

PROCEDURES COMMITTEE

Tuesday 25 April 2000
(*Morning*)

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PROCEDURES COMMITTEE 6th 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 ALSO ATTENDED:

Iain Smith (Deputy Minister for Parliament)

Christine Grahame (South of Scotland) (SNP)

CLERK TEAM LEADER

John Patterson

SENIOR ASSISTANT CLERK

William Venters

ASSISTANT CLERK

Katherine Wright

LOCATION

Committee Room 4

Scottish Parliament

Procedures Committee

Tuesday 25 April 2000

(Morning)

[THE CONVENER *opened the meeting at 10:04*]

The Convener (Mr Murray Tosh): Welcome to this meeting of the Procedures Committee. I will start by advising the committee that this is the last time our senior assistant clerk, William Venters, will be with us. He returns to the real world later this week; he will be sorely missed. On behalf of the committee, I thank him for the work that he has done and for the paperwork that he has churned out for us. We wish you well in your future employment, William.

William Venters (Senior Assistant Clerk): Thank you very much, convener.

Civil Servants

The Convener: Bearing in mind the matter that forms item 1 of the agenda, I should perhaps have said that Mr X is leaving us.

We have had a letter from Christine Grahame, who is with us this morning to speak to the matters arising from her exchange with the Presiding Officer before the recess.

Christine Grahame (South of Scotland) (SNP): I did not know that I was adopting a cause when I named a civil servant in Parliament. I had no particular agenda in doing so. Naming the civil servant was a natural action for me as I feel that the Parliament should be open—you will note that I named everybody else who was at the meeting, including the gentleman from the public relations firm.

I take it that members of the committee have read all the papers that have been supplied. The section dealing with the Australian House of Representatives was a bit sparse for my lawyer's mind, but it comes down to the fact that in Australia there are no particular rules governing the naming of civil servants. That is what I would like the committee to consider. I do not think that civil servants should be named on every occasion, but my position is different from that of Sir David Steel as detailed in his letter to me.

The days have gone when Sir Humphrey Appleby, in "Yes, Minister", could get away with murder and run rings around the hapless Jim Hacker without being named. We know that that is

comedy, but it represents a Victorian legacy in government. Even Westminster has moved on.

Sir David notes that there are in the standing orders no rules that govern this issue, but his ruling suggests that there should be a general principle. Whose general principle would be adopted? I would like the committee to consider whether we should have a general principle and whether it should be deviated from on occasion. I believe that the general principle should be that there are no rules on the matter, except for a few that I will deal with later.

I see that that Gordon Jackson, an advocate, has arrived. I will have to watch what I am saying.

Incidentally, I point out to the committee that Sir David Steel had no authority to make a ruling on this matter, as he knows. Rule 3.1.1(c) says that the Presiding Officer can

"determine any question as to the interpretation or application of these Rules and give a ruling on any such question"

but there are no rules about the naming of civil servants, so the Presiding Officer was in a position only to give guidance on the matter.

The remit of this committee is to consider the practice and procedures of the Scottish Parliament in relation to its public business. That means that this committee should decide on the naming of civil servants.

In my letter, I concede that there may be circumstances when a civil servant is a background figure whom it would not be appropriate to name. For example, it was right that the First Minister did not disclose the name of the civil servant who failed to disclose the £28 million or so that made up the hidden cost of the Holyrood project and that he took the blame himself. As the information had been shared only by the First Minister and the civil servant, it would not have been appropriate to name him or her.

However, civil servants often come out of their closet, such as when they come before committees to give evidence or advise ministers who are giving evidence. When the words come out of the mouths of ministers, their name goes in the *Official Report*, but when the civil servant speaks, the civil servant is named. It would follow that it would be natural to name those civil servants in Parliament if their evidence was being discussed. The press might also refer to the civil servant by name, as reporters would be present at the committee meeting—as they were at the meeting of the cross-party group on Borders rail that I chaired and to which I referred in the chamber. If an MSP's assistant were to attend the meeting, I would name them, too, and include them in the meeting.

Further situations when it might be appropriate to name a civil servant might arise in the future and I think that the Parliament should be flexible and that we should certainly not be forbidden from naming civil servants.

I understand that the contract of civil servants is changing and that they are now contracting with the Scottish Parliamentary Corporate Body. That means that some civil servants will not be employees of the Scottish Executive but, technically, will be employees of the Parliament. I have not considered fully what the impact of that might be.

The decision about whether to name a civil servant must depend on the capacity in which they appear and in what venue the discussion takes place. To some extent, Sir David Steel concedes that.

We laud this Parliament for its openness and accountability. Those principles should extend to the civil service. The decision about whether to name a civil servant should be a matter for the judgment of individual members. I have no doubt that a member's colleagues will display opprobrium if a member oversteps the mark, as happens when someone uses an unfortunate expression about another member in the chamber. A natural balance will be found.

Although I am a nationalist, I will applaud that dinosaur of democracy, the Westminster Parliament, where a pragmatic approach to this matter seems to have been adopted. The Speaker may disapprove of a member's naming a civil servant, but no disciplinary proceedings will be taken against them.

Janis Hughes (Glasgow Rutherglen) (Lab): I do not think that what the Presiding Officer said in his letter is a million miles away from what Christine has said today. In the papers before us, we see that he says that the onus is on the member when making a judgment about whether to name a civil servant. I accept the principle that people who do not have the right to reply should not be named. The general principle should be that civil servants should not be referred to by name except in circumstances such as those mentioned by Christine and in agreement with the Presiding Officer. I would like Christine to clarify where she disagrees with his judgment.

Christine Grahame: I disagree with there being a general principle against naming civil servants. I think that—as is the situation in Australia—there should be no rules on the matter and that each case should be taken on its merits.

It is true that civil servants have no right to reply in the chamber, but we quite often mention people in the chamber who have no right to reply. For example, Clive Fairweather, the chief inspector of

prisons, is frequently referred to—although usually in pleasant terms. Individuals are often mentioned and would have to respond through non-parliamentary channels. That objection is not sufficient reason for not naming civil servants.

10:15

Michael Russell (South of Scotland) (SNP): It is important to tease out the range of issues that Christine Grahame has identified. Like Janis Hughes, I do not think that there is a great difference between Christine Grahame's position and the Presiding Officer's ruling, with one exception, to which I will refer in a moment.

First, it is clear that the Presiding Officer can rule on matters on which there is no standing order. I accept that the Presiding Officer has a duty to do that if the matter relates to the general conduct of business. Equally, the Procedures Committee has a role to advise the Presiding Officer and, if necessary, to recommend a change to standing orders, although I do not think that we should do so in this case. We cannot exclude the role of the Presiding Officer.

However, the Presiding Officer may have gone too far in his letter of 24 March, which has been circulated to members. In that letter, in response to Christine Grahame's germane question about civil servants giving evidence to committees, he talks about being circumspect. Civil servants giving evidence to committees clearly do so in the public domain. They give evidence that is recorded by—and are named in—the *Official Report*. Once a civil servant is named in the *Official Report*, I do not think that there is any question but that a member can refer to that civil servant by name in the chamber.

The Presiding Officer's letter may have gone further than the matter warrants, but it points up what Janis Hughes said about the circumstances in which civil servants should be named. In some circumstances, a civil servant gives advice anonymously, by virtue of his office rather than his person. In those circumstances, it would not be fair to refer to a civil servant. Although no member could be stopped from doing that, they might be rebuked by the chair.

The particular circumstances to which Christine Grahame referred need consideration. A civil servant was present at a publicly recorded meeting. He may have been representing his minister, but it is not possible to do so anonymously in such circumstances. It would be ludicrous in terms of the consultative steering group principles if a civil servant attending such a meeting had to be referred to as AN Other and if that name had to be entered in the register of those attending the meeting. In those

circumstances, it would be legitimate to refer in debate to him or her.

One may be critical of a civil servant's attendance at a meeting because it is inappropriate. I notice that Christine Grahame's submission says that the civil servant sat with his notebook in his hand, which implies a criticism even if it is not one. I know Christine Grahame well and I know when she implies a criticism, as she has done so often enough to me. One's criticism should be directed at the minister who instructed the civil servant to be present rather than at the civil servant.

This is a complicated matter. Christine is right to say that the Presiding Officer is over-ruling on this matter and that there should be no general bar on naming civil servants, but I would not go so far as to say that it should be common practice for civil servants to be named in the chamber. I know that she did not say that, but I draw that distinction. The practice of the Parliament should lie somewhere between the position that David Steel has outlined in his letters and the position that Christine Grahame has given this morning.

We will talk later this morning about the CSG principles, which require openness. We should not pretend that civil servants are always anonymous. We were the first committee to give our clerk a voice and to include his name in the *Official Report*. It is right and sensible to do that, as it recognises the contribution of individuals.

I suspect that we should operate on a case-by-case basis, with the general presumption that when civil servants are working only at the minister's behest they should not be named, but that in all other circumstances it would be appropriate to do so. It strikes me that in referring to an official who gave evidence to a committee, naming the official would be unavoidable.

The Convener: Christine, do you have a specific response?

Christine Grahame: I would like to answer points as they are put to me.

I can see that this is not a party matter—I have not even discussed it with Michael Russell. Where is his authority for the view that the Presiding Officer can rule in circumstances other than those covered by standing orders? Standing orders do not say that he can rule according to circumstances or at his discretion.

Michael Russell: There should be a general assumption—Gordon Jackson will keep me right about this—that, to keep order in the chamber, the Presiding Officer can make directions to members, although they do not have the same force as a direction that arises from standing orders. An example is the quoting of private conversations.

Standing orders do not say that private conversations should not be quoted, but the Presiding Officer, rightly, for conduct in the chamber and proper debate, will expect that that should not happen. It is inevitable that the chair of any meeting has such discretion. If we tied our convener to operating entirely by standing orders, this would be a much duller committee.

The Convener: I would have to read them for a start.

Christine Grahame: Another question to address—the convener raised the point—is what would happen if the civil servant had spoken at the public meeting. He was not selected specifically. I named other people, including a representative of a public relations firm.

Michael Russell: Christine Grahame is right. I see no difficulty with naming civil servants who attend a meeting at which they know names will be taken and who may contribute to that meeting.

Christine Grahame: Michael Russell seems to be defining categories of circumstances in which it is appropriate or inappropriate to name civil servants. It may be difficult to know which category one is in. Sometimes it will be obvious, but at other times there will be grey areas. That is why it may be appropriate to have guidance for members, but it should not be enshrined in rules in such a way that it gives rise to challenges.

Michael Russell: The record of this debate, among other items, will be guidance to members.

Gordon Jackson (Glasgow Govan) (Lab): Michael Russell is right: the Presiding Officer does not need standing orders. The chair of any meeting, whether it is of the committee or of a rural parish council, should be able to order the affairs of that meeting; otherwise the chair would not be respected.

Christine Grahame gave the example of Clive Fairweather. I think that that highlights what Michael is saying: Clive Fairweather is a civil servant—I am not sure what one should call him precisely—but he operates as a principal. He does not operate as an adviser to other people. When he makes a pronouncement on the state of accommodation in Barlinnie, he debates it with me on television in his own right and does not represent a minister on the issue. If somebody appears at a committee to give their own point of view, they are up for grabs and can be named. However, I am not happy that people who are there purely to give advice should be named. I am not sure how one puts that into a rule, other than to do what the Presiding Officer has done. If one tried to define the occasions on which a civil servant can be named and the Presiding Officer had to lay down guidelines, one would probably end up in a bigger mess.

Donald Gorrie (Central Scotland) (LD): Standing orders should probably include guidance to members that, generally, they should not name civil servants and should think carefully before doing that, but that there is no bar on doing so. That position is somewhere between what David Steel and Christine Grahame are saying.

In a case such as the meeting about Borders rail—if the issue is sensitive, for example—there should be no problem in referring to the civil servant representing the minister or in saying that someone representing the minister was at the meeting, in case the minister pretends that he did not know about it. That is not a big deal and I am happy to concede it.

In one of his letters, David Steel distinguishes between matters of fact and matters of policy. At Westminster, things get interesting—I am not sure whether this has happened here—when, for example, the Government claims that it has spent £1 million on new desks but a civil servant tells a committee that in fact the amount that has been spent is only £500,000. In such circumstances it would be legitimate for an MP or an MSP to say that the official who is responsible, Joe Bloggs, is saying one thing and the minister is saying another, and that therefore something is wrong. When there is a conflict of opinion about fact, it is legitimate to name the source.

I do not go as far as David Steel in saying that we should not name people, but I think that it would be helpful to include some carefully worded guidance when we amend standing orders.

In the end, we are all free agents. All votes are free votes and all speeches are free speeches. One does not get shot at dawn after making a speech. We may be abused or rebuked or lose the party whip, but we are free agents and can do what we like.

Mr Andy Kerr (East Kilbride) (Lab): I have a difficulty with Christine Grahame's suggestion. I think that the Parliament has done the right thing in encouraging the clerk and other officers to speak at committees—that is what I do as convener of the Transport and the Environment Committee. If we pursue the line that Christine is suggesting, we will harm the quality of advice that we receive. We are approaching this matter from the wrong end. The principle is that civil servants and others attend committee meetings to give us good straightforward reports of events or to give us clear advice. If we then make them public property, there is a possibility that we may inhibit those whom we would like to protect.

It might also be valid to discuss this question with the staff somehow to establish what effect our considerations may have on the contribution that they make at committees. I think that the *Official*

Report of this meeting may show that we are beginning to make civil servants public property, with the potential that their names will be traded on the floor of the chamber to make political points. That would be a retrograde step.

I was formerly an officer in local government and attended many committees. If I had felt that anything I said at the committee would be used by a member of a political party, the quality of advice that I gave and the amount that I said might have been reduced.

Those factors and points that other members have made but which I will not repeat must be taken into consideration. Our positions are not very far apart. The general principle should be that we should not name civil servants, but that we do not exclude naming them when it is necessary to do so. I think that that is wise counsel and how we should proceed.

The Convener: I wonder whether the Executive has a view or whether Iain Smith has a personal view—we must allow for the possibility that you sometimes speak for yourself.

The Deputy Minister for Parliament (Iain Smith): On this occasion I speak on behalf of the Executive although, personally, I share the views that Donald Gorrie outlined.

Civil servants are in a strange position. Even when they give evidence to committees, they do not do so on their own behalf but on behalf of the minister, which puts them in a slightly different position from that of other people who give evidence to committees. They are not there as Joe Bloggs, civil servant; they are there as the representative of the minister.

The general principle—it may not be right to describe it as that—that civil servants should not be referred to by name arises out of the fact that they give evidence on behalf of the minister and that it is the minister, rather than the civil servant, who is accountable. That is the difficulty that David Steel tried to outline in his letter of 24 March. There is obviously a difference between their position and that of chief executives of executive agencies, who are responsible and accountable in their own right to Parliament for the operational matters that are under their control—although policy issues remain the responsibility of ministers. Civil servants giving evidence to committees do so on behalf of ministers and should be referred to in debates as officials of the department or of the minister, rather than by name.

There may be occasions when exceptions have to be made—for example when there is a conflict of evidence, or when more than one civil servant gives evidence to a committee and it is necessary to name an official to be clear about which one is being referred to. Normal practice should be that

officials are not named but, when the naming of a civil servant can be justified by a member, there should be an exception. I think that that is the position that the Executive would take on the matter.

10:30

Mr Gil Paterson (Central Scotland) (SNP): I would like to raise a specific issue and a more general one. Christine referred to the specific issue. It would be fairly normal for anyone at a meeting to be named, whether or not they were civil servants. If a civil servant is present unaccompanied, the correct procedure might be for the convener of that meeting to mention that fact and say who the civil servant represents. That is a fairly innocent situation.

The general issue is that, in any case, civil servants are being named when they are being recorded. I would find it rather strange if, when we referred in a debate to something that happened in a committee, we did not name the civil servant but referred instead to their department. That is a backward step. It is much easier to understand what a member is talking about if they can refer to individuals.

There is a difference between giving an opinion on an individual and commenting on what they have said. Given the number of officials—as opposed to ministers—who commented when the Local Government Committee took evidence on the McIntosh report, it would have been mind-boggling if we had had to refer to the department rather than to the individual.

This is a grey area which the Parliament would be better off leaving to the good judgment of members. Members should police each other and rein each other in if the boundaries are being overstepped.

The Convener: For my own twopenceworth, Gil came close to hitting the nail on the head when he talked about the difference between naming a civil servant and expressing an opinion on what that person has done. That issue should be at the heart of this discussion.

When civil servants attend committees, they are representing their departments, as ministers' spokesmen and advisers. Any criticism or party politicking, therefore, ought to be directed at the minister rather than at the civil servant. That is a clear principle, which we should all understand and subscribe to. It may not be inferred from that that civil servants may attend committees under a cloak of anonymity.

Civil servants who attend committees are generally intelligent and able people who have been recruited for their expertise. They are

reasonably well paid and most are fairly strong individuals who, in this day and age, are probably able to carry a name and not worry too much whether it appears in the *Official Report* or in the newspapers. There is no difference between being named in the chamber and being named in *The Scotsman* or the *Official Report*. I commend the way in which Andy Kerr handles civil servants in the Transport and the Environment Committee. Unaccompanied civil servants are introduced by name and generally we move quite quickly to using first names.

The Parliament has gone a long way to strip out the pomposity of the traditional Victorian civil service. If a civil servant wishes to remain anonymous, I suggest that they get hold of a copy of the consultative steering group report and take to heart the principles of openness and accountability. How can anonymous people be held accountable? I do not understand where this is coming from. People have names—they should be used. We should be allowed to refer to people by name.

If, however, a member criticises a civil servant for advice given, or an opinion stated, at a committee meeting, they are out of order. The Presiding Officer should pull them up, because the civil servant's view at that committee was the view of the minister. If a member wishes to criticise, attack or condemn, they should condemn the minister and not the civil servant. However, I do not see why the civil servant cannot rejoice in his or her name in virtually all circumstances.

I have never named a civil servant—I have not had occasion to—but if I wanted to say that a helpful individual in the Scottish Executive development department gave me information, why should I not? In the Welsh Assembly, civil servants are singled out and praised for their work. That may shock the civil service ethic, but I do not see anything wrong with it.

Although I understand Sir David's ruling, I am not very sympathetic to it. He has blurred the two issues: criticising civil servants and mentioning them. If we differentiate between the two, and stand firm on the criticism of a civil servant, the other issue becomes irrelevant, and we can sweep it aside and get on with normal business. I may be completely out of tune with the sympathies of the rest of the committee, but that is my view.

Christine, I said that you could come back on this.

Christine Grahame: I have very little to say after that.

It is obviously wrong for somebody to criticise advice from a civil servant when it is the minister who should be under attack. I would not support such behaviour by a member of any party, which

is why the matter should be regulated by MSPs and by the Presiding Officer. If the Presiding Officer makes the wrong ruling, he will soon find out from the chamber. I want there to be that flexibility.

I do not know whether it is worth returning to one or two of the points that Gordon Jackson raised.

Gordon Jackson: Probably not. [*Laughter.*]

Christine Grahame: I shall just leave them then.

The Justice and Home Affairs Committee has absolutely smashing civil servants—Andrew Mylne and his team are wonderful people. We have not only mentioned them in committee meetings but in the chamber, praising them for their work on reports and so on. Praise is fine, but I would not criticise them. If I were unhappy about something they were doing, I would not say it in the chamber, but to the convener. That is something that the convener should deal with on an individual basis.

I make that distinction—it is fine to praise, but if a member wishes to criticise the operation, that is another matter. That may seem odd, but it would be the appropriate way of dealing with the matter. Civil servants do a hard job, but I am concerned, Donald Gorrie, that instead of relying on the good sense of MSPs and the Presiding Officer, some rigid principle will be landed on us like a stone weight. Somebody once referred to the Parliament as organic—I rather like the idea that it will regulate itself sensibly and settle into a reasonable, balanced position.

The Convener: Let us not go too deeply into the analogies that could be drawn with organic processes.

Have we talked the matter through enough to come to a sensible conclusion? If so, I propose that I write to Sir David with a copy of the report of this discussion, bringing out all the main points and saying that he has the committee's strong support in protecting civil servants from criticism in the chamber, but suggesting that while we are not encouraging members to refer to civil servants in passing, if it happens, we see no harm in it.

Is that a fair summation? It still leaves the emphasis on members not taking unfair advantage of civil servants.

Janis Hughes: We need to clarify that. The Presiding Officer makes the point that the onus is on the individual member to make a judgment. I would like to think that this is not being used as an opportunity to give carte blanche to people who want merrily to—

The Convener: Absolutely not. In fact, I rather like the idea in Christine Grahame's statement. She suggests that members could shout "Oh" or

whatever, if somebody criticises a civil servant. It would be seen as unacceptable.

Michael Russell: The solution that we have come to is eminently sensible—we all agree that, with a bit of common sense, it can be achieved.

Convener, you used the phrase, "unfair advantage of civil servants". I have been at two committee meetings in recent months at which ministers have, in my view, taken unfair advantage of civil servants. On one occasion there were seven civil servants with the minister; on another there were nine. On both, the civil servants seemed to spend most of the time passing comments to the minister on what committee members were saying—that is very distracting. A general word of advice to ministers is not to take advantage of their civil servants.

The Convener: We will leave that one hanging on the wall for ministers to read in the *Official Report*. If we find that there is a specific difficulty in a specific committee, we can come back to it.

There is the general principle, then, that if civil servants wish their impartiality to be respected, they must also conduct themselves impartially at committee meetings. If we all understand that, we will have no problem.

Thank you, Christine. I look forward to hearing that you have completed your committee circuit at a relatively early date.

Committee Meetings (Frequency)

The Convener: That takes us to item 2, on the frequency of meetings. Does the committee agree the recommendations in the document?

Members *indicated agreement.*

The Convener: That was nice and quick.

Subordinate Legislation (Procedures)

The Convener: Item 3 is simply for noting that subordinate legislation is—

Members: Noted.

Janis Hughes: We are trying to beat the 48 minutes here.

The Convener: I do not fancy your chances, because item 4 concerns a far more substantive report.

Consultative Steering Group (Key Principles)

The Convener: At the outset, the report lists a number of decisions that committee members are invited to take on the basis of the exposition that follows. Members are aware that we had a deputation from the group that is named here as the changing the culture of politics group. The report fleshes out the approach that we might take in the investigation that we have agreed we should carry out later this year. I therefore invite members to address each point for decision separately. Rather than go through the paper, we will go through the recommendations. If members are happy with them all, we will have cracked it.

As we go through the whole process, there will be the opportunity for an extension to the questioning and for other points to come up. What is suggested here is the framework of an approach, rather than a prescription. Are we happy with the remit of the proposed inquiry, as set out in the paper?

Michael Russell: The title is by no means short. "Principles into practice: making progress with the principles of the consultative steering group" would be a bit snappier than what we have at the moment. I shall return to this when we come to the press release.

Mr Kerr: Is that a bit of spinning?

Michael Russell: Spinning positively on behalf of the committee. We need to return to the press release too. It would be easy to misrepresent this exercise. A malicious journalist—God help us, there are not that many—

The Convener: They have all left.

Michael Russell: Good—we can talk about them now. A malicious journalist might say that the Parliament is spending lots of its time and money considering how well it has done. We are not doing that, but trying to consider how much we have lived up to the positive feeling from the CSG. We have to be careful about the language we use as we present the report. For a start, the title is too long—it is not easily understood. We need a shorter and snappier title, and when we come to consider the press release, we need to define more clearly exactly what we wish to achieve.

A further point is that public consultation is the most important part of this. We have an exhaustive list of the great and the good and the organisations that represent them, but that will be meaningless unless we can get in touch with people and ask them what they think the Scottish Parliament has done for them.

The Convener: The point about the title is well made. The clerk, who will remain anonymous, accepts the rebuke.

Michael Russell: One of the underlying principles of the CSG is to get away from the blame culture.

The Convener: But not from the humour culture, I hope.

Donald Gorrie: I have a different point, which I have a bee in my bonnet about, although that is, in a sense, what we are here for. Page 3, under "approach", outlines all the areas that are to be considered. The second bullet point concerns the roles of the Presiding Officer, of committees and of civic society. It should also mention the role of individual members and of the parties. Whether we like it or not, politics is conducted on a party political basis. People might hold the view that it is too party political or that it could be improved in some way. Related to that is the role of the individual member—whether there is enough scope, for example.

Michael Russell: Tell you what, Iain Smith and I will issue a whip saying that those roles should be added.

Iain Smith: I wonder how long the committee will take to conduct the review, if it has to cover all those areas.

10:45

The Convener: Although the exercise is pretty ambitious in many respects, we have already accepted that it is appropriate for us to find out how the Parliament is measuring up. As with anything, it is better to do this well, even if it takes a long time, rather than simply to race through it. However, it might not be an annual exercise.

Iain Smith: It might take us the rest of the next three years.

The Convener: You could be right.

Janis Hughes: My point is connected to Mike Russell's comments about the title and concerns the principles behind the exercise. Are we asking people to tell us what we have achieved? We are only a year into the Parliament and should bear in mind the fact that it was September before the committees were up and running and that several of them took a while to find their feet. How much have we gone into the meat of the Parliament? There has been much press criticism about what we have not achieved and how we have not lived up to expectations, and I am worried that we are asking people to comment on a negative view of the Parliament. Perhaps we should focus on whether we are getting the balance right.

Donald Gorrie: That is a very good point.

However, as people are being asked to comment by August, we still have the period between now and the summer break. Perhaps we should speak to people with experience of the workings of the Parliament rather than people who have read about it in the press. Everyone is entitled to his or her view, however. I understood that the consultees listed on pages 5 and 6 of the draft paper had already had dealings with the Parliament. Although we should start the exercise, we should also take it on the chin that much of the criticism will be ill-informed.

Michael Russell: Or it might be accurate.

Donald Gorrie: Absolutely.

The Convener: That will be a matter of judgment when we hear it.

Janis Hughes: I did not quite catch Michael Russell's proposal. Perhaps he could repeat the title that he had in mind.

Michael Russell: Having read the proposed title again, I should say that my first suggestion for a title was just as bad.

Although the phrase "Principles into Practice" seems fine, it is a bit academic. We need to include "progress" in the title. To an extent, the better the title of the exercise, the more positive the responses will be. Perhaps a title such as "Making Progress with the CSG Principles" is better; however, even "CSG Principles" is technical. We have to start talking about the Parliament's openness and accountability.

Janis raised an interesting point about time scales. Despite the fact that we agreed to undertake the exercise in the autumn, the right time for any report is—perish the thought—a year from now, or two years into the Parliament. I know that there was a commitment to an annual exercise, but we did not make that commitment. If we set a time scale that allows us to report in May 2001, we will not have to take any written evidence until October, which would give us time to get the title and the press release sorted out. That way, we would feel that we were doing things right instead of simply racing ahead.

Janis Hughes: Although I agree that the title is too long, its reference to implementing principles is right. I do not know whether respondents will have the same perception; perhaps we should concentrate more on whether we are getting the balance of what we are doing right. The CSG principles were only principles, not policy, and people might not necessarily make that distinction.

Furthermore, I agree that we are holding the inquiry a bit early. On this time scale, the Parliament will not be a year into its working before people are expected to give evidence. We should lengthen the time scale to give us the

opportunity to put more meat on the bones before people are invited to comment.

The Convener: The point about decelerating the process is well made. Perhaps the title of the exercise should be "Principles into Practice: Towards an Open and Accountable Parliament", which includes the idea that they are among the Parliament's aims and that our job is to assess that process and give it further impetus. We have all signed up to the CSG principles; the inquiry's purpose is to find out how well we are doing in light of them. We want to give the process further momentum in areas where we are not doing so well and to build a sense that we will go further.

We can put a very positive spin on the title—without spinning in the conventional sense—by building up a sense of expectation and realism that we are genuinely giving the Parliament a good going-over. When we come to public accountability, we should follow the example of other organisations and circulate a questionnaire, for instance, to everyone who has given evidence at the committee. We could ask them questions such as whether they thought their evidence was taken seriously, whether the questions were sensible, whether the evidence was reflected in the recommendations and whether they had any suggestions about varying the format. Such consumer feedback would be informed in a way that—with all due respect—punting the matter out to the readership of the *Daily Record* would not be.

Gordon Jackson: We could also get genuine public opinion about the Parliament by, for example, stopping every 10th person who came out of the public gallery and asking them questions.

The Convener: We could do that too.

Mr Kerr: I think that we are heading in the right direction. We should concentrate on the questions that we will ask, while bearing in mind Janis Hughes' point about the potential for respondents to focus on areas such as policy delivery and other issues for which we have no responsibility. If we get the questions right, we can ask them year-on-year, which would provide us with indicative results about whether the Parliament is improving or getting worse on issues such as openness, accessibility and responsiveness. It is a good idea not to rush the inquiry.

Perhaps most important is an examination of the questions listed in the appendix of the draft paper. As we must be happy that we are asking questions that meet the CSG principles, it might be useful to restructure the paper in that light. As for the title, the subtitle of the draft press release mentions

"action so far on sharing power, accountability and

accessibility”

which is perhaps closer to the areas on which we want our respondents to focus. We can rethink the issue because, by the looks of things, we have agreed to take more time over the matter.

Michael Russell: The committee has not asked for help from a special adviser or consultant. At this stage, it is infinitely more important to consult the public on this matter, although other people and the Executive must be consulted. We need to get a public handle on whether the CSG principles—which are not widely known—have percolated down to people’s perceptions of how the Parliament operates. It is not just a matter of MSPs working up those principles; the principles of openness and accountability should show forth in our daily lives and people should be able to refer to them without knowing anything about the CSG. Perhaps we should consider redrafting the press release and the title of the paper—which is often a good way of redrafting a proposal—and develop a proposal for an adviser who would help us with the public consultation.

Furthermore, although through the committees we are reasonably well versed in taking evidence, no committee has yet been fully successful in taking the temperature of people outwith special interest groups. Perhaps we should consider that in a wider context at our next meeting, along with a time scale that allows us to take evidence from September to December so that we can publish a report next year. Another advantage of such a time scale is that we can take evidence and have public consultation while Parliament is sitting.

The Convener: John Patterson, could you flesh out paragraph 17, which suggests that we discuss

“with colleagues the best way of consulting the public on the issues”?

Do you have any embryonic thoughts about how we might go about that?

John Patterson (Clerk Team Leader): There are many embryonic difficulties and some of the comments committee members have made are welcome. We will clearly want to consider consultation on the state of the Parliament itself—as Gordon Jackson pointed out—but I am afraid that we are looking to MSPs for suggestions about how to reach a wider audience. We are still at a very early stage in the process.

The Convener: The difficulty is that we can quickly get into the media debate about the Executive’s priorities and policies, which is entirely different from how the Parliament conducts its business. Part of our task is to give some profile to the Parliament as an institution, as opposed to the Executive. What kind of adviser do you have in mind, Michael?

Michael Russell: Sampling companies and polling companies, for example, specialise in public consultation and will set up groups of people we can talk to. There are ways of doing this. We need some time to examine them and to talk to people who have used such companies. This is a real public exercise. We know how to ask questions of the bodies that are listed in the draft paper, and we certainly need to ask them the right questions, but we must approach the public almost cold to find out whether their perception of the Scottish Parliament reflects the CSG principles, and whether—and to what extent—we have achieved our aims. That is quite a specialised task and we will need to work up a very careful brief for such a company. We can do that if we can clearly define the aims of the exercise.

Mr Kerr: The list of external organisations could be broadened to include less glamorous but more community-based organisations such as pensioner associations and others that involve people who get together year in, year out. That would certainly be as useful an exercise as consulting Joe Public.

John Patterson: Page 144 of the CSG report talks about participation and mentions public petitions, citizens’ panels and deliberative opinion polling. Any such exercise must be perceived to be at the cutting edge of gathering people’s views.

Donald Gorrie: One of the things that has defeated me in my long period in politics is finding out what the public really think; the cliché about the silent majority is, like all clichés, true. Public consultation costs a lot of money and we do not have any, which might present a practical problem. It might be cheaper to accept Andy Kerr’s suggestion and find out the opinions of a specimen number of organisations such as schools, youth groups and pensioner groups. That might be somewhat unscientific—if someone can find the money to do it scientifically, we can do that too. As Janis Hughes said, there is a risk of getting regurgitated, second-hand stuff that people have been fed by hostile newspapers.

Michael Russell: There is a budget for special advisers to committees, with a standard, fixed range of fees which is known to the clerks. It would not be impossible to tailor our requirements to such a budget.

11:00

Iain Smith: The discussion has raised a number of interesting points and the Executive generally welcomes the review and will be happy to give evidence. It is quite right to mention that we should ask groups that have already given evidence, “How was it for you?” and find out whether the process was open and accessible enough for

them.

However, the groups that have given evidence are the groups that have found ways of accessing the Parliament. There may be others that have not. Some of this is relevant to the agenda of the Equal Opportunities Committee. We need to find out whether there are groups that have been excluded from the process because they do not know how to access the Parliament.

We must avoid reinventing the wheel. Academia is probably conducting studies into how the Scottish Parliament is operating. We should do a trawl among our academic friends to find out what is happening, to ensure that we do not spend money on something that is already being done by universities in Scotland. There is scope for tying in our work with things that are already happening in other parts of society.

The Convener: That is a fair point.

We have explored the issues thoroughly and would like the report to be revisited in the light of the points that have been made. That is particularly true of the proposed time scale. We also need to investigate ways in which we might consult the public, as proposed in paragraph 17 of the paper. Between now and the meeting at which we will discuss the report further, I would like to liaise with the Equal Opportunities Committee to ascertain how it would like to address the issues that come within its remit rather than ours. The Equal Opportunities Committee may want to propose joint working in certain areas, or it may want to do its own thing. That is a matter for the Equal Opportunities Committee to decide.

There is a good deal to sort out before we move on, but we ought quite comfortably to be able to put together the bones of a report for our next meeting.

Michael Russell: Presumably members can put their suggestions to John Patterson.

The Convener: Absolutely.

John Patterson: They are welcome to do that.

Michael Russell: I would like to raise one further issue—for information, more than anything else. This week, we are likely to have the first stage 1 debate on a member's bill. It has been suggested that there will be an attempt to amend the general principles of the bill and the stage 1 report. According to the CSG report and to individual members of the CSG whom I have asked, the CSG did not anticipate amendments to bills at stage 1. Is there anything in the standing orders that would prohibit that?

Gordon Jackson: What does Michael Russell mean by an amendment to the general principles of a bill?

Michael Russell: The bill to be debated this week proposes the abolition of warrant sales. If any amendment that is lodged would cause warrant sales not to be abolished, that would be an amendment to the general principles of the bill.

Gordon Jackson: I suppose it would, as it would destroy the bill.

The Convener: Order. This item is not on our agenda and we cannot reasonably discuss it. A question has been asked about a procedural matter relating to standing orders. I ask the clerks to reflect on the issue that has been raised and to provide all members of the committee with a ruling on this aspect of standing orders as soon as possible this week by e-mail. If there are procedural issues for the committee to discuss, we will do that at a subsequent meeting.

I bring the meeting to a close. Thank you, ladies and gentlemen.

Meeting closed at 11:03.

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