PROCEDURES COMMITTEE

Tuesday 12 September 2000
(*Morning*)

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PROCEDURES COMMITTEE
9th 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:

Bill Anderson (Head of Security, Scottish Parliament)
David Cullum (Non-Executive Bills Unit)
Tricia Marwick (Mid Scotland and Fife) (SNP)
Mr Kenny MacAskill (Convener of the Scottish Parliament Subordinate Legislation Committee)
Margaret Macdonald (Legal Office, Scottish Parliament)
Carol McCracken (Director of Clerking and Reporting, Scottish Parliament)
Andrew Mylne (Clerk of Public Bills, Scottish Parliament)
Alasdair Rankin (Clerk to the Scottish Parliament Subordinate Legislation Committee)
Mr George Reid (Convener of the Scottish Parliament Conveners Liaison Group)
Iain Smith (Deputy Minister for Parliament)

CLERK TEAM LEADER

John Patterson

SENIOR ASSISTANT CLERK

Mark MacPherson

ASSISTANT CLERK

Katherine Wright

LOCATION

Committee Room 4

Scottish Parliament

Procedures Committee

Tuesday 12 September 2000

(*Morning*)

[THE CONVENER *opened the meeting at 10:03*]

The Convener (Mr Murray Tosh): Good morning. We are slightly late in starting, but we will now get the meeting under way. We have a lot of business to get through, and I hope that we will be able to dispatch the minor reports quickly, so that we can concentrate on those that are more substantial. Apologies have been received from Andy Kerr and Gordon Jackson, who is caught in traffic but hopes to join us later.

Business Overview

The Convener: The first item of business is the report on the committee work load from September to December. This is here simply for us to note, unless members have any questions that they want to raise. I draw your attention to two points. First, we will require to programme an additional meeting to those that were originally planned, to cope with the work load on private bills. Secondly, we have a provisional date—it is no more robust than that—for the indicated visit of the Committee on Procedures of the Northern Ireland Assembly. If members agree, we will simply note this report and proceed.

Members *indicated agreement.*

Subordinate Legislation

The Convener: Item 2 is the report on the Subordinate Legislation Committee and its proposed change of remit. We are joined by Kenny MacAskill, who is supported by the Subordinate Legislation Committee clerk. I invite Mr MacAskill to state his case.

Mr Kenny MacAskill (Convener of the Scottish Parliament Subordinate Legislation Committee): Thank you, convener. It may be appropriate to lay out the context by detailing what the Subordinate Legislation Committee is. Our role is not to decide on policy: we recognise that our role, to some extent, is to be the eyes and ears of the Parliament and the relevant lead committees, with respect to the subordinate legislation that can be introduced.

Much of the subordinate legislation may not be of special interest, but it can be of great importance. Our remit is to determine whether it is competent, properly drafted and ultra vires. We have no powers to decide on policy—that is a matter for individual members, on a party basis, in the relevant lead committees.

Acting as the eyes and ears of the Parliament, we have noted that there is a potential democratic deficit, as some provisions are being introduced that, as far as we can see, confer powers of a legislative nature on ministers and others which are not framed in the normal terms. That situation is described in paragraph 3 of the paper that has been provided. At the moment, we are unable to deal with those provisions, as they are not classified as subordinate legislation, although the power that is given to the ministers is quite extensive.

An example of such a provision, from the Standards in Scotland's Schools etc Bill, is referred to in the paper that has been provided. The Executive, to its credit, has addressed matters. However, as you will see from the paper, the powers that theoretically could not have been dealt with by either our committee or the relevant lead committee were of a fairly substantial nature.

It should be possible to address that situation, although the decision would not, ultimately, be that of the Subordinate Legislation Committee. We could only make a recommendation to the appropriate lead committee as to whether we felt that the provision was competent, properly drafted and within the vires of the Parliament. However, the matter should be dealt with in the Parliament; otherwise there is a democratic deficit, as such matters would, theoretically, remain in the domain of the Executive.

The provisions involve substantial powers that

we think it should be possible for individual MSPs and the Parliament as a whole to address. We are therefore seeking to extend the remit—not the powers—of the Subordinate Legislation Committee to enable it to consider matters that are legislative in nature and in fact but which, due to the current drafting of the rules that govern our committee, it is not within our remit to deal with. Ultimately, any policy decision would be for the relevant lead committee and the Parliament as a whole. However, we feel that matters have fallen between two stools and we are seeking to correct that by extending the powers of the committee not over policy, but in terms of being able to scrutinise the provisions and advise the relevant committees.

The Convener: Alasdair, do you have anything to add to that?

Alasdair Rankin (Clerk to the Scottish Parliament Subordinate Legislation Committee): The proposed adjustment to the remit of the Subordinate Legislation Committee might appear to extend the powers of that committee in a way that might cause concern to this committee and individual MSPs. However, that will not happen. Before any of those provisions are referred to the Subordinate Legislation Committee, a procedure will take place, involving parliamentary officials and the Executive, which will sort out which provisions are of a subordinate legislation character. Once an agreed list of those provisions emerges, it will be referred to the Parliamentary Bureau, which will formally refer those provisions in the bill to the Subordinate Legislation Committee. There is, therefore, a clear control at the level of the Parliamentary Bureau over which provisions the Subordinate Legislation Committee will scrutinise.

The Convener: In advance of this meeting, we were worried about the precise meaning of

"proposed delegated powers of a legislative nature".

We regarded that as an extremely wide definition that could open up all sorts of activity to challenge. However, if I understand it correctly, you have just said that that is part of the control and is to be a matter of agreement between Executive and parliamentary officials.

Alasdair Rankin: Yes. That is correct.

The Convener: Are there any other questions from the committee?

Michael Russell (South of Scotland) (SNP): That last point is extremely important. I am sympathetic to the change in the Subordinate Legislation Committee's remit, and I think that the example that has been provided, from the Standards in Scotland's Schools etc Bill, is an important one. There are many such provisions. However, it would be difficult if the committee had to act as its own scrutineer of such material. What Alasdair Rankin is saying is that the present arrangement of referral by the bureau would remain, with the committee acting as a watchdog to ensure that items that it was concerned about came to it for consideration.

Alasdair Rankin: That process remains unaltered by the proposed change to the remit.

The Deputy Minister for Parliament (Iain Smith): The Executive's view is that the proposed changes are unnecessary, as the committee already has the powers that it seeks to gain from the change.

The Subordinate Legislation Committee proposes that it should be empowered to consider a report on proposed delegated powers of a legislative nature. However, the committee already has powers to consider general questions relating to powers made under subordinate legislation. The existing powers are wide enough for the committee to consider issues that it thinks should be covered by an order. The committee can consider legislation—as it did with the Standards in Scotland's Schools etc Bill—for which it feels there should be a requirement to put an order before the Parliament, even if the bill itself does not do so.

Rule 18.1 of the standing orders provides that subordinate legislation should have the same meaning as in the Scotland Act 1998. The definition of subordinate legislation in the Scotland Act 1998

"includes an instrument made under an Act of the Scottish Parliament".

In other words, it means an instrument of a legislative nature. The Subordinate Legislation Committee is therefore making a double reference when it mentions

"proposed delegated powers of a legislative nature",

as it already has those powers. The Executive's view is that the committee's remit is already sufficiently broad and that it can do what it seeks to do without a change to standing orders.

The Convener: In that case, we have to bounce that back to you, Kenny. I take it that you do not believe that to be the case.

Mr MacAskill: The Parliament's lawyers do not accept that, and the Executive's lawyers did not accept that, as was indicated by the draftsmen. The powers are not there.

This matter is of some importance. We are not seeking to extend the remit as a policy decision. We want to extend our ability to scrutinise important matters and to assist the relevant committees. The matters that were referred to in connection with the Standards in Scotland's

Schools etc Bill were quite substantial. We are talking about matters that could remain unchecked unless we have the ability to address them.

We do not accept Iain Smith's view that the position is fine at the moment. Our advice, and indeed the Executive's view, is that it is not.

Margaret Macdonald (Legal Office, Scottish Parliament): I tried exactly those arguments on the Executive when discussing the referral and I had a fairly fierce argument with the draftsmen and others. They expressed the view, and eventually persuaded me, that the way in which the remit was phrased did not cover the sort of power needed where there is not a legislative instrument. The Standards in Scotland's Schools etc Bill was a good example of that. The current phrasing makes it difficult to say whether such an instrument comes within the definition of delegated legislation in the standing orders.

The view expressed to me was that that was probably the sort of power that the committee should be considering, but members of the committee did not feel able to comment on it. They felt strongly that the fundamental power to set criteria for education was something that the Parliament would want to consider and scrutinise in the form of a subordinate instrument, such as a Scottish statutory instrument. That the Parliament should consider such an instrument was accepted by the Executive, and the power is now to be exercised by affirmative instrument. That means that the Parliament has got to give it its stamp of approval. The Standards in Scotland's Schools etc Bill provides a good example of the sort of provision that the Subordinate Legislation Committee would like to express its views on.

Mr MacAskill: It may be worth considering section 4 of the bill as it was introduced, before the Executive, to its credit, accepted the representations that had been made. However, the position that is indicated in section 4, paragraph (a), is that ministers could, after consultation,

"define and publish priorities in educational objectives"

and, in paragraph (b),

"define and publish measures of performance".

Until the Executive's acceptance that the matter should proceed through subordinate legislation—an affirmative procedure—that was something that any Executive could do on a whim or a fancy. Neither MSPs nor the Parliament would have had an opportunity to comment other than by opposing the Standards in Scotland's Schools etc Bill from the outset. The matters would have been dealt with by ministerial prerogative, instead of through subordinate legislation. Subordinate legislation would have had to come through the Subordinate Legislation Committee, which could have commented on it, and the lead committee—in this case, doubtless, the Education, Culture and Sport Committee.

Iain Smith: I want to respond to the points made. The Standards in Scotland's Schools etc Bill was an example of the committee achieving what it wanted—the Executive took note and made changes. It is possible for the Subordinate Legislation Committee to make comments in its reports on bills and to highlight areas of concern, where it feels that there should be a power to make subordinate legislation. That is what the committee did in this case and the Executive took its views on board, so I am not entirely clear what the problem is. The committee got the result it wanted.

10:15

The Convener: I think the point that is being made is that the Subordinate Legislation Committee does not feel that it has the ability to review the whole gamut of potential legislation.

Iain Smith: The Executive's view is that the committee's remit under rule 6.11.1(c), to consider

"general questions relating to powers to make subordinate legislation."

covers that.

The Convener: In that case, there is surely no difficulty in extending the remit. According to your argument, it would be tautologous, in that the committee already has the power, but why not spell it out? It might be a bit declaratory, but this is not primary legislation.

Iain Smith: The problem is that adding something to standing orders that is not necessary will result in a lack of clarity, where there is meant to be clarity at present. We seem to be having a discussion that we are not qualified to have. There is a debate between solicitors from the Executive and solicitors from the Parliament. It might be better for them to go away and try to sort it out.

The Convener: That is a fair point.

Donald Gorrie (Central Scotland) (LD): I do not quite see Iain Smith's argument against the proposal. He thinks that the new wording would introduce unclarity, but surely there is unclarity at the moment, which is what is causing the dispute between the two lots of lawyers. I agree with the convener that the solution is to make standing orders as clear as possible and to give the committee the powers it wishes.

On the general issue, it seems to me, from my brief experience at Westminster and here, that the whole issue of subordinate legislation and ministers acting in a secondary capacity on the

basis of primary legislation is one of the weak points of our democratic system and needs much more scrutiny. If I remember rightly, the Greeks had a dog called Cerberus with 100 eyes. We need more than 100 eyes to keep an eye on Governments of any shape or colour. The more authority there is for parliamentary committees to scrutinise Executive activity the better. I support the proposal wholeheartedly.

Mr Gil Paterson (Central Scotland) (SNP): The point that Iain Smith was making is the Executive's bent knee to the committee. The committee is not looking for a bent knee, but for the right to scrutinise. I am all for that. Paragraphs 3 and 10 sum up the situation.

Paragraph 3 says:

"The Committee is also concerned that exercise of powers under such provisions might not be subject to any Parliamentary control, although in its view they should be."

Paragraph 10 talks about the need for the committee to be able to perform its duties effectively. That is not a gift; it is a right of the committee to be the watchdog for the Parliament. We should go ahead and make the changes that we are being asked to make.

Michael Russell: The nub of the argument is the point that Iain Smith has addressed: whether the powers exist or should exist. There seems to be general agreement that they should. I am quite willing to take Iain Smith's word on what happens, but if the practical application is that it is not happening and difficulties are being experienced, the change must be written into standing orders for the avoidance of doubt. That does not confuse anything; in fact, it makes the situation much clearer. In those circumstances, if the committee has a difficulty that, despite the assurances of the Deputy Minister for Parliament, is not being solved, we should follow our instincts and support the committees of this Parliament to ensure that they can do their job.

Janis Hughes (Glasgow Rutherglen) (Lab): Although I am not entirely convinced about the need to extend the committee's remit, Iain Smith's point about the legal implications was right. It seems obvious that there is a legal dispute between the committee's lawyers and the Executive's lawyers. But is this committee the correct forum for airing such a dispute? I am a bit wary about making a decision based on a legal issue.

The Convener: I am advised by the clerk that there is no immediate prospect of a report to Parliament recommending changes in standing orders, which means that there will be further committee meetings before we come up with a report making such recommendations. That gives us time to consider the legal implications of the issues that have been raised this morning. If it turns out that there have been difficulties with fully scrutinising secondary legislation, I am quite happy to put on record my support for the change.

I entirely accept Mike Russell's distinction between whether the powers exist or should exist. From what has been said this morning, it seems that the Executive is not disputing that such powers should exist, so it should be a relatively straightforward matter to ensure that the legal provisions are clear and that we can resolve the matter amicably. However, if the matter cannot be resolved by negotiation and discussion, the committee will make a recommendation in ample time for its inclusion in a general report recommending a number of changes in standing orders. If committee members agree, we will try to resolve the legal entanglements and bring out a further report.

Michael Russell: Any report should record the broad support of many members of this committee for the change.

The Convener: The *Official Report* of the meeting will show that. However, at this point, two committee members are missing. In this committee, we try to do everything on a consensual rather than majority basis, which is a practice that we recommend to the Executive. We have made our pitch this morning. The Executive will now read the runes, which might help to unscramble the difficulty.

Mr MacAskill: We are due to meet the Executive legal team as well. Our position has been enunciated by several committee members. It is currently at the Executive's discretion which provisions we can scrutinise. The Executive's lawyers have accepted that that situation occurred with the Standards in Scotland's Schools etc Bill. We believe that it should be the Parliament's right to scrutinise all provisions, as the framework of any democratic society should take into account not just a situation where there is a good minister and a good Executive, but one where there is a bad minister and a bad Executive.

If there had been such an Executive during the passage of the Standards in Scotland's Schools etc Bill, certain matters might have been thrust upon the Parliament and the public. If the terminology, not the principle, is in dispute, we will happily resolve that difficulty with the Executive's legal team. If the Procedures Committee were to take a position in principle, we could supply the relevant legal advisers with the correct terminology to ensure that the standing orders are right. Thereafter, the matter would simply have to be ratified by this committee and we would not have to trouble you needlessly.

The Convener: The fact that you are up 4-0 at

half-time as far as committee members are concerned probably means that you will be able to achieve an agreement in principle and not trouble us any further. We will obviously receive a further report on the matter in the fulness of time.

Michael Russell: Kenny MacAskill has made a key point. If discussions between his officials and the Executive's legal team result in a binding resolution, of course he should not have to trouble us again. However, if he is unable to receive that resolution, the matter must come back to the committee for inclusion in our review of standing orders.

The Convener: If the matter is resolved, we would appreciate a report simply for noting.

Mr MacAskill: Thank you.

The Convener: Are members happy with that?

Members *indicated agreement.*

The Convener: Item 3 also involves the Subordinate Legislation Committee—it is merely a report for noting, unless members have any questions they wish to put to Mr MacAskill before he hurries away.

The report explains that work that was going to happen in a certain time scale will now happen over a longer time scale. We are quite relaxed about that. There are no questions, so we thank Mr MacAskill and his clerks for their attendance.

Conveners Liaison Group

The Convener: George Reid and Elizabeth Watson are attending for this item, to address the issues raised by their paper. This may be the first time a Deputy Presiding Officer has attended a committee. We welcome George and begin by allowing him to comment on the report, before members discuss it.

Mr George Reid (Convener of the Scottish Parliament Conveners Liaison Group): The proposals before the committee have been the subject of negotiation for almost a year, before being signed off by the conveners and the Parliamentary Bureau with the consent of the Scottish Parliamentary Corporate Body. The proposals are clear on role and procedures, so a brief background might be helpful before I touch on three issues.

When the consultative steering group was beginning to put the bare bones of the Parliament together, it discussed the need for conveners to meet and interface with the bureau and other bodies. It did not put any proposal in a box, because it took the view, quite rightly, that the form of the group would emerge in the light of parliamentary experience.

After a fairly rumbustious first meeting, the matter was referred to the Procedures Committee. You, Mr Tosh, quite rightly said that you could not conjure a new parliamentary creature out of a vacuum and asked for a briefing, which we now have. Over the past year the group has coalesced into a cohesive and focused group, with myself as tic-tac man, carrying messages to the bureau and the corporate body, advocating the case there. That has informed the whole process of the Parliament. We now have an agreed paper. Since the group is not subject specific, it will involve a change in standing orders.

The proposals are clear on the group's membership, chairmanship, quorum and role in relation to priorities for research, and on linkage to civic society, briefing visits, sub-committees, the remits of committees and lead committees—although not on the Executive's business or subordinate legislation, the location of meetings, travel outside the UK and, importantly, residual ability to discuss matters of common experience. Where there might be a difference of view between the bureau and the conveners, there are provisions for that to go to Parliament. Where there might be a difference on finance, in relation to location or on visits outside the UK, there is a role for the corporate body.

There are three issues that I wish to trail briefly before the committee. One member said to me

that this all seems very Byzantine and bureaucratic. I disagree. It is inclusive, in the best traditions of the Parliament, and it involves the bureau in the views of conveners, and vice versa. It is participatory, in that it allows members across the parties to discuss matters not as party political figures but as conveners. It has been focused.

First, a slight problem is what happens if we have an emergency. If, say, a sub-committee is to be set up now, it is perfectly possible for an emergency meeting to be called. If that is not possible, we can do what we do over the summer months, which is to consult by e-mail and by phone.

The second issue is consensus, which does not mean that there will not be disputes. All that happens is that I report to the bureau any divergence of views among conveners—that helps to inform the process. My slight concern is what happens if the cupboard is bare and three bids for rather large research projects come in simultaneously. Is it possible for the conveners to come to a view that will be accepted, or will some conveners fight their corner and ask for a vote? I bowl that back to you.

My last point is on nomenclature. The group is not a committee, as committee rules do not apply. It meets in private, which is right, as that allows cross-party discussion. As today's paper shows, the group does more than liaise. It is a bit more analogous to the Parliamentary Bureau and the Scottish Parliament Corporate Body. There has been precious little discussion of the name, but I would like to trail a personal thought. At Westminster there is a chairmen's panel. I know that that deals with standing committee bills, so it is rather different. However, the name panel has been adopted by one other devolved body and by a number of parliamentary institutions. It may be right for the new entity to be called the panel of conveners and to sit alongside the bureau and the corporate body.

The Convener: The way in which this issue has developed provides a useful template for others. This committee refused to implement any changes in standing orders until the participants in the dispute resolved their differences. What we have here is the distillation of a series of meetings and agreements, which indicates that there is now broad agreement on the way forward. Our role is as an instrument to effect the necessary changes in standing orders that have been agreed. Members may have questions to put or points to make about the presentation.

10:30

Donald Gorrie: In general, I am all for this proposal. However, it is the occasional disputes that interest me. Paragraph 11 of the report assumes that there will always be a consensus on the committee of conveners, but with the best will in the world there may not be. What would happen if some committees felt very strongly that a sub-committee should be set up and others did not? How would that argument be resolved?

Paragraph 12 stipulates that if there is a dispute between the bureau and the CLG, there should be a debate

"restricted to one speaker for and one speaker against with speeches restricted to 5 minutes."

If an issue is that controversial, a number of members may want to weigh in, or those who had not been involved in the controversy may want to ask some questions. For that reason, I think that these restrictive rules are a mistake. We are not talking about technicalities, but matters about which there is a serious dispute. The Parliament should be able to get stuck into those in an appropriate manner. I would, therefore, suggest changing paragraph 12.

I am interested in George Reid's comments on how to ensure consensus among conveners.

The Convener: I cannot speak for George Reid, but so far conveners have succeeded in reaching a consensus because they have to. They talk matters through until there is agreement. We should remain mindful that any disagreement is likely to be about the role of a sub-committee or whether someone should travel outside the United Kingdom. It is unlikely to relate to issues that give scope for lengthy debate. What is necessary is that someone should make a decision. The mechanism set out here would allow the Parliament to make a decision without spending an undue amount of its precious time on resolving such disputes. It is there as a threat to break a logjam. However, we do not anticipate significant difficulties.

Would you like to come back on that, George?

Mr Reid: No, I have said my piece. It is up to the committee to take a view.

Donald Gorrie: I am not in favour of long debates about whether we go to Timbuktu. However, setting up a sub-committee to investigate quangos, for example, could be quite controversial. Members would want a proper debate about that.

The Convener: In that case, the whole committee could consider the issue.

Michael Russell: Other mechanisms would allow us to have such a debate. Donald Gorrie has lodged a motion on the issue that he mentioned. It is important that we should not navel-gaze. It is possible to have an appropriate length of debate

focused on resolving an occasional difficulty. The same rule applies to discussion of the business motion.

As George Reid indicated, trying to resolve these issues has been a fascinating experience, which has not been without its difficulties. However, as the convener said, this has been a good example of how such disputes can be resolved over time through negotiating to reach a consensus, without voting. It has taken some time, but we are beginning to discover the appropriate checks and balances within the Parliament.

The Parliamentary Bureau is widely but erroneously regarded as some sort of faceless Politburo. I do not want to criticise my colleagues—some may behave like that, but I do not. The bureau attempts to be responsive to the views that are aired in the Parliament, but it must reach practical decisions on a day-to-day basis. If the bureau did not act in that way, business motions would not be put and business would not take place. The conveners liaison group will be little different in the way in which it considers how the business of a part of the Parliament is best pursued.

We have the correct checks and balances—some things are decided by the conveners liaison group and some things are decided by the bureau. If there are problems in making those decisions, there is a reasonably speedy and efficient method of resolving those difficulties. The people who have to implement the decisions are also involved in the consideration of the way in which the Parliament operates. As we are a committee-driven Parliament, the committee conveners are extremely important in ensuring that the Parliament works well.

I have a slight caveat. I know that the conveners liaison group and the Parliamentary Bureau want to see the draft standing orders before the matter is finally laid to rest. That is right, because the devil will be in the detail. We want to be sure that we have established something that is good for the future of the Parliament, can play an important role in the Parliament and does not contain the seeds of further debate.

I warmly endorse the report. I have enjoyed being part of the problem as well as part of the solution. I look forward to seeing what happens.

The Convener: This meeting will go down in parliamentary history, if only for that confession.

If difficulties that we have not anticipated arise in the operation of the conveners liaison group, we can reconsider the matter in order to establish better conflict-resolution procedures. As always, it is open to us to revisit the matter. Everyone who has been involved in the process feels that what we have produced is sufficiently robust to meet our needs. I hope that the committee will agree to accept the report and to recommend the consequent changes to standing orders. We must ensure that the participants have the opportunity to comment on the changes so that, when we propose recommendations to Parliament, we can be secure in the knowledge that everyone involved is happy with the proposals. Do we agree to that?

Members *indicated agreement.*

Committee Procedures

The Convener: The next item is paper 5 on committee operations. Elizabeth Watson will remain for this item in case members have any points or suggestions. The report requests a further report on issues that are specified in the annexe. The list is not exclusive. If members want to bring further aspects of committee work before the officials with a view to having their points included in the final report, they should do so in the near future. The work is at a fairly advanced stage.

I will ask the clerk whether there is anything that we need to say about the report before I open up the matter for discussion.

John Patterson (Clerk Team Leader): The report gives members a chance to endorse the line that we are taking and to add to or comment on the points that have been made in the annexe.

The Convener: We do not want to go through the points one by one, but there may be areas of clarification or omission.

Michael Russell: I have two quick points. First, under item 12, on the removal of conveners and motions of no confidence, the paper suggests that that is

"a genuine omission from standing orders",

given that the procedure is included in respect of the Presiding Officer and Deputy Presiding Officer. I am sure that such a procedure would be used sparingly, if at all. However, we are currently without a procedure and the committees are faced with a difficulty. This is a matter of urgency. If there were a dispute that involved a motion of no confidence, a committee could find itself in great difficulty.

My second point is an issue for the committees and the chamber. The inclusion of emergency items and motions has caused some concern. The procedure for committees will be different from that for the Parliament. There is a procedure in the Parliament, but many members believe that it is not operating at all, let alone effectively. We must ensure that something is done about that.

There has been considerable correspondence on this matter between the convener and the Presiding Officer, between a number of individuals and the convener and between the Presiding Officer and me, but still we are making no progress. The flexibility of Parliament to consider genuine emergency items is very much curtailed, as was shown last week in the debate on the Scottish Qualifications Authority and may be shown this week on other matters. We have to address that problem in the context of both Parliament and the committees. There are difficulties with raising emergency items in committees. Some committees are operating flexibly, but possibly outwith standing orders, to ensure that issues are grabbed hold of immediately.

The Convener: It is perfectly fair that the way in which committees handle late or emergency items should be part of the review. It might be useful for the clerks to review practice, given that there seem to be inconsistencies.

Donald Gorrie: Item 5, regarding substitutes, raises a substantive point. If required, I could give a brilliant speech on either side of the argument.

Michael Russell: You often do.

Donald Gorrie: A lot of these technical issues are important, but the question of substitutes goes to the heart of the matter. This committee or the Parliament should have a debate and we should make up our minds on the matter. The issue of substitutes is of a greater order of importance than some of the other issues and it merits proper discussion.

Mr Paterson: I will speak on the same point. I cannot remember discussing substitutes; perhaps I was late. I am a wee bit concerned that substitutes are being considered. The number of members of a party is just how the cookie crumbles in the election. If we agree that substitutes should be allowed for bigger parties that are unable to get their members to a committee, that would knock Tommy Sheridan out of the equation. That goes against the grain of the Parliament. Sometimes it happens that we have to miss meetings, because we are going somewhere else, but that is the luck of the draw. We have no business addressing that.

The Convener: I have been a victim of this, because I had to miss a Transport and the Environment Committee meeting. I do not remember what it was doing, but I think that it was work in connection with a report. I had amendments for an environment bill that was before the Rural Affairs Committee. I could not be in two places at one time. As I am the only representative of my party on those committees, I take a different view on substitutes. It would have been reasonable for me to be allowed to put someone into the private meeting of the Transport and the Environment Committee for the purposes of representing a point of view and letting me know what happened.

I appreciate that Tommy Sheridan has a difficulty, but it is up to him to resolve that by getting another MSP elected at the next election so that he can enjoy the right of substitution. I would not agree with someone who held the view, "I can't come to a committee, therefore somebody

else will go in my place." There would have to be proper reason for substitution, such as a clash of two committees conducting parliamentary business.

We will come back to this issue when we look at the report. Donald Gorrie is right; we have not had a discussion on the issue, or indeed on others. They are simply points that have been raised. The intention is that the report will be produced and the committee will then be in charge of deciding which changes to standing orders or other procedures it wants to recommend.

Mr Paterson: Convener, you have made my point for me. With all due respect, if you want to do something about the problem, your party should do something about it, just like Tommy Sheridan. All members have the opportunity to attend all committee meetings. The difference is that the substitution proposal effectively means that someone could attend and vote. An MSP has a right to sit in on this meeting and deliberate.

The Convener: Not if we are in private session.

Mr Paterson: Okay.

The Convener: That is the point. The difficulty was that a committee of this Parliament met in private, and one of the political parties—I suppose for that matter that the three individual members could not have gone either—was denied the opportunity to participate and any knowledge of the outcome of the meeting. That is a democratic deficit.

I am not proposing voting rights for substitutes; I am not proposing that substitutes be able to do anything other than simply attend, so that parties—in the non-political sense—to a discussion and to the evolution of an issue know, and have the opportunity to know, what is happening at the meeting. The alternative is to make private meetings public and produce an *Official Report* of them.

Michael Russell: I do not like to disagree with my colleague, but there is a precedent in the Parliament for both substitution and voting. In the Parliamentary Bureau, there is both a business manager and a deputy business manager. If the business manager is not present, the deputy business manager both speaks and votes.

I am not sure that we should go that far, but we are often in genuine difficulty when meetings clash. The scheduling grid, as Elizabeth Watson never tires of telling people, is immensely complex, with issues of committee membership to be sorted out. It is almost impossible when members have to choose—this has happened to me on one occasion—between four meetings taking place at the same time.

I am not committing myself to supporting substitutes, but the matter needs to be discussed carefully, as it is causing considerable difficulty. In the case of the bureau, an arrangement exists and has existed since day 1.

10:45

Janis Hughes: Mike Russell has more problems than most, as he is so popular and is a member of four committees, but we all have such problems and people have indeed had to miss committee meetings. Surely, however, this whole matter will be superseded by what happens on committee restructuring, which is exactly why this discussion is taking place. The underlying reason is the huge work load, the onus on members to attend committee meetings and the necessity for committees to meet simultaneously for space and other reasons.

The sooner the restructuring process is under way, the sooner we will remove a lot of the problems. If we still have to consider the question of substitutes after that, fine.

The Convener: Yes—that may well resolve the whole issue.

Iain Smith: On committees meeting in private, the practice—indeed, the legal precedent—in local government is that, if a member can show a need to know, they are entitled to remain when the meeting goes into private session and the public are excluded. A similar practice could be adopted by the Parliament: if the member can show a need to be present at the private meeting of a committee of which they are not a member, they could be allowed to do so. That would solve the problem.

The Convener: That is a constructive suggestion. Those are the issues that we will consider when we come to resolve this matter and make recommendations to the Parliament. It may be that those suggestions will be preferable to an official policy on substitution. We have had a good discussion on this matter; there is no requirement on us to come to a resolution yet, although ultimately, when all the issues are reported on, there will be.

As there are no more comments on this item, I thank everyone for their contributions and we will move on.

Private Legislation

The Convener: We are supported for this item by Carol McCracken; Bill Thomson might join us later. They are the prime movers behind this matter.

There is a background paper and a full report, and we also have the exemplars that the committee requested at the previous meeting. I am sure that everyone has carefully read the orders that were produced by the Edinburgh Merchant Company, Railtrack and Comhairle nan Eilean Siar.

Michael Russell: Mine have not arrived—I look forward to reading them when I get home.

The Convener: If you wish to read mine this afternoon, Michael, you are very welcome.

Our idea, Carol, is for you to speak to your report before we discuss it.

Carol McCracken (Director of Clerking and Reporting, Scottish Parliament): At its meeting on 8 June, the Procedures Committee accepted a paper setting out some of our concerns about the current rules for processing private legislation in this Parliament. The paper explained that a small working group of officials had been set up to review the rules and to draw up some recommendations for the committee to consider. The report that members have in front of them represents that work; the clerk to the committee has drawn up some proposals for taking evidence on the matter and for taking the report forward.

I am very grateful to Gavin Douglas QC, the senior counsel to the Secretary of State for Scotland on private legislation, and Joe Durkin, from the Society of Parliamentary Agents, for their input into the working group report. That input was invaluable, as, given their experience, they had more expertise than all the officials put together. I also thank officials in the Scottish Executive.

The paper includes examples of private legislation. One piece establishes a causeway between South Uist and Eriskay and another provides for the redevelopment of Waverley station. In general, private legislation is introduced by an individual or body to benefit themselves. The legislation relates to their private affairs and should not include matters of public policy; if it does, it is no longer private legislation. The main aim of any procedure for processing private legislation through the Parliament is to ensure that other people's interests have been taken into account and to deliver a fair and equitable system. The report speaks about the quasi-judicial nature of any system for considering proposals for private legislation.

Rule 9.17 leans heavily on existing practice for public bills, which is not appropriate. Questions have been raised about its practical application. There are gaps in our understanding of how a private bill would be amended, what the process would be and how the promoter and the objectors get their suggestions over.

Some of the problems were listed in the paper that came before this committee in June. Section 3 of the report sets out the case for changing the rule, so I will not dwell on that. I will deal with the proposals in detail. This matter is not being presented to the committee as a fait accompli; the move is being made at an official level and we see it as the committee's role to take evidence from the interested parties and to weigh up the politics of taking it through the Parliament. The procedure that the group is putting forward as a basis for your consideration is set out in section 5 of the report on page 13.

I will list the main differences between the procedures that are proposed for private legislation and those that exist for public legislation, with which the committee will be familiar. Many more additional documents would be required with private legislation. They include what we are calling a promoter's memorandum, setting out the need for the private legislation, an estimate of expense and a statement explaining ways in which landowners and others with an interest in the legislation have been notified. Standing orders would place an onus on the promoters of private legislation to complete certain tasks—such as submitting those additional documents, arranging for newspaper advertisements and so on—before a bill comes before Parliament. That ensures that everyone who has an interest has been informed. We propose that the process would be set out broadly in standing orders and that the details would be determined by the Presiding Officer and set out in guidance.

The procedure provides for objections to a bill to be lodged with the clerk. The hope is that landowners and so on who have been notified will sort out any objections with the promoter before the legislation comes before the Parliament. If that has not happened, they can lodge their objections. The Parliament's role would be to ensure that, where possible, all the objections had been balanced and that some sort of fair arrangement had been arrived at.

In a change to rule 9.19, we are proposing for each piece of private legislation the appointment of a small private bill committee. I should point out that we are not expecting to be inundated with private legislation. Based on his experience with private legislation, Gavin Douglas has said that the committee might take four or five days to consider

the legislation, unless the matter was contentious, in which case it might take longer. We propose establishing a small committee with up to five members, with some limitations on who should be on the committee. We suggest that members who have a constituency interest should not be on it, as it should be seen as a judicial committee that is free of vested interests.

The Procedures Committee will want to consider whether that size of committee is acceptable politically. Obviously there are questions about political balance. The view of the group was that, as private legislation does not deal with matters of public policy, the political balance is perhaps less important; the Parliament could ensure that the parties had been balanced over a period of three or four private bill committees.

We propose—this does not seem to be precluded in standing orders—that those committees are conducted like a cross-examination. In other words, the promoter would be allowed to lead his evidence and ask questions of the objectors. Similarly, the objectors would be allowed to ask questions of the promoters. That is the best way of getting all the facts and evidence before the committee. As the legislation will not deal with matters of public policy, it may not be fair to expect members and their researchers to be briefed on all the issues that are likely to come up. That is why we suggest a cross-examination. It has been part of the procedures to date and the external experts on our group thought that it was a good idea. This is a matter that the committee will want to think about in terms of its implications for other parliamentary committees.

In the Scottish Parliament, it is normally members who put forward proposals for amending legislation. However, given that private bills come in from promoters and external people make the objections, we suggest that, in the first instance, the committee might listen to all the evidence—all the arguments that are made for and against amendments and objections—and at a later stage carry out the section-by-section consideration. We think that that would work.

Another issue that the committee will want to consider when it takes evidence and weighs up how the procedure will work is costs. The issues are set out in paragraph 7.6 on page 28 of the report. The issue of costs is complex and difficult to get a handle on. Westminster does not recover full costs; some costs are borne by the Parliament. However, it has been difficult to get an idea from Westminster of the percentages.

We suggest a flat rate of £5,000 for anyone who wants to introduce private legislation, which is on a par with the current cost of introducing Scottish private legislation, together with full recovery of official report costs, accommodation costs and broadcasting costs, which would vary depending on the length and contentiousness of a bill. We think that that is fair. No doubt you will get a lot of evidence from promoters and objectors on this subject.

The group's report also touches on harbour revision orders and other orders that are subject to special parliamentary procedure. The procedure for those and the statutory background to them are complex; the group did not have time to consider the issue fully. We were considering private legislation because of the date in standing orders, which suggest that any bills could be introduced on 27 November. We were keen for revised proposed procedures to be introduced before that time. The only way to change existing procedures for the harbour revision orders and the special parliamentary procedure would be by an act of the Scottish Parliament. We recommend that, once the private legislation procedures have bedded down and we have learned from them, we should bring forward proposals on the procedure for harbour revision orders, which might make them more consistent with what we are doing on private legislation.

The Convener: The purpose of the discussion is not to go over the whole report. As Carol McCracken explained, the report is to provide us with the basis for collecting evidence and producing recommendations.

Do members want clarification on any points or do they want to ask questions about aspects that they feel are not wholly covered?

Donald Gorrie: Having read the report, I think that we should support the group's first option, which is set out on pages 9 and 10, rather than the second option. I do not know whether it is legitimate to agree now to do that, but that might reduce the amount of bureaucratic activity thereafter.

Moving on to page 29, I would be unhappy if the objectors had to pay substantial amounts. Could an arrangement be made whereby those whose objections were frivolous, mischievous or naughty would be stung, but anyone who had a reasonable objection would not be? I know that it is difficult to judge what is a reasonable objection, but bona fide objectors should not pay.

11:00

The Convener: The idea is not that we should judge between the two options, but that we discuss the issues with the witnesses who have been suggested because many or all of them have been, or are likely to be, involved in the private bill process. We are being invited to test the report and its recommendations against the perceptions of other people and to reach conclusions

thereafter. The important point to grasp is that there is a tight time scale because of the imminence of the first date by which people might reasonably seek to lodge private bills. We have to be able to deal with them by then.

I have a couple of questions. In recent years, there has been a tail-off in the number of private bills. In the early 1990s, they averaged about three a year—in recent years there has been only one a year. It appears that railway bills have disappeared. I presume that that is the result of the changes that have taken place in the railway industry in recent years. One might assume that railway bills will reappear. Will they come to the committee, if they relate entirely to Scotland, or will they remain as Westminster private bills?

Carol McCracken: If a bill deals with an entirely devolved matter, it will come before the Scottish Parliament. If it covers partly reserved matters and partly devolved matters, it will still go through Westminster procedures. One would have to consider the nature of the bill.

The Convener: It might be that we will have relatively few private bills, but we must have a procedure in place by the end of November.

Mr Paterson: On a point of information, I am curious about how private bills come about. Is it because issues cannot find their way into Parliament because they seem like small beer in comparison to the work of the Parliament? Has timetabling kept such bills out and are there other reasons why they are introduced?

Carol McCracken: The reason is simply that a private bill is in the interest of the promoter, so it is different in nature from bills that are introduced by the Government or by a member. Such a bill could come before Parliament only if it were raised by an individual. Am I missing the point of the question?

The Convener: The point is, Gil, that the promoter of a private bill seeks powers that ordinary people would not normally have. If Railtrack wants to build a railway line, that requires powers of compulsory purchase, which are usually available only to public authorities. Therefore, Railtrack would have to be given the power by Parliament to develop a specific railway line. Historically, private bills were used often by local authorities before they had powers of compulsory purchase—for example, to set up housing trusts and so on and to allow them to do other things that they were not competent to do.

These days, it is largely a residual practice to promote matters through those who have no statutory function. It seems anomalous that we should examine any harbour revision orders, as most harbour revision orders are dealt with by the minister after a public inquiry, through procedures that are similar to planning inquiries. It seems odd that we had to consider at all the special procedures for harbour revision orders. It is, perhaps, a longer-term issue that we should tidy such matters up.

Private bills are promoted mostly by people who are claiming the power to take land from others, or some similar power, which they can have only if they are given it expressly by Parliament.

Carol McCracken: There are also some unusual powers that can be granted through private bills. As well as seeking powers that would not usually go to an individual, one can seek Parliament's agreement to do something that is usually outside the law. We heard the obscure example from Westminster of a man who sought to marry his mother-in-law, which they would not usually be allowed to do.

The Convener: That shut Gil Paterson up.

Donald Gorrie: Sometimes such issues can become very political, although most times they do not. In Lothian and Edinburgh about 15 years ago, the western relief road was a big issue. The matter had to go through private legislation, with a big vote in the House of Commons. Although I was not involved, I can remember reading that the question of lending pictures from the Burrell collection was raised. A private bill can be about giving a public body a power that it does not have, but that is not the sort of thing that a Government should waste its time on. I do not mean to say that the issue would be trivial, but that it is somebody else's issue.

Mr Paterson: Thanks for that.

Iain Smith: The Executive supports generally the approach in section 4.4 of the working group's report, which Donald Gorrie mentioned, and it is happy that the matter should fall to the Parliament to deal with rather than the Executive. The Executive wishes to be included in the list in the clerk's paper of those who would be invited to give evidence. Whether the Executive gave evidence would be another matter, but it should be invited to do so.

The Convener: I am happy to make that addition and any others that are suggested. We have discussed the report briefly and we have been asked to agree that the clerk should invite any witnesses—the Executive included—to attend the additional meeting on 24 October. That is all that we are required to do today, other than to note the examples and information that have been presented to us. If we hold that evidence-gathering meeting, we will be in a position to make recommendations and to report to Parliament in time for the deadline in late November.

Members *indicated agreement.*

The Convener: I thank Carol McCracken.

Non-Executive Bills Unit

The Convener: That takes us to item 7 on the agenda. Mr David Cullum is present for this item—he is back from France. I invite you to make a brief presentation, Mr Cullum.

David Cullum (Non-Executive Bills Unit): I hope that my paper is fairly self-explanatory. The exercise is really about gathering information, about how we will consult in order to set down what the specific role of the unit will be and about how the unit will evolve. We are looking internally and we are looking at how things are done in other jurisdictions. We are gathering information.

Donald Gorrie: Will Mr Cullum elaborate on how he sees queuing issues being worked out? At the moment, Parliament is still getting up speed, so there is not a great deal of activity in this area. In a few years' time, however, a large number of bills will appear and a lot of people will be competing for the unit's help. If Gil Paterson and I each promote a splendid bill, who would be first in the queue?

Mr Cullum: That is the $64,000 question. I can think of 10 or 15 ways of answering it, but there would need to be some consensus among the Parliamentary Bureau, the Scottish Parliamentary Corporate Body and members. I do not think that it would be helpful for me to put forward any of my own ideas just now, although they will appear on paper.

The Convener: All right—the $64,000 question can rest on the table for another day.

Donald Gorrie: It would be helpful if the conveners liaison group could have some input. Some bills might be regarded with less than enormous favour by the Executive, the bureau or the corporate body, but they might still be good ideas. The Parliament should have some say, so that subversive bills get a fair chance.

Mr Cullum: Whatever system evolves eventually, I would hope that it would not be my decision but that of the Parliament, arrived at in whatever way is the outcome of the discussions that we are initiating.

Iain Smith: Donald Gorrie raises the key issue about members' bills, which is how to decide the way in which Parliament's time should be allocated. That is done currently on the basis that enough people have signed the proposal for a bill, which then goes through a gamut of processes until the stage 1 debate, during which Parliament can decide not to accept the bill if it does not like it or—if it likes it—to progress it. The big issue is the way in which that procedure takes place. It would be theoretically possible for more than 200 bills to be introduced over four years, which could become a major problem.

The question is how the Scottish Parliamentary Corporate Body arrives at a judgment on whether resources should be allocated to a bill. For example, resources have been allocated to Alex Neil's bill on public appointments, despite the fact that the Executive has completed public consultation on the issue of public appointments and will, I presume, in due course propose to the Parliament changes in the public appointments system. The questions are, therefore, whether we need that bill and whether Parliament's resources should to be allocated to it, if changes will be proposed in any case. I am not saying that resources should not be allocated to that bill; I am saying merely that those questions must be asked. I am not sure how such judgments are made, but the issue is important and requires more detailed discussion.

The Convener: Will not that judgment be a matter for the non-Executive bills unit to some extent? The members' bills that will be introduced are likely to be those that have been worked on and which are already presentable. To some degree, that might reflect the simplicity of the bill, but it might also reflect the volume of resources that staff allocate to working a bill up into a presentable form. To that extent, unless the Executive is to be directed in the way in which it allocates resources, you could well be the key man to work out at least which bills are ready to go before the Parliament first.

David Cullum: That is correct. At the moment, we are trying to give any member who approaches us with a bill proposal some assistance with policy formulation. We do not necessarily regard the lodging of a proposal as the key step—we would prefer the process to be front-loaded, so that by the time we get to the proposal, that can be fairly accurately reflected in the final bill.

There have been at least two examples of proposals that have not been reflected in the bill: the Protection of Wild Mammals (Scotland) Bill is probably a perfect example of that; Tommy Sheridan's original proposal for the Abolition of Poindings and Warrant Sales Bill failed and he had to lodge another one.

At the moment, there is no barrier to the number of proposals that members can lodge, although only two bills can be introduced per member. Until now, in our short existence, we have assisted members in considering the intentions of bills and how they will operate in practice. We have teased out the issues, which has helped to inform the proposals. We will continue to help all members at that stage for as long as we can. There have been a couple of inquiries which, after we have carried out some work, have resulted in a member not

proceeding with a bill because of matters that have been raised.

The purpose of the paper that is before members today and of all the others that we have produced, is to obtain input to the exercise of preparing the final product. If members have any comments or suggestions concerning the way in which we should do that, I will be delighted to receive them.

The Convener: I think that we are all happy just to note the report. It is useful to have the non-Executive bills unit available. I presume that it reminds members constantly that it exists and that they should draw on its services. As we continue through this process, there will, no doubt, be problems in the process that the unit will want to bring back to the committee. I thank David Cullum for taking the time to come along this morning to present the report.

Amendments to Motions

The Convener: We now proceed to item 8. We are supported on this item by Andrew Mylne, and I welcome Tricia Marwick, who wrote to the committee on the issue of reasoned amendments, following the introduction of the Abolition of Poindings and Warrant Sales Bill. I invite Tricia to make a few introductory remarks to the committee, after which we will talk about her paper.

Tricia Marwick (Mid Scotland and Fife) (SNP): Good morning. I welcome the opportunity to speak to the committee. As the convener has pointed out, the issue arose from the stage 1 debate on the Abolition of Poindings and Warrant Sales Bill. However, I must stress that my comments do not relate to the debate on the Abolition of Poindings and Warrant Sales Bill. The significance of that bill is that it was the first member's bill to receive a stage 1 debate. My interest is in how we move on from there. That is why I would welcome the comments of committee members on the matter.

11:15

I heard several objections to the acceptance of a reasoned amendment. I felt that a key consultative steering group principle was undermined and that there were already sufficient options in standing orders to deal with any bill—to oppose it, to reject it or to refer it back to the lead committee. I acknowledged that the Presiding Officer's acceptance of the amendment was not ruled out explicitly by standing orders, but I believe that it should have been ruled out explicitly. The committee needs to consider whether reasoned amendments such as that which the Presiding Officer accepted to the Abolition of Poindings and Warrant Sales Bill should be employed in Parliament's procedures.

Irrespective of whether one supports reasoned amendments, a provision that relates to them needs to be included in standing orders. If there are to be reasoned amendments, we must all know what the rules are. We should never again get into a situation where the Presiding Officer has to rule on whether such an amendment is acceptable. As I pointed out to him, on the basis of standing orders he would have been equally justified in not accepting the amendment. The standing orders need to be adjusted to make it quite clear where we all stand.

The Convener: That is helpful clarification. I am aware that in recent months there has been some confusion about whether reasoned amendments are allowable. Much heat was generated by the fact that the first time a reasoned amendment was lodged was during the stage 1 debate on the

Abolition of Poindings and Warrant Sales Bill, which meant that the atmosphere became charged. It is important to clarify in the standing orders whether reasoned amendments are allowable.

I will make my pitch at the outset: I think that reasoned amendments should be allowed, for the good reason that most amendments to bills are likely to be amendments to Executive bills. It is important that, if we as parliamentarians seek to amend a bill or propose either to defeat it or to accept it while noting reservations, we should be allowed in our motions to specify our objections. We give away that right at our peril—that would disadvantage members.

I do not think that Tricia Marwick has ever proposed that the right to lodge a reasoned amendment should be removed from the Executive alone—such a right would have to be available to everybody or to nobody. She asks for clarity one way or the other, so that we all know what the rules of the game are. We can all subscribe to that. I have had my say. Would other members like to chip in?

Janis Hughes: I agree. It is important that, if a member opposes a bill, the reason for their opposition should be documented and recorded. That can be done by way of a reasoned amendment, or whatever we want to call it.

From the information that we have been given, it is clear that a number of other Parliaments throughout the world take a similar line. If a motion is voted down, it is not always clear why people are opposed to it. However, if they are able to lodge a reasoned amendment in opposition to the principle of the original motion, the reasons for their opposition are clear and are recorded as part of the motion that is passed. For that reason reasoned amendments should be admissible.

Donald Gorrie: It is good that the issue has been raised; the rules should be made clearer. I agree that there is a need to allow reasoned amendments so that members can set out their positions. To take the example of the Abolition of Poindings and Warrant Sales Bill, if the Executive had persisted with its amendment and that amendment had been agreed to, at least the promoters of the bill would have had the Executive's promises on the record. One could argue that making promises in a speech is enough, but signing up to a motion to that effect goes a stage further. As Janis Hughes said, if opposition groups disagree with an Executive bill they should be able to set out their position as well. That is particularly the case for hybrid bills. I felt that the Conservatives had a raw deal over the Ethical Standards in Public Life etc (Scotland) Act 2000, on to which the Executive—wrongly, in my view—tacked the clause 28 issue. There was no real opportunity for the Conservatives to say that they agreed with the stuff about keeping councillors honest but that they hated the clause 28 bit. If a bill covers two or more separate issues there needs to be a way for parties that like A and B but hate C to put that in an amendment and possibly move that A and B progress but C be remitted. Parliament should have the right to set out reasoned amendments.

The Convener: Hybridity is a separate issue to which we should return, but it is related.

Mr Paterson: Tricia Marwick has made the most important point, which is that it was the discretion in the debate on the Abolition of Poindings and Warrant Sales Bill that caused the problem, not the procedures thereafter. We should home in on that, so that all members know where they stand and the rules are clear.

Iain Smith: Discretion on such amendments has to remain with the Presiding Officer as it does for all other amendments, but we are considering whether his interpretation—that reasoned amendments are acceptable—is right or wrong. If the committee agrees that his interpretation is right, the standing orders do not need to be changed. If, however, the committee thinks his interpretation is wrong, that will probably require a change to standing orders.

It is probably right to allow reasoned amendments. The best example of why that is the case would be when a committee had completed its report on the general principles of a bill and was minded to recommend to the Parliament not to accept the general principles. The committee ought to be able to lodge a reasoned amendment to indicate why it does not support the general principles of the bill.

The motion in the name of the promoter of the bill is always to accept the general principles, so the amendment from the committee needs to be a reasoned amendment as to why the general principles of the bill should not be agreed to. That is perfectly legitimate. As the convener pointed out, that also gives rights to the opposition parties to say why they do not support an Executive bill.

Even if members do not support the general principles and do not agree with the reasons in an amendment, they can still get rid of the bill in the final vote, if it comes to that. They can vote against the reasoned amendment and still vote against the general principles in the final vote.

The Convener: Andrew Mylne has listened to everyone's point of view. I would like to hear his guidance.

Andrew Mylne (Clerk of Public Bills): I have little to add. However, it might be confusing to use the word hybridity in relation to a public bill. I

understand Mr Gorrie's point that the Ethical Standards in Public Life etc (Scotland) Act 2000 brought together quite distinct subject matters. However, hybridity is a technical term that applies more to the previous agenda item during which we talked about private bills. A hybrid bill is a bill that is primarily public in character but has some private provisions. I do not know what the correct term for what Mr Gorrie is describing is, but it might be safer to steer away from using the term hybrid.

The Convener: It was used in 1912 when the Speaker of the House of Commons disallowed an attempt to amend the Parliament Franchise (Women) Bill to create female suffrage. He used the expression hybrid at that time.

Andrew Mylne: I bow to your superior knowledge on that point. Tricia Marwick's point is about the standing orders on motions. There is no real uncertainty about what the standing orders allow. The amendment that the Executive lodged on that occasion and any similar motions are clearly allowed under the standing orders. The difficulty arose because it had not been appreciated that such an amendment might be lodged in that context. I can understand why members were somewhat taken by surprise when they saw the amendment for the first time.

The document "Guidance on Public Bills" covers the whole process. The current edition does not refer to the possibility of reasoned amendments at stage 1, but we are in the course of preparing a second edition of the guidance. It would be possible to include a paragraph explaining that possibility and how it might work, if that would assist in interpreting standing orders.

The Convener: That is a helpful suggestion. As Iain Smith said, if we agree that there should be reasoned amendments, we do not require to change standing orders, but we would be required to make members aware of what standing orders mean, which could be done in the guidance. When the guidance is ready, or at some other point when we have concluded our discussions, it would be appropriate for the Presiding Officer to make an announcement in the business bulletin. That would be another way of making crystal clear to all members how the matter is to be interpreted for everyone's benefit.

Tricia Marwick: I would like to make a couple of points. As you said, the term "reasoned amendment" is used nowhere in the guidance. Had we realised that the amendment that we had been discussing was a reasoned amendment, we would probably have challenged the Presiding Officer's interpretation—if one takes guidance at Westminster and the rules for lodging reasoned amendments, the amendment in question did not fit the bill. If the guidance indicates that there will be reasoned amendments, it will also need to include clear instructions to members on what constitutes a reasoned amendment. That is as important as accepting that we can have reasoned amendments in the first place.

The Convener: We can generate a sufficiently robust explanation that will satisfy all interests. We have talked the matter through and come to an agreement on how we will proceed. I thank members for their contributions and Tricia Marwick for raising the matter.

The committee has agreed that we will make all those changes and that we will recommend an announcement—in a suitable format—of the interpretation of reasoned amendments. We proceed to the next item, which is on manuscript amendments.

Manuscript Amendments

The Convener: It will be appropriate if Andrew Mylne speaks to the paper on manuscript amendments before the committee discusses his recommendation.

Andrew Mylne: I do not have much to say, convener, other than to refer members to the paper. It is intended to set out the background to the issue and to set it in the wider context of bill procedure—it is important to see the matter in a wider context and to recognise the place that the procedure has in the wider body of bill procedures. The paper ends with various options. I have tried to set out the advantages and disadvantages that are associated with each. If members have questions I will be happy to address them.

Donald Gorrie: This item and the next have to be considered together. There is a fourth option—in addition to those that are listed on pages 4 and 5 of the paper—which is to change the timetable. I submitted a paper some months ago, suggesting that the timetable for amendments should be changed so that there were two deadlines. I proposed an earlier deadline than at present; six days prior to the debate for the Executive and five days for other members. Amendments would have to be lodged by that time. There would be a second deadline, which could be the present one of two days before the debate.

The purpose would be to deal with some of the points in the paper. The earlier deadline would give members time to clarify—with the relevant lawyers, protest groups or others who are involved—whether there were any snags in the wording of their amendment. Once Executive amendments had been lodged, there would be a day in which members could respond with other amendments. That would overcome the difficulties.

11:30

One of the difficulties that arose concerned an amendment, the general thrust of which seemed to have universal support but the wording of which, in the Executive's view, would cause serious snags. With a decent timetable, such problems could be ironed out and the need for last-minute amendments would not arise, because members could sort out the wording in advance. It is a weakness of our system that we do not allow enough time to discuss such things.

The Convener: Could you address that point, Andrew? Do you envisage that the changes Donald Gorrie has suggested would completely remove the need for manuscript amendments, or would there still be circumstances in which, no matter what the deadline, manuscript amendments might still be necessary?

Andrew Mylne: Mr Gorrie is absolutely right to say that the problem ties in with the whole issue of time scales. In some ways, one of the reasons for the difficulties that have arisen so far is that some members have not been familiar with or experienced in dealing with bills, and may not have been taking full advantage of the existing procedures. One way of taking advantage of those procedures is to lodge amendments early rather than right before the deadline, as many members tend to do for various reasons. By lodging an amendment early, a member can ensure that it is in print and can be considered by other members before being discussed.

Once an amendment is in print, one could approach the Executive to see whether it would be interested in supporting the amendment, or to get feedback on how the amendment might be changed. That could all be done before the deadline for finalisation of the marshalled list. If time scales between the stages of a bill were slightly longer, members would no doubt have time to do that. When we have put announcements in the business bulletin about lodging amendments, we have tried to encourage members to lodge amendments early, as that helps the situation.

It is not for me to say whether the suggestion that there could be an earlier deadline for Executive amendments is a good idea. The Executive will have its own views on that, but I take it that the same deadline would apply in practice to the member in charge of a member's bill. For such a bill, it would be the member in charge who was subject to the earlier deadline.

The practical difficulty with that might be that one would presumably want to ensure that the amendments that were lodged in the interim period were in a certain category—only those that responded directly to the amendments that had been lodged by the earlier deadline. It would be difficult to distinguish between an amendment that was lodged during the interim period in response to the first set of amendments and a fresh amendment that was submitted in that period as a way of getting round the earlier deadlines. We would have to explore carefully how that would work.

The Convener: Whether we should have a different deadline is an issue for another day, and we should not get caught up in a debate about it now. Assuming, for the purposes of the argument, that we had a two-stage deadline and allowed the changes that Donald Gorrie has suggested, would that entirely obviate the requirement for manuscript amendments?

Andrew Mylne: No system would ever entirely remove the need or pressure for manuscript amendments. Obviously, there must be a deadline a certain amount of time before the proceedings, so that everyone has proper notice of what is on the table, so to speak. However, the situation that one inevitably faces is that there will be members who realise, after the deadline, that they have missed or forgotten something. There is no way of entirely squaring that circle, but it is a feature of the process that a line must be drawn to ensure that proper notice is given.

I suspect that the options that we have set out in our paper are probably the most effective ways of striking a balance in a manner that is both workable and fair.

The Convener: Can I probe you a bit on when that would come into play? Your report states that cross-party support is the criterion that would have to apply before you would allow manuscript amendments. In the case of the manuscript amendment that the Presiding Officer allowed, I think that there was unanimity in the chamber, but what would happen if there were only a bare majority in the chamber for a manuscript amendment? Would you still allow it?

Andrew Mylne: I am not sure that I understand your question entirely.

The Convener: In the circumstances in which the Presiding Officer agreed the manuscript amendment, it was clear from the debate that everybody thought that the change should be made. What would happen if, for whatever reason, there were no unanimity that a manuscript amendment should be allowed—if some members, but not others, desired that there should be such an amendment?

Andrew Mylne: The paper sets out the procedure that applies at stage 2, when manuscript amendments are permitted under the rules. At that stage, any member can lodge a late amendment and ask for it to be taken as a manuscript amendment. The decision is for the convener. Were it to be decided that a similar procedure would be appropriate at stage 3, I cannot see any alternative to its being the Presiding Officer who would decide whether the manuscript amendment can be moved.

As a result, the question of testing the degree of support across the chamber does not really arise. The Presiding Officer would have to make a decision on whether certain criteria, as set out in the rules, were satisfied, as the convener does at stage 2. Individual members of the Parliament would have the opportunity, if the amendment were allowed, to decide on its merits. That is the appropriate distinction to draw.

The Convener: So you do not envisage the members themselves deciding whether the manuscript change should be made?

Andrew Mylne: If the Presiding Officer were to allow the amendment to be moved, it would be for the members to decide whether to make that amendment to the bill. If we allowed members of the Parliament to decide whether the amendment should be moved, the two questions would inevitably become muddled.

The Convener: As I recall, the Presiding Officer asked members if they were agreeable to the manuscript change being made before we went on to decide the merits of the amendment. There are two stages: first, changing the amendment and then accepting the amendment.

Andrew Mylne: It is not particularly helpful, if you do not mind me saying so, to use that incident as a basis for considering the general issue.

The Convener: That is how this committee operates.

Andrew Mylne: What happened on that occasion was a rather ad hoc procedure, because of the circumstances prevailing on that day. If the procedure were to be included formally in the standing orders, the mechanism would have to be different.

The Convener: Would the decision to accept a manuscript change be a decision for the Presiding Officer, with the Parliament then deciding whether to accept the amendment?

Andrew Mylne: That is what I envisage. It would be an extension of the procedure that already exists at stage 2.

The Convener: That in itself is a departure from the ad hoc procedure, where the Presiding Officer sought the agreement of the chamber. I suppose one could say that that was an informal suspension of standing orders, although nothing was moved to that effect. We might ask the Presiding Officer what he wants the standing orders to say about his discretion in that area.

If members agree, we shall carry the report forward with the further report on the timetabling of stages in bills, so that we can examine broader issues and consider Donald Gorrie's points. We shall note the report now and subsume it within the overall exercise, which will be broader and more substantive.

Donald Gorrie: If it helps matters to proceed, I support your view that unanimity of support for acceptance of the manuscript amendment is important. I do not agree with the arguments that have been advanced against your proposal.

The Convener: I am probing at this stage, if I may use that expression. I want to see what things mean. We should not necessarily take strong

positions on the issues at this stage. We have identified important issues that should be addressed, but they are part of a broader picture.

Iain Smith: I will add a note of caution. The important point to bear in mind is that manuscript amendments are allowed at stage 2 because the opportunity exists at stage 3 to correct technical deficiencies that may result from those amendments. There is no such opportunity at stage 3. A manuscript amendment might contain a technical deficiency, but it could be agreed and, as a result, the bill would be deficient. There may be a case—as happened in the Standards in Scotland's Schools etc Bill—for a manuscript amendment to be lodged to correct a technical deficiency in an existing amendment. That issue, rather than the general issue of whether manuscript amendments should be accepted, must be explored. The point is how to deal with technical deficiencies or correct errors within amendments at stage 3.

The Convener: That is an important point. We will try to consider all those issues.

Timetables of Bills

The Convener: The next item on the agenda is the timetabling of stages of bills. We are invited to commission an issues paper on the matters that have been raised by Sir David Steel and other members. An issue that was raised by Margaret Smith is also mentioned. We are invited to commission work on the issue. Are we happy to do that?

Donald Gorrie: Will my suggestions also be considered?

The Convener: I think that that is intended.

John Patterson: On a previous occasion, the committee asked that Donald Gorrie's paper be sent to the bureau. That is in process now, so those points will be covered.

Donald Gorrie: So long as my paper does not get lost somewhere.

John Patterson: No; our eagle eyes have it in sight.

The Convener: That is not a promise to agree with all your points, Donald, but we will consider them in the appropriate context.

Iain Smith: Standing orders set down clearly the minimum period, not the maximum period, for the time between stages of a bill. The Executive would be concerned if the minimum time available were to be changed. However, by protocol and agreement the intention would be that three weeks would normally be the period between stage 2 and stage 3, rather than the two-week period that is set down in standing orders.

Tom McCabe has written to the convener to say that the Executive would like three sitting days to be the norm for the lodging of amendments, rather than the two days that are stipulated in standing orders.

Some of those changes can be made by agreement and protocol rather than by changes to standing orders. In deciding which changes have to be made, we should minimise loss of flexibility should there be a need, for some reason, to operate to a tighter timetable than we would hope to.

The Convener: If members are happy with that, we will commission the report.

Members *indicated agreement.*

Housing Stock Transfer Inquiry Report

The Convener: This agenda item is an issues report concerning a dispute that happened at the Social Inclusion, Housing and Voluntary Sector Committee some months ago. It is not our purpose to investigate the differences of opinion that existed on the issue that was under discussion at that committee. However, it is clear that the convener of the committee and Fiona Hyslop, who has written to us, both felt that there were procedural issues that should be examined. We are invited, on the basis of the correspondence, to commission a paper on the issue in the fullness of time. I hope that we can agree to do that.

Donald Gorrie: Will the writers of the paper need any guidance? Minority reports are a fundamental issue. We are trying to seek consensus and it would be a pity to make it too easy to produce a minority report, as that would reduce the pull towards achieving consensus. On the other hand, a minority report should be available as a last resort. That is a political discussion, so it might be helpful if the officials who write the report have some guidance.

The Convener: We will probably try to evolve good practice and encourage committees to reflect differences of opinion in their reports, rather than going down the road of separate reports. However, there are issues on which there might be deep divisions of opinion and on which some members feel that simply recording dissent is not adequate. There must be a procedure for such cases. The report that we will commission and the evidence that we will take will allow us to discuss the merits and demerits of all the approaches.

11:45

Janis Hughes: It is right and proper that we consider the procedural issue and not the problem that occurred. However, I note that Fiona Hyslop's letter asks us to consider the role of the convener. How do you view that?

The Convener: I see that as an invitation to consider the role of a committee convener in proposing amendments to draft reports. I am not prepared for the Standards Committee to examine the role of the convener of the Social Inclusion, Housing and Voluntary Sector Committee in relation to the incident that occurred. We should consider the broad principles and how the Parliament operates; we are not a court of appeal. That will be accepted by everyone involved.

Video Evidence

The Convener: Item 12 is a report on a submission from Shelter about the use of video evidence. We expected that someone from Shelter would be here to speak to that submission, but that seems not to be the case—I am having a frantic look round the audience.

Iain Smith: Has Shelter sent a video?

The Convener: No, although given the legal opinion in paragraph 6 of our paper, it might have been entitled to do so. We are invited to come to a decision about whether, or in what circumstances, non-interactive videos might be accepted as evidence. The legal opinion in paragraph 6 is that a video is, in effect, a document for our purposes, and that it is admissible.

Janis Hughes: I note the legal position, and I feel that video evidence would be acceptable, but there are a couple of points that we must consider. We have discussed video-conferencing at length, and that might be an option to suggest to people who consider submitting video evidence. I would be concerned about loss of interaction, because there would be no capacity for the committee to question the people who were giving evidence. In addition, if people would rather submit a video than attend a committee in person because of confidentiality issues, there is always the option of taking the evidence in private session.

With regard to videos, I have a slight concern about authenticity. If someone is presenting video evidence, we have only their word that they are who they say they are. If someone were invited to come along, they would be sent a letter, which would authenticate who they were. I urge caution. We should consider ways round those problems, but they are a worry.

Mr Paterson: I agree with much of what Janis said. Video evidence should be used sparingly. With some individuals, there is no chance that they would walk through the door to give evidence to the committee; we have all had experience of such individuals. Video evidence would give those individuals an opportunity to take part, just as does writing a letter, and I would accept video evidence in that context. However, if someone writes a letter but is capable of coming here—not necessarily here, but to a forum such as this—I get a bit worried.

I am cautious about saying that video evidence is wrong or should be discouraged. In fact, in some cases, it should be encouraged—we should try to achieve a balance.

Donald Gorrie: Janis Hughes raised some important points. The paper suggests that a

written transcript should be produced, which is fair enough—where that would be possible. Perhaps we could go without a transcript if producing one would cause problems for the people who submit videos. We could deal with authentication if Shelter, or whichever organisation was involved, were to produce a written transcript and say, "We guarantee that the people who have spoken to you are three old-age pensioners from the outer isles who could not get to Edinburgh. Their names are X, Y and Z."

The more information we get, the better. Coming here is not a serious option for people who are frail or far away, or for children, but such people should not be prevented from speaking to us. It would be better if we could have the interaction of video-conferencing. In remote areas, that may be a problem, and a video would be better than nothing. We would be able to see people as they were speaking, and although we could not ask them questions, we would get an impression of their integrity. The use of videos should be encouraged.

Iain Smith: There is no difference between a video and a written document. Written evidence is acceptable and there is no reason why video, audio or even computer disk evidence should not be acceptable, but for the difficulty that people will have in accessing that information. If someone wanted to see Shelter's evidence, they could read it in the *Official Report* or in the committee's report, because evidence is published. However, if evidence is given by video, it will not be published and therefore people will not necessarily be able to see, or check, the evidence that was given.

Another problem with that particular medium is that the people who produce the video could manipulate it. One would have to be careful to watch out for little jerks of the head to ensure that the words are there and that a "not", or whatever, has not been sliced out of a sentence.

Video images can be very strong. If the proposal to allow video evidence is accepted, I will feel a bit sorry for members of the Rural Affairs Committee regarding the videos that that committee will receive during its consideration of the Protection of Wild Mammals (Scotland) Bill. Both sides will submit equally strong videos that make a particular case, and neither side's videos will be balanced or shed much light on the topic.

The use of video evidence should be considered carefully, but I see no reason in principle why it should not be treated in the way suggested in paragraph 6 of the paper. It should be treated as a document. In other words, it should be treated as written evidence.

The Convener: We have a fair amount of agreement. Videos are allowable, and it is desirable that people should be steered towards interactive video rather than pre-recorded, non-interactive video. Wherever possible, it would be appropriate for a video to be accompanied by a transcript. Where a video is sponsored or procured by an agency such as Shelter, which wants to present video evidence, that agency should authenticate the people who appear in the video. When individuals submit videos, all we want is a name and address, as that is what we would accept from someone who has written a letter. We want to be able to satisfy ourselves that the person is genuine and has genuine problems and points of view.

Security Staff (Powers)

The Convener: We move to item 13, on the powers of the security staff. Bill Anderson, the Parliament's head of security, will speak to us about the issues that are outlined in his report.

Bill Anderson (Head of Security, Scottish Parliament): My paper is about what I describe as the limited powers of security staff in the public galleries or committee rooms.

One or two incidents have taken place in the public gallery where, as a result of what we describe as their limited powers, security staff have been unable to take appropriate action. At present, security staff can only ask nicely for someone to leave the gallery. Only the Presiding Officer or his deputes can order a person's removal and, during hectic business, they concentrate on what is happening in the chamber. There might be some delay before they saw the disruption in the galleries and that could lead to suspension of proceedings, which we would want to avoid.

So far, we have been quite lucky and there have been relatively few incidents. However, I believe that security staff need the power physically to remove someone from the galleries, without the use of real force. I would want them to do that before the disruption occurred, so that there was no suspension of proceedings. If somebody in the gallery were to be violent, or physically to resist removal, we would involve the police, but security staff need the power to encourage someone to go, without using force. I would go so far as to say that they need the power to lift someone who did not want to leave away from the gallery, with the help of colleagues.

The best way of achieving that would be to give the clerk the power of removal, which he could delegate to the security staff.

The Convener: In paragraph 13, where you address the specifics, you refer to

"the Clerk or as is more likely, authorised security staff".

Are you saying that all security staff would be so authorised?

Bill Anderson: No. Only those staff who work in the public galleries or in committee rooms such as this would be authorised.

The Convener: There would be a specified complement of people.

Bill Anderson: Yes.

The Convener: And an authorised member of staff would always be in attendance.

Bill Anderson: Yes.

The Convener: Does the possibility of being involved in the manhandling of people raise concerns with your staff?

Bill Anderson: I do not think that they would describe it as manhandling. They are more than happy to have the power physically to remove someone. They have been concerned that someone who was carried out might take legal action against them. The advice that we have received from solicitors is that any legal action would be against the Scottish Parliamentary Corporate Body rather than the individual.

Mr Paterson: On a point of clarification, does lifting someone bodily not involve the use of force?

Bill Anderson: I do not think that that would be using undue force. Some people might sit and say that they were not moving, in which case it would be quite in order for a couple of security officers to help them on their way. I know of some cases at Westminster in which it has taken four, or even six, Serjeant at Arms department staff physically to remove someone.

Mr Paterson: I do not have any problem with people who are behaving in an unruly manner being manhandled. However, I would like clarification as to whether physically removing someone would be defined as force. Also, will staff be trained in the new procedures? I am not against giving this power to security staff, but I would like safeguards for the staff.

The Convener: Are you saying that, in agreeing to the request, the committee should specify that there should be proper definitions and procedures and appropriate training?

Mr Paterson: There needs to be training.

Bill Anderson: We certainly regard training as extremely important. You will be aware that we work closely with the police unit in the Parliament. Its officers are trained in removing people in this way, and I think that they would be happy to run some courses on that for us.

Donald Gorrie: My question is on who authorises removal. You are right to say that the Presiding Officer's mind and eyes are elsewhere, and I would have thought that those of the clerks are elsewhere too. Is it possible to designate senior members of the security staff who would give the instruction to remove someone?

Bill Anderson: I do not think that that would be necessary under what we hope will be agreed. If the clerk had the power of removal, under the Scotland Act 1998 he could delegate that power to any of his staff. All staff who were working in the galleries would have that power without having to defer to anyone else.

Donald Gorrie: So it would be a permanent delegation.

Bill Anderson: Yes.

Donald Gorrie: I had not grasped that.

The Convener: We are happy to approve the recommendations subject to the points that Gil Paterson raised about training. We agree to instruct the appropriate amendments to standing orders. Those changes will be included with other changes to standing orders that are in the pipeline in a report that we will ultimately put before Parliament. As that report will come out in late November, should the committee deal with this matter more urgently?

Bill Anderson: I do not think so. We have coped reasonably well with the few incidents that we have had, so there is no immediate rush. However, it is comforting to know that something will happen.

12:00

The Convener: That is fine. That constitutes agreement on that point.

Scottish Parliamentary Corporate Body and Parliamentary Bureau Minutes (Publication)

The Convener: The final item on the agenda is consideration of a letter from Lloyd Quinan about the minutes of the Scottish Parliamentary Corporate Body and Parliamentary Bureau. The letter raises two issues. First, I assume that when Mr Quinan refers in his letter to “full minutes”, he means a very substantial minute instead of simply a decision minute. Although we receive summary minutes from the SPCB, we do not get them from the bureau; however, I understand that the bureau has been discussing—or is about to discuss—issuing such minutes.

Iain Smith: The bureau has been discussing the issue in relation to Donald Gorrie’s paper, which makes the same point. For example, if we were asked to consider inviting a foreign dignitary, we might not wish to make it public that we had decided that the invitation was not appropriate. We need to resolve such issues before we reach an agreement. However, the bureau will consider the matter today and later in the month.

The Convener: Would it be appropriate to progress the matter by inviting our clerks to liaise with Parliamentary Bureau and SPCB officials and to produce a report in the fullness of time? This is another area where it might be best to evolve an agreement that would be brought to the committee, instead of the committee considering a report and making demands on people. Perhaps the bureau and the SPCB should give their response, and then we can consider the issues. Obviously, if we are not happy with the response, we can pursue matters and inform Lloyd Quinan in the meantime. Does that seem a reasonable way to proceed?

Donald Gorrie: If it is helpful. However, speaking personally, I did not want verbatim minutes such as, “Iain Smith said X” and “Mike Russell said Y”, which seems to be what Lloyd Quinan is asking for. That is asking too much. That said, the decisions of the two bodies should be in public view, although I understand Iain Smith’s point about tact.

The Convener: Okay. I think that we have concluded our business. We have had a full demonstration of the glittering array of parliamentary talent as a succession of officers has appeared before us. We have finished slightly after midday, which is disappointing. Never mind—the meeting was taken reasonably crisply for the most part and I thank everyone for their attendance.

Meeting closed at 12:02.

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