely.

Mr Kerr: We have all agreed on a course of action. We should move on and discuss other matters.

11:00

Michael Russell: Do we concur on those three points?

The Convener: I think so.

Donald Gorrie: The question of whether notice must be given beforehand is an important issue. I do not think that people should have to give notice. A circular should be sent to all members, saying that, although we are happy to encourage them to speak in Scots, it is for them to ensure that their words are reported correctly in the *Official Report*. A lot of people who are happy to speak Scots, but who are not in the habit of writing it, might find the reporting of it quite difficult. It is up to the speaker to ensure that he is properly reported. The idea of having to give notice in advance is a symbolic inhibition that we could do without. I was not sure what your remarks meant.

The Convener: I am not sure that every member of the official report staff would be capable of writing down Scots as it was spoken.

Mr Paterson: Och, they would get used to it.

The Convener: I am not sure that they could

cope with the dialects that are spoken in Orkney and Shetland, Aberdeenshire, Ayrshire and the Borders, where local vocabulary and pronunciations are vastly different. That would be quite a tall order. Anybody who wants to speak in this formal, literary Scots would be well advised to give notice, so that their remarks could be properly reported and written down for posterity. I presume that that is their point in speaking it.

Michael Russell: The words "well advised" are, if I may say so, well advised. Rather than following a formal prescription, people should recognise that they are well advised to give notice and should accept the consequences if they do not.

The Convener: Yes. That is perfectly clear.

Michael Russell: If their speech is reported badly, that is their fault.

The Convener: Yes. We are all agreed on that.

Correspondence

The Convener: Item 3 on the agenda deals with the letters that I have negotiated with the clerks and sent out since the last meeting, which give all members notice of our considerations and the points that we made at that meeting. Unless anyone who has read these has concerns about any inaccuracy that they might contain, we simply note them.

Michael Russell: We compliment you on your work rate, convener.

Liaison

The Convener: Item 4 on the agenda is a paper that was submitted after the brief discussion that we had at the previous meeting, in which we commit ourselves, if we adopt the recommendation, to consider how we might extend our remit to cover the sorts of issues that Paul Grice raised about general liaison matters. Did Paul want to speak to the committee about this?

John Patterson: With the committee's agreement, we are trying to arrange for Paul Grice to attend on 14 December, to speak further about that.

The Convener: In that case, we will continue our discussion of this paper at that meeting, in the light of what Paul Grice has to say about it.

Mr Paterson: Being a Scots speaker, I have a question about the English language. Can you tell me what unicameral means?

The Convener: Unicameral is actually Latin.

Mr Paterson: Oh, is it?

The Convener: It means that there is just yin

buddie that will discuss the matter.

Mr Paterson: When I go abroad, people ask whether I speak English. I say that I struggle with it, but that I can get by. Now you are talking Latin. Come on.

Michael Russell: I have a serious point to make, but before I do so, I shall just mention what Nicholas Edwards, the former Tory Secretary of State for Wales, said. He was upbraided, at a meeting in Wales, for condemning Welsh speakers on the ground that they had no Welsh word for entrepreneur. Somebody at the back of the room shouted, "What is the English word for entrepreneur?" [*Laughter.*]

The House of Lords issue is clearly not going to go away. There has been further press speculation today about the possible role of the House of Lords in the Scottish Parliament. On 14 December, after we have had our meeting, might the committee consider addressing that matter early next year? It is so daft that it would not take us very long.

The Convener: I am sure that that was a political point, to be exploited subsequently.

Michael Russell: Not at all.

The Convener: I think that we should wait until the primary legislation is passed in Westminster before we embark on a discussion of the role of the House of Lords in relation to the revision of our legislation. However, the general issue of our relationship with other parliamentary bodies is an appropriate matter for discussion.

Do members have any other points that they want to raise?

Michael Russell: Will we meet in two weeks' time?

The Convener: The next meeting is on 14 December.

Michael Russell: So the next meeting is in four weeks' time?

The Convener: Yes, except for the brief meeting that is yet to be timetabled, at which we will discuss the two matters that were not entirely sorted out this morning.

Donald Gorrie: Are—

The Convener: You have just cost me 50p, by the way.

Donald Gorrie: Are matters that are related to the way in which parties operate in the Parliament, and the way in which the Parliament interacts with the civil service, within the remit of this committee?

The Convener: I hate to say it, but it is possible that they are. We will reflect on that and give you a

considered answer. There are obviously big issues, concerning the way in which members interrelate with one another, that someone must be responsible for handling.

Donald Gorrie: If I produce some thoughts on that subject, might that be a starting point?

The Convener: Donald, your thoughts are always welcomed by the committee.

Donald Gorrie: That is a rash thing to say.
[*Laughter.*]

Michael Russell: It is true.

The Convener: We will certainly consider anything that you have to say—even if it is in analysis of what you suggest—to help us to clarify as best we can whether there are subjects that are outside our remit, and whose responsibility those subjects should be.

That concludes today's business, ladies and gentlemen. Thank you for your attendance.

Meeting closed at 11:07.

Members who would like a printed copy of the Official Report to be forwarded to them should give notice at the Document Supply Centre.

Members who would like a copy of the bound volume should also give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the bound volume should mark them clearly in the daily edition, and send it to the Official Report, Parliamentary Headquarters, George IV Bridge, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Tuesday 23 November 1999

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

PRICES AND SUBSCRIPTION RATES

DAILY EDITIONS

Single copies: £5

Annual subscriptions: £640

BOUND VOLUMES OF DEBATES are issued periodically during the session.

Single copies: £70

Standing orders will be accepted at the Document Supply Centre.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

Single copies: £2.50

Special issue price: £5

Annual subscriptions: £82.50

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £2.50

Annual subscriptions: £80

Published in Edinburgh by The Stationery Office Limited and available from:

The Stationery Office Bookshop
71 Lothian Road
Edinburgh EH3 9AZ
0131 228 4181 Fax 0131 622 7017

The Stationery Office Bookshops at:
123 Kingsway, London WC2B 6PQ
Tel 0171 242 6393 Fax 0171 242 6394
68-69 Bull Street, Birmingham B4 6AD
Tel 0121 236 9696 Fax 0121 236 9699
33 Wine Street, Bristol BS1 2BQ
Tel 01179 264306 Fax 01179 294515
9-21 Princess Street, Manchester M60 8AS
Tel 0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
Tel 01232 238451 Fax 01232 235401
The Stationery Office Oriol Bookshop,
18-19 High Street, Cardiff CF1 2BZ
Tel 01222 395548 Fax 01222 384347

The Stationery Office Scottish Parliament Documentation
Helpline may be able to assist with additional information
on publications of or about the Scottish Parliament,
their availability and cost:

Telephone orders and inquiries
0870 606 5566

Fax orders
0870 606 5588

The Scottish Parliament Shop
George IV Bridge
EH99 1SP
Telephone orders 0131 348 5412

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers