

# **PROCEDURES COMMITTEE**

Tuesday 29 February 2000  
*(Morning)*

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## PROCEDURES COMMITTEE

4<sup>th</sup> Meeting 2000, Session 1

### CONVENER

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

### DEPUTY CONVENER

\*Janis Hughes (Glasgow Rutherglen) (Lab)

### COMMITTEE MEMBERS

\*Donald Gorrie (Central Scotland) (LD)

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:

Irene McGugan (North-East Scotland) (SNP)

Iain Smith (Deputy Minister for Parliament)

### WITNESS

Elizabeth Watson

### CLERK TEAM LEADER

John Patterson

### SENIOR ASSISTANT CLERK

William Venters

### ASSISTANT CLERK

Jim Johnston

### LOCATION

Committee Room 4



## Scottish Parliament

### Procedures Committee

*Tuesday 29 February 2000*

*(Morning)*

[THE CONVENER *opened the meeting at 09:59*]

**The Convener (Mr Murray Tosh):** Good morning. I welcome everyone to the fourth meeting of the Procedures Committee. As Elizabeth Watson is with us today, I draw members' attention to the fire notice that I am supposed to read in full at the start of each meeting. If the fire alarm sounds, members should leave.

### Scots

**The Convener:** I welcome Irene McGugan, who has come here this morning to speak on the first item on the agenda—the use of the Scots language.

**Irene McGugan (North-East Scotland) (SNP):** I thank the committee for addressing the issue and for taking the trouble to produce a helpful paper. It seems anomalous that members are able, with the permission of the Presiding Officer, to speak in the chamber in Scots—and are reported in Scots in the *Official Report*—yet are not able to lodge a motion in Scots or Gaelic. If oral Scots is acceptable, perhaps written Scots should be considered to be eligible for use in motions.

The ambiguity of the status of Scots as a language has been mentioned. I contend that it is a language. It is recognised by the European Bureau of Lesser Used Languages as one of the lesser-known minority languages of Europe. That definition is good enough for me.

The consultative steering group report had several interesting things to say on the use of Scots and Gaelic. It concluded that the normal working language of the Parliament should be English, but that that did not prohibit the use of Scots or Gaelic. It took the view that most members would be expected to understand both spoken and written Scots, and that there would be no need to provide interpretation facilities for any MSPs who wanted to use Scots.

The Welsh Assembly model, as outlined in the paper, seems to have a great deal to commend it. Any difficulties of interpretation between Scots and English could easily be addressed by any number of academic experts and Scots language organisations who could advise Parliament.

The paper suggests that if Scots and Gaelic were considered acceptable languages in which to lodge motions, motions in any non-English language would have to be allowed. However, that logic is flawed, as has been highlighted by other decisions that have been made by Parliament. We have signage in English and Gaelic only and there is no suggestion that we should have signs in every language. The Parliament is about to appoint a Gaelic officer, but will appoint no officer for any other language. The Welsh have not adopted that principle; they use English and Welsh and have not sought to use other languages.

As a member of the Equal Opportunities Committee, I shall support any and every move towards an inclusive Scotland. However, there is a case for acknowledging the status of Scotland's indigenous languages—Scots and Gaelic—and a strong historical and cultural argument can be made for that.

Finally—before members ask me all sorts of questions—I suggest that the option of being able to lodge motions in Scots or Gaelic with an English translation would be acceptable. That would not require an amendment to standing orders—which would make the change easier—although when I tried to submit a motion in both Scots and English it was rejected on the basis that standing orders prescribe that a motion should be lodged in English only. Allowing motions in Scots to be lodged would be a significant step forward.

**The Convener:** I ask John Patterson to comment, for the committee's benefit, on the interpretation of standing orders in relation to the lodging of a motion in English and Scots.

**John Patterson (Clerk Team Leader):** That is set out on page 7 of the paper on Scots. Motions are to be lodged in English, but the advice that the paper sets out is that they can also be lodged in any other language.

**The Convener:** Would the business bulletin print both versions if motions were lodged in English and another language?

**John Patterson:** That would be possible.

**The Convener:** What is current practice?

**John Patterson:** It would print both versions.

**Irene McGugan:** That was not my experience—my motion was rejected.

**The Convener:** As we understand standing orders, the chamber desk ought to have accepted your motion in both versions, and printed it in both versions. I do not see any logical reason not to accept that.

**Michael Russell (South of Scotland) (SNP):** Irene is right to draw this matter to our attention, particularly the refusal to accept a motion that was

lodged in Scots. That was erroneous and should not be repeated. A member should have the right to lodge a motion in any language they choose, as long as they provide an English translation. The burden on providing the translation should be on the member, although the clerks would want to check it. Given that one is required to give notice before speaking in another language, as we know from the Gaelic debate on Thursday, the clerks might ask for the translation to be checked before the motion is published in the bulletin. That would be reasonable if the clerks felt that the translation might be inaccurate.

There would be no question but that, for legal reasons, the English motion would take precedence. That is the nature of the legislation. Nothing can be done about that, except to change it by primary legislation. We are not proposing that. However, we are being unduly restrictive. Irene is opening up an area that we should be relaxed about.

**The Convener:** All of Mike's points are perfectly valid. Do members see any difficulties with them?

**Members:** No.

**The Convener:** Should we advise the chamber desk of our decision, or will the chamber desk pick it up from the clerks' internal briefings?

**John Patterson:** You should write a letter.

**The Convener:** We will write a letter incorporating Mike's points of clarification.

**Michael Russell:** Could we copy the letter to the Presiding Officer and ask for a brief notice in the business bulletin so that the matter is clarified? A precedent has been set and we want to overturn it as quickly as possible.

**The Convener:** That is fair. Are you happy with that, Irene?

**Irene McGugan:** I am.

**The Deputy Minister for Parliament (Iain Smith):** I am not against the pragmatic way in which this is being suggested, but we ought to be clear about procedures in terms of the precedence of the English version, which Mike referred to, and the lodging of amendments. If a member wishes to lodge an amendment to a motion that has been lodged in English and in another language, who will the onus be on to provide the translation of the amendment into the other language?

**Michael Russell:** It should be on the member who lodges the amendment.

**Iain Smith:** With the deepest respect, that is not necessarily the case. If English has precedence and the person who is lodging the amendment is not a speaker of the other language—whether it is Gaelic, Scots or some other language—I am not

sure that the onus should be on them to provide the translation of the amendment. We need to be clear about that.

**The Convener:** I am improvising here, but I would have thought that if a member wished to amend a motion lodged in English and Scots, it would be competent to lodge the amendment in English only.

**Michael Russell:** The English version would be formally moved, so the other version would have no legal standing.

**Iain Smith:** We must be clear about that, because members might have their rights to lodge amendments restricted.

**The Convener:** We should point out in the notice in the bulletin that if members wish to amend a motion in Scots or in any other language, they need amend only the English version.

**Donald Gorrie (Central Scotland) (LD):** Sometimes, the number of questions or motions a member lodges becomes a political virility symbol. I hope that people would not feel obliged to show their 100 per cent Scottishness by using Scots incessantly. It is useful to have talked about this, and it is relevant to certain motions, but I hope that some common sense will be applied.

**The Convener:** It will probably not be, now that you have drawn attention to it, Donald. I appreciate your point, and it is up to each of us to interpret as we see fit the various ways in which parliamentary questions are recorded and presented.

Irene McGugan does not need to stay for the rest of the meeting if she has better things to do, although she is welcome to stay.

## Correspondence (Committee Amendments to Bills)

**The Convener:** The second agenda item is on committee amendments to bills. The clerking directorate's paper on the subject goes through the various ramifications, and invites the committee to come to a conclusion.

I have some sympathy with the notion that, when a committee has sat and thought and worked its way through a particular issue and agrees unanimously on a change that it would like to make, that committee's opinion ought to carry considerable weight. It should also be seen by ministers, Parliament and—depending on the source of the bill—the promoting member as something to which great weight should be given.

When we try to tie that up with a rule that says that there is such a thing as a committee amendment, the situation unravels. That is my view. I am perfectly happy to hear what other members have to say.

**Donald Gorrie:** I support the clerks' paper. As you have indicated, convener, the concept of a committee amendment is useful if it has the committee's unanimous backing. It is not as good if it represents merely a majority position. In a free and democratic assembly, every vote is, in a sense, a free vote. People like Iain Smith might, however, regard that with some concern.

**The Convener:** It would be heresy.

**Donald Gorrie:** If members vote the wrong way, there might be certain consequences.

If the committee agreed, for example, that all blinds should be removed from committee rooms, and it came to the point at which someone felt that they had been argued out of that position, there is no way that that person can be compelled to vote for it. I do not think that the committee would be inhibited from recording its decision that blinds should go. That carries more weight than an individual view. Would not it be possible to produce a standing order that allows committee amendments when the committee is unanimous?

**The Convener:** Why would you want to produce such a standing order?

**Donald Gorrie:** It is to do with your point, convener, and with the point made in the clerks' paper—that a committee amendment would carry more weight.

**The Convener:** Does not it carry enough weight that a committee convener is able to address the Parliament in moving an amendment, or to speak to the minister before the debate?

**Donald Gorrie:** You could argue that, convener, but I think that there is some merit in having a committee's backing of an amendment on paper.

**Janis Hughes (Glasgow Rutherglen) (Lab):** I disagree with Donald. There is nothing in the standing orders to stop committees lodging amendments in the name of the convener. Any amount of members of the committee concerned can sign up to such an amendment—or not, as the case might be.

There would be concern if a committee came to a decision and lodged an amendment and members of the committee or the convener were dissuaded by the debate. There is no mechanism for them then to discuss how to proceed with the amendment. Committees should be cautious when lodging amendments. However, the facility exists for them to do so if they feel strongly about it. I urge caution about formalising the procedure.

**Mr Gil Paterson (Central Scotland) (SNP):** I take the same view as Janis. If we remember the census debate, a committee had unanimously decided to lodge an amendment on three different subjects rolled together. However, 10 minutes before the debate, the committee had a meeting and decided that it would withdraw its amendment, although it had already agreed unanimously that it supported all three parts of it. A committee cannot be bound to a particular line of argument, given the political pressures that are put on members by parties. To be frank, I do not think that the suggestion would be workable.

10:15

**Michael Russell:** I am attracted by the idea of a committee amendment carrying additional weight. A committee saying unanimously that it believes something to be the case or that it is opposed to something has considerable political significance. We can see that whenever committees are reported. However, there are practical difficulties in implementing the proposal. The suggestion has also been damaged by what happened during the census debate, when a committee took a unanimous view, but withdrew after a deal was struck, leaving members of the committee who continued to hold to its original view feeling isolated.

Like the convener, I believe that the difficulty is in moving from the principle of a committee amendment to making such an amendment stick. We are working with fallible human beings and, as Donald Gorrie has pointed out, the whipping system. Either or both of those could have a dramatic effect.

I would like us to try to come up with a strictly controlled definition of a committee amendment. That would mean that once a committee had taken

a unanimous position on an issue, its amendment would have status as an amendment from that committee. However, the devil will be in seeing how such an amendment could be devised and maintained during a period of political pressure.

**The Convener:** Does Donald Gorrie's whip have any comment to make?

**Iain Smith:** I am not going to defend in the committee the role of whips. We were all elected on our manifestos and there is a reasonable expectation that members will follow the party line on which they were elected. [*Laughter*]

**The Convener:** That will be italicised in the *Official Report*.

**Mr Paterson:** Does that include tuition fees?

**Iain Smith:** It particularly includes tuition fees, which have now been abolished.

We need to be careful about this issue, as a committee might want to lodge an amendment for a number of reasons. It might not support the amendment, but might want to highlight an issue. The committee might be trying to establish whether the Executive intends to bring forward some changes to legislation because of issues that have been raised or, if it is the secondary committee, it might want to ensure that the lead committee debates an issue. Some members of a committee might be happy for an amendment to be lodged, even though they do not support it. There are risks in attaching too much status to a committee amendment, or in saying that because an amendment has been lodged by a committee it must have that committee's full support.

Having said that, there is provision in standing orders for a member to move a motion or an amendment on behalf of a body. Motions are moved by individual members on behalf of the Parliamentary Bureau. I do not think that allowing a motion to be lodged by the convener of a committee on behalf of that committee would involve a major change to standing orders. However, there should be no suggestion that that committee as a whole is bound to support that amendment when it is debated.

**The Convener:** Would a change to standing orders be required to allow a convener to lodge a motion on behalf of a committee?

**Elizabeth Watson (Head of Committee Office, Scottish Parliament)** *indicated agreement.*

**The Convener:** As part of our work programme, we intend to consider committee practice. In the fulness of time—towards the middle or the end of the year—we might want to contemplate a formal change to standing orders. At the moment, I suggest that we should not seek an urgent amendment to standing orders. However, we

accept the principle that a committee amendment has some weight and that conveners should be encouraged to use that weight to ensure that the lead committee or the Presiding Officer, with the Minister for Parliament, select amendments for further debate. The committee also agrees to consider the issue that it raises in relation to standing orders in the context of other work it will carry out later this year. Are members happy with that?

**Members indicated agreement.**

**The Convener:** We ought to send a letter to committee conveners, business managers and the Presiding Officer, giving some guidance on that in the interim.



## Voting Arrangements

**The Convener:** The next item deals with voting arrangements. We discussed this item in January and agreed that we would invite further evidence from the Scottish Daily Newspaper Society. That information, which indicates that a lot of people read evening newspapers, has been given. The society has also included a list of all the morning debates that have been voted on in the afternoon, although it also includes a couple of motions that were resolved in the morning.

The principle behind the request for morning decision times is to allow significant decisions to be made known to the readers of evening newspapers. Many of the debates were on whipped motions that were supported by the Executive parties or on opposition motions that were unlikely to be passed and I take the view that the only cliffhanger was the debate on the Holyrood project.

We have been over this ground before and I do not think that the evening newspapers have lost very much by not having the final result. The football match analogy breaks down because in a football match, three goals can be scored in the last five minutes. There has been no vote in the Parliament on a party whip in which the vote has gone against the predictions that might have been made at half time. I do not think that the newspapers have a serious complaint, other than in regard to the Holyrood project vote that was taken in June. There might be a further vote on Holyrood soon, of course, but I do not know whether it will be taken in the morning. I have had a further note from the spokesman for the SDNS, which I will copy to the committee, but I cannot see any way to progress the matter. I do not see the point in writing again to the Presiding Officer; he is well aware of his power to vary the voting time and is anxious to use it when the opportunity presents itself.

**Michael Russell:** On occasion in the bureau, there is discussion about voting at lunchtime. No one is trying to avoid such votes. I am sure that, from time to time, we will vote in the morning if it is felt that the voting time should not be delayed.

## Correspondence (Notice of Lodging Amendments)

**The Convener:** Item 4 on the agenda is a letter from Margaret Smith, convener of the Health and Community Care Committee. We are asked to consider the matter that she raises and to procure a more detailed report. That is what we always do, so I am sure that we should do that. The essence of the request is that the Executive should meet more demanding time scales for lodging amendments than members are expected to. That might or might not seem to the Executive to be reasonable, but the Executive should be entitled to input into the report so that it can spell out any practical implications that might arise from the request.

With that caveat, is the committee content to commission a report?

**Donald Gorrie:** I do not know whether my illness has made me more stupid than usual, but I did not understand the second paragraph of the letter. The middle sentence says:

"The Committee considers that where there are substantial amendments by the Executive that rule 9.10.2 should not apply to the Executive and those amendments by the Executive should be lodged in advance of the deadline".

**The Convener:** I understand that to mean that the deadline should be more demanding for Executive amendments.

**Donald Gorrie:** With that explanation, I am happy to agree to the commissioning of a report.

**The Convener:** Are all members agreed?

**Members indicated agreement.**

## Committee Videoconferencing Facilities

**The Convener:** The fifth item on the agenda is an update on videoconferencing. There do not seem to be any difficulties in standing orders about videoconferencing, but there are severe practical limitations. That is a matter that the Scottish Parliamentary Corporate Body can address, using the substantial financial resources at its disposal.

**Michael Russell:** Is it inappropriate to suggest that videoconferencing be considered for the Holyrood building?

**The Convener:** As long as by “Holyrood building” we mean any building that might ultimately house the Parliament.

**Michael Russell:** It might even be this one.

**The Convener:** Perhaps. It might not be the building at Holyrood, but that is enough of such mischief.

**Iain Smith:** We would not be able to make full use of videoconferencing facilities for committee meetings for at least two years, even according to the original timetable for the Holyrood building. I recently took part in a videoconference with representatives of the Finnish Parliament. I have not taken part in a videoconference before and I found it to be an excellent facility. I hope that the SPCB will consider adapting one of the committee rooms to make videoconferencing facilities available at an earlier date, otherwise we will lose an opportunity to increase our access to people in the more remote communities in Scotland. We cannot wait for completion of the new building until we make use of such facilities.

**The Convener:** That is a fair point. We are likely to be here for some time and despite the limitations, it would better if the videoconferencing facilities were in one of the committee rooms, rather than in the basement, where they cannot be used to any great extent.

**Donald Gorrie:** The option of having remote witnesses is very helpful and would enable many less professional witnesses—if I can call them that—to participate. I accept the argument that we miss something in terms of body language and so on. If a committee is grilling somebody who is suspected of doing all sorts of naughty things, the witness should be there so that we can see the guy squirm. Videoconferencing would, however, allow a committee to get a genuine view from a scallop fisher from North Uist, for example.

**The Convener:** There is nothing to add to that at the moment.

## Access to Committee Papers

**The Convener:** Item 6 concerns a positive response from the corporate body and the Presiding Officer to the recommendations made by the Procedures Committee on journalists' access to papers. Is it agreed that we note the response?

**Members indicated agreement.**

## Work Update

**The Convener:** Item 7 is an update on the committee's major work. The two items that are listed here are financial procedures and privilege in sub judice matters. A letter from the convener of the Finance Committee and appendices are attached to the committee paper. Those show how the Finance Committee proposes to carry out the innovative financial procedures that will allow committees to have influence on the shaping of Executive budgets in years to come. Are there any comments?

**Donald Gorrie:** That is very welcome.

**The Convener:** Clearly we will want to review that in the fulness of time. Do members agree to note that item?

**Members indicated agreement.**

## Standing Orders

**The Convener:** Item 8 relates to the setting of committee agendas, which is an area of potential difficulty. Did everyone receive a copy of the letter dated 28 February from Dennis Canavan? It should have been on your desks either yesterday or this morning. I received mine yesterday, but some of you may have received it only this morning.

**John Patterson:** We sent them out yesterday morning.

**The Convener:** They should have arrived yesterday then. The thrust of Dennis's letter is that the setting of committee agendas should be a matter for the committee as a whole. There are two issues here. One is the committee's work load, which, clearly, the committee must resolve. The other is the setting of the agenda for each meeting. Presumably the convener should have some degree of discretion over what is included.

10:30

It strikes me that the last paragraph in particular of Sir David Steel's letter to Dennis Canavan on 15 February is sound advice. Essentially, it advises committee conveners that they should agree to incorporate specific points from members in agendas, while also making the substantive point that the convener and the committee must manage the work load together. It also advises that members should not think that they have the right suddenly to put a lot of work on to a committee agenda. People must manage the work load together. A balance must be struck.

I am not sure that this is a procedural issue, or certainly not one that could be dealt with through standing orders. Having said that, I have indicated that we are considering other matters of committee operation later in the year. How the agenda is managed might usefully be part of that wider study. I am at your disposal, ladies and gentlemen. How do you want to handle this?

**Michael Russell:** Your advice, convener, and that of the Presiding Officer is wise. Committee members and the convener should be able to co-operate on the setting of business. I would not expect an agenda to go out that the convener had not seen—that is basic competence in running a meeting.

Equally, there must be recourse for members who have difficulty getting items on the agenda, and who are subjected to unreasonable chairmanship. I have read the *Official Report* and took the opportunity of watching the European Committee on the monitor last week. While I think

that Dennis Canavan was a little excited from time to time, the meeting was reminiscent of Renfrewshire Council at its worst. There was an attempt to stop discussion, which is to be deeply regretted.

Conveners have a responsibility to co-operate with committee members in a reasonable manner. That does not seem to have worked in this case. We should consider the whole matter as part of our consideration of committee activities. However, we should remind conveners, in particular, that they will get the best out of their committee if they are able to find constructive ways in which to work with committee members. For a convener to refuse to allow an adjournment strikes me as ridiculous. If the members of the committee genuinely want to adjourn for a minute or two, either to consider a matter, to take further advice or even to go to the loo, it is ridiculous that the convener should sit there like a schoolmaster, saying, "No, we are going ahead no matter what."

Conveners should think much more carefully about what they do. Fortunately, we are blessed with an excellent convener and deputy convener, but those who are not quite so lucky will have to assert themselves. We should consider the matter further.

**The Convener:** As a former schoolmaster, I call Janis Hughes.

**Janis Hughes:** I do not disagree with Mike Russell. We should consider the matter when we examine committee activities. We must be careful, however. We have received a letter from Dennis Canavan, who is unhappy with the conduct of the meetings of one committee. As far as I know, there have not been complaints from any other members of that committee.

**Michael Russell:** There have.

**Janis Hughes:** Well, they are not in the papers that we are here to discuss and we must keep an eye on what we are here to discuss. We should do what has been proposed and discuss the matter as part of our wider consideration of committee activities, but we cannot examine any other aspect of Dennis's letter.

**Mr Paterson:** I take the view that the committee drives the agenda and that it is up to the convener to set the agenda in conjunction with that. Someone has to set the agenda, and the convener is the person who should do so. However, it would be worth while considering the matter further. Perhaps the committee has a convener who is slightly heavy handed, but the members of the committee have the remedy in their hands.

**Iain Smith:** The phrasing that you used at the start of this agenda item was useful, convener. It is important to distinguish between the business of

the committee and the agenda of a particular meeting. The business is the work programme of items that the committee wishes to consider. It must be left to the convener, in conjunction with the clerk, to determine what business is ready to be dealt with at any particular meeting. I do not envy you the task of putting together the agendas for the Procedures Committee. The fact that, generally, we get through the business quicker than it takes to read through the papers is a testament both to your chairmanship and to the sense with which you introduce the business.

My concern about this item is that it appears that the member involved did not accept the explanation from the clerk and the convener that the document in which he was interested was not on the agenda simply because it was not available. There must be a degree of trust between the convener and members of the committee. In this case, that trust appears to have broken down. The members and the convener of that committee should get together, perhaps informally, to sort out the trust issues that are involved.

However, the advice that you gave earlier, and Sir David Steel's advice, on the business of the committee is correct. The committee as a whole must consider its work programme, but it must be left to the good sense of the convener, in conjunction with the clerk, to determine the agenda for any individual meeting of the committee.

**The Convener:** There is no mystery in why items appear on the agenda. They do so when they are ready and in response to issues that have arisen. This committee discussed its work load and agreed a programme of work, which we manage as best we can. Along the way, all sorts of other issues crop up. If they are on a small scale, we deal with them as and when they arise. If they impact on our work load, we have three options: we do not deal with them; we add them to the programme of work; or we incorporate them within a wider piece of work that is being carried out over a long period of time. I would have thought that that is a model for all committees.

A committee can deal with an issue that crops up that is not in the work programme. It hardly matters whether it is dealt with at that meeting, at the next meeting or at a meeting in a couple of weeks' time. However, if members seek to put a lot of additional work, which goes against the committee's work programme, on to a committee, the convener is entitled to control that. Other than that, the convener should be as flexible as he can be in allowing members to raise items within the committee's competence that are of concern to members. However, that is a general principle.

**Donald Gorrie:** I agree with much of what has

been said. Rule 12.3 of standing orders on committee meetings shows that there is a difference between the committee deciding its business and the convener and the clerk deciding the agenda for each meeting. However, it could become a grey area. Unless certain issues are discussed fairly quickly, it is not worth discussing them at all and that could lead to conflict.

It might be possible to consider in our future work programme some wording that might prevent minority members of a committee being pushed aside. It would be worth considering that, to clarify the difference between the business of a committee and its agenda.

**Michael Russell:** I wish to ask for clarification on a point that has arisen. From Hugh Henry's letter, it appears that the convener could rule out of order a motion of no confidence in his or her position as convener. Therefore, would a challenge to that ruling be out of order procedurally? Could one challenge a ruling from the convener and require that to be voted on?

**The Convener:** Elizabeth?

**Michael Russell:** I thought that I should bring Elizabeth into the discussion as she was just sitting there quietly.

**Elizabeth Watson:** The standing orders on motions in committees afford the convener a high degree of power and control. It is certainly the case that decisions about which motions that are lodged are to be taken and about whether motions can be taken without notice lie with the convener. In effect, a convener could decline to take a motion of no confidence.

**Michael Russell:** We should address that issue. It is quite intolerable that a convener could rule out such a motion if it arose in a committee. We should also examine the procedure whereby a ruling by a convener from the chair can be challenged at the meeting. It is equally intolerable that that could continue throughout an entire meeting. In considering the power of conveners, we should examine those two issues.

**The Convener:** Did the convener refuse to accept a motion about his convenership?

**Michael Russell:** Events in the *Official Report* excerpt get precious close to that. In that excerpt, the convener constantly rules matters not competent. However, his letter to members of the committee, which poured petrol on the fire, gives an immensely hardline definition of motions. That worries me, because it seems—Elizabeth Watson has confirmed it—that if one moved a motion of no confidence, the convener could rule it out of order. The next move would be to challenge that ruling, but the convener could then rule that out of order. A meeting could continue in that way.

To be fair to members, we should consider in our review the question of votes of no confidence in conveners of committee, because they must be in a special category. Of course, that would raise the possibility of votes of no confidence being raised every 10 minutes, but in practice that would not happen.

One would probably have to move a motion in Parliament to remove somebody from a committee. As motions on the membership of committees have to come from the Parliamentary Bureau, one might be in terminal difficulty.

**The Convener:** I agree that we should consider this question as part of our long-term review.

**Mr Paterson:** I thought that committees would have the power to do something about matters. It seems strange to have God in the chair but to have no way of praying.

It is not the setting of the agenda that is important, but the ability of members to get items on the agenda. Other business on the agenda may mean that those items have to be discussed later, but it is not on to rule out things out of hand. No other committee would tolerate that.

**The Convener:** We will consider the question of motions of no confidence as part of our continuing work programme. It is always open to members to raise specific difficulties that have arisen in the Parliament or in a committee. However, it appears that there is no clear procedural answer to this difficulty so we will need to get a response in due course. In the interim, it might serve some purpose if the thoughts that have been expressed at this meeting were conveyed to the appropriate members.

**Michael Russell:** We should encourage conveners to be democratic and responsive, just as we always encourage members to be constructive, positive and polite.

Before you close the meeting, convener, I wish to raise a small item. I was not at the previous meeting because I was at the Commonwealth Parliamentary Association conference in New Delhi. Although I will not report fully on the conference, a number of interesting and unexpected issues arose in relation to comparative standing orders, which is an area in which John Patterson has taken some interest. We are perhaps missing a trick if we do not explore practice in other parliaments.

I will give two brief examples. First, there is a practice that is allowed under the standing orders of parliaments, particularly in the West Indies, of taking Speakers from outside Parliament. The Speaker of the St Lucia Parliament was at the conference and I discovered that he is not an elected parliamentarian. He was a newspaper

editor and had been invited to become the Speaker. It is a small Parliament, but that practice works particularly well because it provides an independent chairman who, because of his previous activity, has no association with any political party.

I am not suggesting that system for the Scottish Parliament, but the possibility of problems with our system has been raised and we are due to consider that matter. Perhaps we could learn from practice elsewhere.

Secondly, the Indian Parliament begins its budget process today. That process is long established and not dissimilar to the process that we have grasped our way towards, in terms of the committees' role in scrutinising certain aspects of the budget. In India, the process is enshrined and has been well worked out in both Houses over many years.

Our committees meet in public, but the practice in many Commonwealth Parliaments is for standing committees to meet in private. We could make others aware of the benefits of public meetings. People were astonished when I told them that we have to give a reason for going into private session.

10:45

We could gain from looking at standing orders from other Parliaments and discovering how problems have been solved. We will find, from time to time, that the solutions are interesting and do not necessarily flow from the fount of Westminster.

I suggest that during the next few months, we—the clerks and members—might select a particular issue and subject it to some comparative analysis to find what the solution has been in other places. That would be very instructive. I also know that there are parliamentarians from all over the Commonwealth who would like to know what we are doing. When they visit from time to time, they may wish to attend this committee and I am sure that we would invite them to do so.

**The Convener:** John, do you want to respond?

**John Patterson:** Simply to say that if members have matters that they want to explore in that way, they should let us know and we will do our best to work that up. Is Mr Russell suggesting that he would lead on a particular issue, or would another member—

**Michael Russell:** As issues come up, we might ask the clerks for some comparative analysis or we might ask members to get involved. For example, we plan to look at privilege, to which there is a different approach, albeit a legalistic approach that relies on the law of the land, in

almost every jurisdiction. It would be interesting to see whether that could inform our work.

We have the luxury of being able, at this comparatively young stage, to introduce ideas and apply them to our practice. It will not always be so. We should encourage everyone to bring in ideas.

**John Patterson:** If I may say so, that is a very good idea and would ventilate the issues when they are new. Occasional agenda items along those lines would be helpful.

**The Convener:** That was a good example of how an issue might be raised at a committee for discussion and for the edification of members without having a decision attached to it, so that no one's privileges have been infringed by its not being on the agenda.

Thank you for your attendance.

*Meeting closed at 10:47.*

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