

# **PROCEDURES COMMITTEE**

Tuesday 14 December 1999  
(*Morning*)

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### PROCEDURES COMMITTEE 9<sup>th</sup> 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 MEMBER ALSO ATTENDED:

Iain Smith (Deputy Minister for Parliament)

#### WITNESSES:

Paul Grice (Clerk and Chief Executive, Scottish Parliament)  
Carol McCracken (Director of Clerking, Scottish Parliament)

#### COMMITTEE CLERK:

John Patterson

#### SENIOR ASSISTANT CLERK:

William Venters

#### ASSISTANT CLERK:

Jim Johnston



## Scottish Parliament

### Procedures Committee

*Tuesday 14 December 1999*

*(Morning)*

[THE CONVENER *opened the meeting at 10:01*]

**The Convener (Murray Tosh):** Good morning. Everybody who is likely to attend is now here. We have apologies from Michael Russell and Janis Hughes.

The sound seems to have a slightly peculiar quality this morning; it seems to be echoing—*[Interruption.]* That is better.

I would like to say to the staff, on behalf of the committee, that the Procedures Committee team did a very good job last week in compiling that enormous report for the Parliament. It was extremely well received, so congratulations and thanks to them. I also thank all the members who spoke in the debate and ensured that the adoption of standing orders was successfully concluded.

### Liaison

**The Convener:** The agenda begins this morning with a discussion with Paul Grice, whom I welcome to the committee. A paper was submitted previously about a potential expansion of the remit of the committee to cope with liaison matters. We will begin by asking Paul to talk about the paper. The committee will then ask questions and discuss the way forward.

I also welcome Carol McCracken.

**Paul Grice (Clerk and Chief Executive, Scottish Parliament):** I thank the committee for inviting Carol McCracken and me along this morning. I propose to say relatively little by way of introduction as I think that the papers are self-explanatory. We would rather engage in a debate with the committee than read out long statements.

I will make two points. First, as the Parliament has operated over the past few months, it has become clear to me that there is a gap between the Parliamentary Bureau, which looks after the Parliament's business, and the Scottish Parliamentary Corporate Body, which looks after staff, facilities and resources. There is a gap for a body which could consider more fundamental issues on behalf of the Parliament. That is what lies behind consideration of a committee with a liaison role.

We could discuss later what specific examples it

might cover—House of Lords reform is one that I can think of immediately. Some aspects of that might well have impinged on the Parliament as an institution. The question in my mind was; how might the Parliament consider whether it should have a view on that and, if so, what that view should be? The British-Irish Council is on the agenda. In as much as there is a parliamentary, as opposed to an Executive, participation in that, assuming that it is the Presiding Officer or one of the deputies who goes, there might need to be a mechanism to consider what line the Presiding Officer might take on certain issues.

Without wanting to fall foul of sub judice rules, a court case is going on in which the judges have been examining how section 40 of the Scotland Act 1998 operates. There are general issues about the effect of the operation of the Scotland Act 1998—not the act itself, which we all accept for the most part. It is all a reserved matter, although some of it can be amended under schedule 4.

There are issues related to the operation of the Scotland Act 1998, on which the Parliament as an institution might want to take a view. There should be some mechanism to consider whether the Parliament should have a view on an issue and, if so, to distil it.

On major issues, the Parliament can only form a view by resolution. Again, there are questions that must be asked. How would the Parliament be informed? How would the debate be informed? How would members understand what the issues are so that they could come to a considered view on any motion? At present, there is not a piece of machinery that can properly cope with that.

The other point that I will make is about the relationship between anything that this committee considers and recommends and the role of the Presiding Officer under rule 3.1 of the standing orders. Under that, he has a role to represent the Parliament. I hope that anything that this committee would consider and recommend would be complementary to that duty.

His representational role works well; it is flexible, quick and unbureaucratic. None the less, for some of the more difficult issues there might need to be a mechanism that enables the Presiding Officer to take views. I hope and expect that anything that we produce by way of liaison machinery does not cut across that representation and allows the Presiding Officer to operate effectively, as he does at present.

I will leave it there. Carol and I will be happy to take questions and discuss any issues that the committee wishes to raise with us.

**Donald Gorrie (Central Scotland) (LD):** Could Mr Grice remind me and other ignorant members,

if there are any, what the issue is around section 40 of the Scotland Act 1998?

**Paul Grice:** If someone wants to bring an action against the Parliament, section 40 describes the machinery for doing so. In a nutshell, it says that they must bring the action against the SPCB. That is right, and it would be the body to take action against. However, the question then arises, if it is an issue of general interest to the Parliament, how does the SPCB form a view as to what the Parliament's opinion is? The SPCB may not be the right body to consider such issues. Section 40 is more complex than that, but that is essentially what it is about.

**Donald Gorrie:** Mr Grice has raised a number of important issues. On formulating a view on the House of Lords, I gave evidence, on behalf of the Liberal Democrats, to Lord Wakeham. Other colleagues may have had the same opportunity. One of the issues that he was considering was whether the new House of Lords should have Scottish, Welsh and Irish representatives and, if so, whether they should be taken from the Scottish Parliament. From my brief experience of wearing two hats, I said that that would be an impossibility and he should not do it. However, the Parliament might not share my view. That is the sort of issue on which the Parliament should form a view, if it is asked. This committee would be a suitable one to formulate a view, although the full Parliament must take the decision.

We should be involved in the council of the isles and other similar bodies. There is the slightly less formal Commonwealth Parliamentary Association and the question of whether we get into the Inter-Parliamentary Union. The paper on liaison also mentions that the Finnish Parliament would like to talk to us. All those links would be useful. This committee might be the mechanism for that.

The working draft paper raised the issue of the relationship between the Parliament and the Executive in relation to concordats and so on. That issue must also be explored. Who fights the Parliament's corner if there are issues on which fighting must be done?

We should pursue those important issues in whatever way is best to move forward.

**The Convener:** That raises an issue that I would like to examine, which is how the committee might be satisfied that what we say about an issue such as the House of Lords would represent the views of the Parliament. Would you anticipate that we would identify the salient issues and put views forward for the Parliament to decide by resolution, or would you suggest that we might make the response directly? How do you think that that would work? The Executive might have a view on that as well.

**Paul Grice:** I think very much the former. On an issue like that, I would see the role of the liaison committee as examining and distilling the facts and report, perhaps giving a number of options, so that when the Parliament debates it and takes a view by resolution it will do so on an informed basis. Mr Gorrie mentioned a few examples of less momentous issues, on which the committee would not need to invoke the whole parliamentary machinery.

**Mr Andy Kerr (East Kilbride) (Lab):** I think that we should be cautious about this. Many of these issues might be detailed, complex and take up a lot of our time. The priority must be the core tasks of this committee. I am comfortable with the view that we should integrate with other structures and organisations that would allow us to be part of the body politic globally. The convener's question touched on the issue that worries me, which is how this committee would formulate views on politically complex issues about relations with other organisations and bodies. I am wary of this committee biting off more than it can chew.

Is it necessary for us to go down this road, or could another body consider those issues? We should consider how much of a diversion from our core task the liaison role could be.

**The Convener:** Iain Smith, have you had the opportunity to discuss this issue with colleagues to get an Executive perspective on it? We would not necessarily be reluctant to tread on your toes, but there are matters on which we might look at things differently.

**The Deputy Minister for Parliament (Iain Smith):** We have had some preliminary thoughts about the paper on liaison put before the committee. Andy Kerr has raised some of the concerns that the Executive would have. If the Procedures Committee's remit is too broad, it may be difficult for it to discharge its key function, which is looking after the operation and procedures of the Parliament.

There is some merit in expansion of the remit of the Procedures Committee, to consider issues such as how other organisations impact on the operation of the Scottish Parliament. Care must be taken to ensure that it does not stray into the remits of other committees in terms of relationships with particular public bodies. The Executive does not oppose the principle that there should be some expansion of the remit of the Procedures Committee. We would be happy for the Executive officials to work with the clerks to see if they could come up with the wording for an amendment to its remit.

**Mr Gil Paterson (Central Scotland) (SNP):** The principle that liaison is needed is right. Perhaps this committee should provide the facility rather

than be the facility? Otherwise, we might drift away from our core business. That might be a good idea because of the dry subjects that we consider. It might be more exciting if we are involved in other issues, especially for the press.

Some difficulties might arise in relation to the way that this committee works because of some of the weighty issues that might come before it. Perhaps we should consider having a committee called the liaison committee to consider those issues rather than bring them to this committee. We might spend more time considering liaison than we do procedures, although that might not be a bad idea.

10:15

**The Convener:** Paul, presumably the idea of having a separate liaison committee occurred to officials when they were considering this paper. Why was that option thought inappropriate?

**Paul Grice:** We would not rule out the possibility of there being a liaison committee and we would expect the committee to form a view on it. Part of the reason for not including it in the paper was simple logistics. As members know, we have few members compared to the number of committees. The forming of another committee would increase the already high work load. Another reason is that there is a blurring of boundaries between procedures and liaison. A lot of the machinery by which Parliament operates ends up in the form of standing orders, which is the core business of this committee. Some liaison issues flow from standing orders naturally.

Andy Kerr and Gil Paterson made a fair point: how on earth would the committee decide where to focus? We wanted to establish machinery, in this committee or a new committee, by which we could decide what the priority issues were. We would not want to bite off more than we could chew. As Andy said, House of Lords reform is a massive issue. Part of the value of the machinery would be to decide whether the Parliament could or should have a view on something.

**The Convener:** Presumably the matter has been discussed with the Presiding Officer. How does he feel about it? I know that no one is suggesting that he should clear his statements with a committee, but he might feel that his hands are being tied, just as we might feel that we are tied by views that he expresses that are his own.

**Paul Grice:** I think that I was trying to say something slightly different from the words that you put in my mouth.

I cannot speak formally on behalf of the Presiding Officer. He might want to let you have his views formally in writing. However, I believe

that he would argue, and I would agree with him, that the current system works well. I am sure that he would not want to routinely clear statements with this committee and I do not think that he would expect the committee to pass matters to him.

I can envisage a situation when the Presiding Officer decides that he might want to refer a tricky issue to this committee, just as he refers tricky matters of procedure to you when he thinks that advice would be valuable. I think that it could work in the other direction as well. In my opening remarks, I was trying to say that I hope that the committee does not come up with something that cuts across his role. Under standing orders, the Presiding Officer formally represents the Parliament, and I think that he should continue in that role.

**Carol McCracken (Director of Clerking, Scottish Parliament):** The gap that Paul identified in his opening remarks is important. There are times when the Presiding Officer will refer to the SPCB or to the Parliamentary Bureau for advice before he represents Parliament on day-to-day issues. There are also issues that come in that are weighty and on which it would be helpful if the Presiding Officer were able to represent the Parliament, having heard the Parliament's view.

Members asked earlier what might happen when the committee reported on such issues and whether it would be for the committee to liaise with the relevant body. We envisage that, when it comes to the bigger issues, the committee report would be brought before the Parliament and would lead to a resolution of the Parliament, which the Presiding Officer would communicate to the relevant body. That fits with the representative role of the Presiding Officer under standing orders.

**Mr Kerr:** This might be a simplistic question, but do we need to fill the gap? Does the Presiding Officer have to have a view?

**Paul Grice:** I do not think that he has to have a view. However, sometimes it is not clear whether Parliament should have a view on something and the Presiding Officer is well placed to make judgments on that. As you said, Andy, sometimes deciding whether one should even have a view is quite a process and it is therefore quite useful to have machinery in place to do that.

**The Convener:** In a sense, we are being asked to take on the role of being a sounding board for the Presiding Officer on a range of issues, to allow him to cast his net a bit more widely than he is able to at the moment. That does not threaten us with a huge work load.

There are constitutional and liaison matters on which I would not want to have the responsibility for deciding on the Parliament's response, but it

seems reasonable that we should analyse issues, identify areas where a response is appropriate and put options in a report before Parliament and that the Presiding Officer should relay the decision of Parliament to the relevant body.

I am happy to proceed on that basis. Does the committee agree to doing so?

**Donald Gorrie:** I take the point that members have made that this new function should not stop us doing our main work and that we should concentrate on our priority issues. Somebody has to do it and, as long as we made it clear that this task came quite low on our list of priorities, we could manage to do it. I support the proposal.

**Mr Kerr:** I say that we should proceed with caution.

**Mr Paterson:** I think that it is a watching brief. We should see how the situation develops. Weighty issues are bound to arise on which it is right that the Parliament should make its views known. I am sure that that will happen soon.

**The Convener:** If the work load becomes intolerable, the option of having a separate liaison committee is open to us. However, the proposal before us today seems to be an acceptable way to begin to address the task.

Are members agreed that we should accept the paper?

*Members indicated agreement.*

**The Convener:** We will ask the clerks to work with the Executive to come up with the wording of a revised remit of this committee. We will report on that in due course to the Parliament.

How will we do that, John? Will we report on issues as they arise or gather them together?

**John Patterson (Committee Clerk):** That would be up to the committee. We will work out a form of words and bring that to the committee's meeting on 18 January.

**Mr Kerr:** As part of that, could we have some further indication of issues that might be included in this category under the general title of liaison? That would let us know what we are biting off.

**The Convener:** That would be useful for the committee to know and we might decide not to bite off too much.

**Paul Grice:** I am happy with that and will work with John Patterson to arrange it. There will be an ad hoc nature to the issues that arise for discussion, but we could give the committee examples of areas that it might be asked to consider.

## Correspondence

**The Convener:** The second item on the agenda is there for information and was noted at our meeting on 2 November. The intention is that we should meet informally representatives of a group that wants to address the principles of the consultative steering group in the context of what it sees as the evolving practice of the Parliament.

Are we agreed that we will discuss their concerns with them and discuss issues that were raised by the meeting subsequently?

**Donald Gorrie:** Will they come to speak to us?

**The Convener:** Yes. Are we agreed?

*Members indicated agreement.*

**The Convener:** We also have copies of correspondence with the Scottish Daily Newspaper Society. The issue is straightforward. Representatives of the press have indicated to us that difficulties are caused to them due to the timing of votes. They want to discuss that with us.

**Gordon Jackson (Glasgow Govan) (Lab):** I am happy to talk to anyone; this is an accessible Parliament. However, I thought that we had dealt with this subject and had reached a firm view on the matter. When we recommended that decision time should stay at 5 pm, we were aware of the view of the newspapers. What is the point of revisiting the matter?

**The Convener:** That is a good point, but as they have asked to make a representation to us, we should let them. That is the spirit in which we work. If they do it again and again, we might object.

I think that their point is probably wrong. Most of the substantive debates finish at 5 pm and the votes would therefore take place then anyway. It might be useful to trawl through the first few months of the Parliament to see what could have been resolved in the morning. I suspect that the vote could only have been in the morning on the few Opposition-led days that we have had.

We decided that having many divisions would place a burden on ministers and that having members running up and down the road all day would be an intolerable waste of parliamentary time. However, I think that the representatives of the newspapers are entitled to discuss that with us further.

**Donald Gorrie:** I take Gordon's point. However—and I am aware that Gordon knows infinitely more about the law than I do—most people are allowed an appeal after having lost their case. The concept is reasonable. It is important, though, to make the point that committees should not usually revisit issues that



they have already decided.

10:30

**Gordon Jackson:** I accept that we need to be accessible and that if those people want to come, we must show them courtesy. However, I do not want us to revisit matters.

**The Convener:** They might feel that we should have called them in when we had our previous discussion and that they have not had the opportunity to put their views across. That might be our fault.

**Mr Paterson:** That is the point. We were perhaps a bit remiss in not inviting them and that is our responsibility. We have the chance to make up for it and, although it might not change our opinion, it is worth listening to them.

**The Convener:** We will be setting an example to other committees as well.

**Mr Kerr:** Fair enough—we will meet them, but I do not think that we were remiss. We made an informed decision. We knew their views—not just about ministers running up and down the street, but about other matters relating to the press—and analysed and discussed them. However, as this is an open, accountable and democratic Parliament, let us hear the views.

**The Convener:** Indeed. We will programme a meeting for a reasonably early date.

The next issue is the letter from the convener of the Finance Committee suggesting the new concept of a committee amendment, which would bind committee members to a committee decision. I do not know quite what to make of the idea, so the best thing might be to ask for a paper that will allow us to tease out the issues and discuss them.

**Mr Paterson:** There should always be the facility to hear a minority view. It would seem a bit strange were everyone on a committee to appear to be committed to a decision if the vote were passed by five votes to four.

**The Convener:** I do not think that that is what is being proposed, although I know no more than what is in the letter. The convener of the Finance Committee is trying to establish a convention whereby amendments to bills—amendments that are agreed by the whole committee—carry more weight than routine amendments, because committees will have considered the evidence carefully. He is trying to build up to a situation in which the Parliament and the Executive—which presumably would defend the position in the bill—might be more moved by an amendment on which a committee unanimously agreed than by a simple amendment. That might not be what he is getting at, but, to be fair, I do not think that he is trying to

stifle opposition.

**Donald Gorrie:** An extract of the debate in the Finance Committee was attached. As ever, different members of the committee came at the matter from different angles. As you said, convener, one of the questions raised was whether members would be bound to a decision if agreement were not unanimous. The convener of the Finance Committee wanted to establish a position whereby if the Executive or some other party machine—for whatever reason—took against a committee's unanimous decision to support an amendment, committee members would not be bullied into voting differently. However, if there is dispute within a committee, members should have the right to stand their ground. The members of the Finance Committee were the first to go through that hoop. We must learn from the hoops that others go through, so an issues paper would be helpful.

**Gordon Jackson:** This is an important but difficult issue, which raises many questions. I am all for an issues paper.

**The Convener:** Okay.

I have a couple of other points to raise in relation to finance, although they are unscripted. Recently, I received a couple of letters about financial procedures from an expatriate Scottish journalist, which I should have copied and will copy to members. In the letters, the journalist argues that a lot of the Parliament's work revolves around budgetary issues and that the subject committees have an important role to play in monitoring the budget. As a result of its timing, the budget this year has been dealt with differently from the way in which it will be dealt with in subsequent years, but there is a potential issue about financial procedures.

I would like the committee's permission to raise the matter with the Finance Committee—which would be the lead committee—so that a mechanism can be agreed that will satisfy us that the Finance Committee and other subject committees will have an appropriate hack at the budget. We will need to examine carefully how the Executive intends to handle such matters in the future.

I am throwing the issue into the arena for future discussion. If members feel uncomfortable in any way, I am happy to hold back until the journalist's correspondence has been circulated so that members can see where the fellow is coming from.

As convener of a subject committee, Andy, have you had any discussion about how your committee will be able to scrutinise the Executive's budget in subsequent years?

**Mr Kerr:** Thank you for putting me on the spot. We have not had any such discussions, but I am interested in the matters that you have raised and would welcome an issues paper.

**The Convener:** I will give everyone, including Iain Smith, a copy of the correspondence so that members can see what I am talking about.

The next letter, which is for members' information, is Sir David Steel's response to a series of letters that the committee sent in early November. Those letters followed discussions on the survey of members' movements to find out where they are on Wednesdays and during emergency questions and ministerial statements. The Presiding Officer makes a number of interesting suggestions and he has also ruled on how he intends to select the questions for First Minister's question time, which accords with the committee's view on the matter.

The Presiding Officer's cryptic final comment is about the handling of recommendations issued by the committee and our intention to post various pieces of information to members via the e-mail system, so that everyone knows what has been discussed and what our recommendations are. He is quite happy for that to be done. We felt that if we gave him advice about something, we needed to be clear that he was happy to have that advice related to all members. It would appear that, in the spirit of openness and accessibility, he is. From now on, when we reach a decision that does not require a resolution of the Parliament or a motion and which is simply an opinion, we will post it on the e-mail system so that members know about it.

The next issue is the Scots language and the first matter relating to that is a follow-up to a previous discussion. I received a letter from Mr Fraser, to which I have responded. He has suggested a form of words for the aith and the threip, which presumably will be discussed by whoever takes the decision on them. The wording will be developed in time for the next swearing-in session. For the benefit of the official reporters, the correct spelling of threip is T-H-R-E-I-P—I would have thought that that was a word in everyday use up in their office, but apparently it is not.

I have also received a letter from Irene McGugan, in which she points out that the chamber office will not accept a motion on the Scots language that is lodged in the Scots language. Having accepted that Scots can be used in the *Official Report* and that the oath can be taken in Scots, should we accept that motions can be lodged in Scots? That raises another question: should members be allowed to lodge motions in Gaelic? If so, should we require English translations to be lodged at the same time so that members who are uncomfortable with Scots or

Gaelic know what the motion says? We are not being invited to ask for an issues paper on that matter, although we may choose to do so. We may want to discuss the matter now. I see that Gil Paterson is desperate to get into the discussion, so I will let him fire on.

**Mr Paterson:** It seems so illogical. If we accept that members can address the chamber in Scots or Gaelic, it seems stupid—if I may use that word—not to receive the motion in Scots or Gaelic. Previously, when we talked about members giving notice that they would speak in Scots or Gaelic, we said that it was a good idea for them to do that and to provide as much information as possible, as they might use words that were not in general use. What better method of doing that than having the motion and what will be talked about written down for the reporters in the first place?

**The Convener:** If that is the logical conclusion of the position that we established previously, is it reasonable to assume that the clerks have a competent knowledge of workaday Scots or Gaelic, given that the chamber office sometimes has difficulty in defining the exact meaning in English? Would it be acceptable to refer motions to official report staff—who are more specialised in those matters—to satisfy us that the Gaelic and Scots motions are the equivalent of the English and can be accepted?

**Mr Paterson:** It is the chicken-and-the-egg syndrome. We have decided that the Scots and Gaelic languages—as well as other languages—should be promoted. It would be logical to have the facility to lodge motions in those languages. It seems a bit strange to censor such languages in advance of receiving a motion.

**The Convener:** It is not censorship—it is simply to satisfy ourselves that a motion lodged in a language that not everyone understands makes sense, is coherent and is identical to the English version, which would be lodged simultaneously. It is a check.

**Mr Paterson:** I picked you up wrongly. I thought that you were saying that the motion should be in English only. I am not suggesting for one minute that it is not a good idea to produce a translation in English at the same time, so that people who are not Scots can understand the motion. Many people working here do not know Scots words because they were not born in Scotland. If we mean it when we say that we want to promote those languages, they must be written down. It should be common practice. There should be no ceremony and no blowing of trumpets every time that Scots is used. I have heard you, convener, using Scots words. It should be an everyday occurrence. If someone wants to make an entire speech in Scots or write his or her motion in Scots,

that should be fine. I find it alarming that those languages are being not promoted, but put further up the agenda than they should be. It should be a natural progression. We must ensure that those languages are not blocked in any way.

**The Convener:** I will get my retaliation in before I call Andy Kerr. You might have heard me speak Scots, Gil, but I have heard you speak English.

**Mr Kerr:** If I understand you correctly, you are suggesting that motions may be submitted in Scots, but that an English translation should be lodged at the same time and signed off in the same fashion.

**The Convener:** It would be appropriate for a motion in English, if it is competent and acceptable, to appear in the business bulletin immediately. However, it would be reasonable for the clerks to punt the Scots or Gaelic version up to the official report staff so that they can be satisfied that that version and the English version mean the same thing. Members may feel that that is over-fussy, but I feel uneasy about being asked to sign a motion—which is what members do: they ask people to support them by signing their motion—that is in a language that I do not understand.

**Mr Paterson:** If I wanted you to sign a motion, I would write it in Scots and in English, but I would ask you to sign the Scots version. Would not that be sufficient to satisfy you that they both meant the same thing? The problem with Scots and Gaelic is that they have been demoted, repressed and pushed into a corner for too long. If we are to let them out of that corner, we should not be uneasy about it. That is what I do not like.

**The Convener:** The point is that I can understand a motion that is in English, but do not have a clue about a motion written in Gaelic and I might or might not understand a motion in Scots, depending on whether it is the type of Scots that you speak, Gil, or the literary Scots in which some of the letters that we have received are written.

10:45

That is the difficulty for MSPs and members of the public who read the motions that appear in the business bulletin. Inevitably, if we accept Irene McGugan's proposal, the question that will arise is whether parliamentary questions should be accepted in Gaelic and Scots. Presumably—I do not know whether this is the case—one could, at the moment, ask a parliamentary question in Gaelic, which might be burdensome for the minister unless a simultaneous English interpretation was provided.

How far does this unravel? When does it reach the point at which we are not championing the Scots language, but creating unnecessary

difficulties in how we conduct our business? We have to find a sensible balance.

**Iain Smith:** I agree that we have to find a sensible balance. It is important to remember that a motion that is passed by the Parliament is a decision of the Parliament. Therefore, its meaning has to be clearly understood, and it has to be enforceable if it requires an act of legislation or some other measure.

I would like to use the Scots tongue as much as possible but, as we discussed at our previous meeting, there are different Scots tongues in different parts of Scotland. Ma mither uses words that I cannae understand, even though I was brought up by her in Fife, and I am sure that nobody from other parts of Scotland would have a clue about them. We must be careful about how we define the Scots tongue, and ensure that what is lodged in the Parliament is clear and unambiguous.

That is the difficulty with the proposal. I am reluctant to reach a decision on this today without exploring the issues and, in particular, the legal implications.

**The Convener:** What has come out of our limited discussion is that this issue could impact on a whole range of matters. It would be sensible to get a report from the clerks, as I proposed in the first place. The clerks should talk to Irene McGugan and Gil Paterson and anybody else who is interested, tease out the areas in which there might be implications, and report back with options for how we might satisfy what are legitimate desires—we have already accepted that in relation to the oath—and establish sensible working practice.

**Donald Gorrie:** I have a constructive suggestion. If two texts are submitted and printed at the same time—by all means, they should be checked out with experts—we should operate on the basis that the English text is the official one for laws or other measures.

**The Convener:** That could resolve the matter.

**Donald Gorrie:** I am all for going ahead with motions in Scots and Gaelic, if that is possible.

**Gordon Jackson:** Donald Gorrie's point is very important. Words are our business. Once we have passed laws, they will be examined in the building next door. If there is the slightest difference in meaning between the two texts, we will have created an incredible problem. Even with the best will in the world, there could be slight shades of difference in meaning, because one language never quite conveys the same as another. Such differences could cause huge legislative problems, so we would have to decide which language rules, in the legal sense—which text would be part of the

legislative process. Legislation that is not clear is bad legislation.

**Mr Paterson:** The introduction of new words to the Oxford dictionary is an everyday occurrence. We are talking about the death of Scots words.

**The Convener:** Not necessarily.

**Mr Kerr:** Gil Paterson is desperately trying to get an argument about this and, to be blunt, he is not going to get one. We are being very supportive of this proposal. There is no attempt to undermine anything here. Let us consider the mechanics and the logistics of it, and ensure that the matter is treated holistically so that we get an overall view. I concur with the convener's view that we should ask for an issues report.

**Mr Paterson:** Convener, I support you totally in requesting a report. I am just rebutting some points that have been raised today. I am certainly not saying that what you have proposed is wrong.

**The Convener:** We agree that there should be an issues paper. We should e-mail members on this and invite them to communicate their views on the steps that might be taken.

Item 7 on the agenda is on the letter that I received from Tom McCabe about the proposed amendments to standing orders, before they were adopted last week. I thought that the committee should see the minister's response, and we should be happy just to note it.

Item 8 is on correspondence that was received from the Scottish Council for Voluntary Organisations, which relates to concerns that the SCVO has expressed to Roseanna Cunningham, who is convener of the Justice and Home Affairs Committee, about the manner in which that committee will take evidence from the voluntary sector and outside bodies. The recommendation is that, meantime, the committee notes correspondence. John Patterson has written to the clerk of that committee to seek a background paper. When we receive that we will be able to respond. Issues may arise from it that we will want to consider in the context of scrutinising committee work, which has been suggested as a matter for us.

Any matter that arises in relation to a committee should be considered generally. We should never challenge the decisions of committees. The issue for us is how committees work and develop; that should be the lens through which we look.

**Iain Smith:** The Justice and Home Affairs Committee is not doing anything that would prevent any organisations that have concerns about particular parts of the bill from providing written submissions, which the committee could have before them as they consider the bill. The only concern is whether there should be oral

evidence at stage 2. Frankly, we would never get through bills if we took oral evidence at stage 2.

**The Convener:** That matter would form part of our evaluation, and the recommendation that we might make at the end of it.

**Gordon Jackson:** I cannot speak for Roseanna Cunningham, who is the convener of the Justice and Home Affairs Committee. We have taken huge amounts of evidence to front-load the legislation. I suspect that, although we say that we will not take oral evidence, it is not put in tablets of stone that we will never take a piece of oral evidence. If we felt that we had to hear from somebody who had written in, I imagine that we would do that. However, generally, it will not be physically possible to take oral evidence. We could not do the work.

**Mr Paterson:** It is very much for individual committees to decide whether they have enough evidence to make their decision. We had an example of such a decision a few minutes ago, when we decided to meet representatives of the press.

**The Convener:** We may ultimately decide that each committee must decide how to balance its work load. We must consider that matter sensibly, and advise all committees whether it is up to them to proceed in that way. The challenge has been issued. It is appropriate for us to consider this aspect of the work of committees.

Turning to the work programme, has every member got a copy of the letter from the convener of the Subordinate Legislation Committee, Kenny MacAskill, about a review of section 10 of standing orders?

**Gordon Jackson:** I do not have a copy. It is probably my fault. Was the letter sent out separately?

**John Patterson:** It was sent out separately.

**The Convener:** There was also a late circulation of an 11<sup>th</sup> item on the agenda, which is simply a reminder of non-priority standing orders issues, which were not included in last week's report. Does everybody have that?

**John Patterson:** That was not for circulation.

**The Convener:** In that case, I advise members that, in addition to the issues in the report that was prepared for item 9 of the agenda, we have some outstanding issues in standing orders to consider. They include Executive announcements, emergency questions, the method of electing committee conveners, declarations of interest, the use of Scots, reasoned amendments, time allocation for members' bills, the conflict of roles of conveners who are spokespersons, an issue that we did not resolve. We made a commitment to

examine the issue of the suspension of standing orders in greater depth. Other issues are the role of non-committee members in committees, and the feeding of the principles of the consultative steering group throughout the entire working of the Parliament. We will dispatch that matter in a five-minute session one wet Sunday afternoon.

There are other issues that the clerks reported to the committee and that the committee discussed and agreed to consider as part of its work for next year. It is not the case that all that we have to do is contained in this report, as other matters are lurking in the background.

I apologise, as I had thought that all members had a note of those issues.

Members have a report on recommended topics. The substance of that is in bold, in paragraph 14. We had suggested that we might consider subordinate legislation procedure. That suggestion prompted the letter from the convener of the Subordinate Legislation Committee asking, in effect, that that committee should be the lead committee in this and that it should conduct any review. Our clerks are happy with that, but want to ensure that they are sufficiently involved in the work, and will be on any working group that is established. Potentially, there is a lot of work to be done on this. The people who will understand the work of that committee best are those who are doing it. The mechanism that Kenny MacAskill suggests might be the best way in which to take the matter forward.

**Gordon Jackson:** It is clear that Kenny MacAskill has applied his mind to this matter. I am happy to let him have a run at it, as it is obviously quite technical. Good luck to him.

**The Convener:** We thought that we would put you on the working group as the rapporteur for this committee.

**Mr Kerr:** Hear, hear.

**Donald Gorrie:** I agree that the Subordinate Legislation Committee should pursue the matter. When we reach the appropriate stage, it might be a better use of everybody's time and energy to hold a joint meeting rather than endlessly circulating pieces of paper that people do not fully understand. At such a meeting, we could ask members of that committee why they do things as they do, and they would have to persuade us.

**The Convener:** A joint meeting might evolve naturally from the working group. We can leave that suggestion on the agenda, and wait to find out whether it is the best way to go forward in practice.

**Iain Smith:** I am happy for this review to go ahead, but I think that it would be useful for the working group to include representatives of the Executive secretariat, as they are involved in

drafting the statutory instruments that come before the Parliament.

**The Convener:** Iain Smith's suggestion seems sensible.

**Mr Paterson:** The working group will be a superquango.

**Donald Gorrie:** If Kenny MacAskill is to chair a superquango, that might put some of his future speeches at a peep.

**Gordon Jackson:** That will kill two birds with one stone.

**Donald Gorrie:** I thought that it was a good idea.

**The Convener:** There was no edge whatever when Gordon Jackson said that Kenny MacAskill had been applying his mind to this.

**Gordon Jackson:** I was serious.

11:00

**The Convener:** The second suggestion is that we instruct a report on the implementation of key CSG principles to selected areas of the Parliament, including standing orders, procedures and business. That follows naturally from the approach that was made by Ian McKay, the Educational Institute of Scotland representative, on behalf of the panel of CSG people, especially as the panel made a number of specific suggestions to us in the document accompanying their letter. It is, therefore, sensible that we consider the possibility of such a report.

Thirdly, in a letter that Tom McCabe sent—on a previous agenda—it was suggested that we examine the legislative process, the operation of committees to date and the operation of parliamentary questions. I have also had a letter from the Presiding Officer which, as I discovered this morning, I had neglected to pass on to the clerks. They now have it and will circulate it to all members for their information. It essentially asks us to consider the issue of parliamentary questions. I know that the Executive has been anxious to persuade the Parliament to assess that.

I made the suggestion earlier that we obtain an issues paper on financial procedures. There could be a lot of work in that, but it may be that we could give the lead role to the Finance Committee.

There is potentially a pretty big work load, and I invite comments on the Executive's suggestions of the three areas to examine. Do you wish to say something on that, Iain, perhaps to narrow down what aspects of legislation and committee operation we are being asked to consider?

**Iain Smith:** We will perhaps come to the legislative process later, because the more the

committees have had the chance to see the legislative process by actually progressing with legislation, the more lessons will be learned. It is an important part of this committee's work, but it is perhaps not the most urgent one.

A number of concerns have been expressed about the work load and operation of committees to date. The Executive would welcome an eye being kept on that and wishes to ensure that the committees are able to work effectively and efficiently, but that is an on-going rather than a specific piece of work. The operation of parliamentary questions is of concern to all parts of the Parliament, and is something that we want to address fairly speedily.

**The Convener:** Would you be happy if we were to consider the issue of parliamentary questions reasonably early and feed the other two issues later into next year, perhaps behind the other two points mentioned?

**Iain Smith:** Yes.

**Janis Hughes (Glasgow Rutherglen) (Lab):** That would seem logical, convener. The legislative process is still at an early stage. We have had one emergency bill, and two other bills are in progress. We have not gone far enough down the road to make any major comments about how the process is going. Concerns have been raised along the way, but I think that it would be better if we waited until we are further on with the process before reviewing it, and continually monitor the process with a view to reviewing it in six months' time, for example.

Consideration of the operation of the committees is also an on-going process. I agree with Iain on that. We have to be careful. People will be concerned about the Procedures Committee examining the work of other committees, but I think that there is a role for us to play. Some of the committees are perhaps getting a bit bogged down, and what we discussed with Kenny MacAskill's proposals offers one way of approaching things: committees could share work loads, for example. Iain is right that we should consider the issue of parliamentary questions with some urgency, and should examine the other issues as part of a monitoring process.

**The Convener:** If it is reasonable to do so, we will ask the clerks to present a report at the next meeting to identify how we might examine the issue of parliamentary questions: the sources of evidence; comparator parliaments; and evidence to quantify work loads in relation to those at Westminster. Part of the argument is about how things were in comparison to how things are. We need to work out from whom we will hear evidence and what areas we will investigate. We can then approve a programme of work which, I hope, will

be reasonably concise in terms of the time that the committee will have to spend investigating the matter. At the first meeting after the recess, we can agree on a programme of work and a timetable to bring the investigation of parliamentary questions to a speedy conclusion. Are we happy with that?

**Members indicated agreement.**

**The Convener:** We can slot in the other issues in the wake of that investigation.

**Donald Gorrie:** The wise people—Ian McKay and many others—who wrote to us raised some more fundamental issues. Presumably, once the committee has heard from them, it may wish to pursue some of the issues that they raise.

**The Convener:** That is the second of the two recommendations at the beginning of paragraph 14. We might want to focus a little more closely, but it would be unwise to do so before we have had a discussion with those people, whom I hope we will meet early in the new year.

I think that we have agreement on how we proceed on those issues. The 10<sup>th</sup> item on the agenda is a note of next year's committee meetings. Again, that is for information.

There is another item on which I would like the committee's views. I received a letter very recently about press access to papers. It concerns accessibility and the equality of information that people get about committee business. I propose, again, that we get an issues paper on this matter. Arguably, there is a central matter of principle here, but there are also practical implications, so it would be sensible to discuss the issue. I do not expect a decision today.

The journalists feel that there is an anomaly in that reporters who attend local authority meetings must, by law, be given sets of papers to tell them what is happening, but that rule does not apply here. They feel frustrated sometimes as they try to find out what the business of the committees is. If we wish our business to be understood and reported, we may have to make some response. I do not prejudge that response, but simply flag this up as something that we should discuss soon.

The last issue on which I want to take your views is the official report. The Presiding Officer has suggested that committees should attempt to dispense with the official report when they discuss housekeeping business. A number of committees have done that, and have discussed in private how they will organise witnesses and so on. At the most recent meeting between the Parliamentary Bureau and committee conveners, he suggested that there was scope to cut down use of the official report much more substantially. Again, I have asked the clerks to consider that suggestion in

terms of standing orders and the principles of accessibility and openness. I want to put this on the agenda for discussion at an early date.

Are there any comments on that now?

**Gordon Jackson:** I do not know what other committees do, but the Justice and Home Affairs Committee often gets rid of the official report, so that it can deal with housekeeping matters privately.

**The Convener:** There is a balance to be struck between ensuring that everything is properly discussed and recorded, and catching things that are essentially trivial and do not need to be on the record. Why should the official report write down the ramblings of members on matters that are not of great public significance? It is important that we get that balance right.

**Mr Kerr:** I concur with your views on the provision of information to the press. I hope that we will resolve that matter. On the question of the official report, we will have to give clear guidance if housekeeping matters are to be discussed privately. What is and is not a housekeeping matter, and where people should and should not be held accountable in the *Official Report*, are very much in the eye of the beholder, so we should tread warily. Although the sentiment about the use of resources is valid, we should ensure that the advice that is given is accurate, so that different committees do not use different methods of determining what are housekeeping matters.

**The Convener:** That is a very valid point. There is a danger that we will make decisions that are driven by budget considerations rather than by the principles of the CSG. It might be pertinent to ask each committee to discuss and relay back to us through conveners a response on what matters should be on the record and what should be regarded as housekeeping and therefore not recorded. We should proceed on this as a Parliament. The matter has been discussed at the conveners liaison group, but there is a procedural issue on which it is appropriate for this committee to take an overview.

**Donald Gorrie:** What are we doing about Mr Farquharson's letter on press access to committee papers?

**The Convener:** Because the letter has only just arrived, I am reluctant to bounce anything on the committee. Before our next meeting members should read the letter and think about the issue that it raises. In the interim, the clerks will work up a report for our next meeting, at which we can discuss it and form a response.

**Donald Gorrie:** The matter has to be high on our agenda, as there is a very legitimate complaint about an area in which we are falling short.

**The Convener:** We will want to make a decision on that at our next meeting.

That concludes the business of the committee. Thank you for your attendance. Enjoy the recess. Hae a guid hoaliday, or whatever it is in Scots. Gang warily.

*Meeting closed at 11:12.*





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