PROCEDURES COMMITTEE

Tuesday 19 December 2000
(*Morning*)

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PROCEDURES COMMITTEE
14th 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)

*attended

THE FOLLOWING ALSO ATTENDED:

Ken Hughes (Scottish Parliament Directorate of Clerking and Reporting)
Andrew Mylne (Scottish Parliament Directorate of Clerking and Reporting)
Elizabeth Watson (Scottish Parliament Directorate of Clerking and Reporting)

CLERK TO THE COMMITTEE

John Patterson

SENIOR ASSISTANT CLERK

Mark MacPherson

ASSISTANT CLERK

Katherine Wright

LOCATION

Committee Room 4

Scottish Parliament

Procedures Committee

Tuesday 19 December 2000

(*Morning*)

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

The Convener (Mr Murray Tosh): Good morning ladies and gentlemen and festive greetings to all. I apologise for the late start, but we were having a chat about the committee substitutes paper that appeared very late in the day and which we will discuss under item 4.

We have received apologies from Andy Kerr, who is unwell. Kay Ullrich has intimated her resignation from the committee. Before we proceed, I am sure that members will wish me to thank Kay Ullrich for her contribution to the committee's work.

There is no paper for the first item on the agenda, which relates to taking item 8 in private. Although the item relates to the inquiry into the consultative steering group principles of openness and transparency, this morning we will discuss an appointment and that matter requires some discretion. I will therefore be grateful if the committee agrees to take that item in private. Are we agreed?

Members *indicated agreement*.

Timetabling of Bills

The Convener: We move now to the second agenda item.

Donald Gorrie (Central Scotland) (LD): On a point of order. Agenda item 6 relates to the Parliamentary Bureau's predictably dire response to a paper that I submitted, a large section of which covers exactly the same ground as item 2. For some reason, my paper was not included for consideration under item 2, but the two items must be considered together.

The Convener: I have no difficulty with that. Which section of your paper covers the same ground?

Donald Gorrie: I refer to the part that deals specifically with minimum periods between stages of bills and the timetabling of amendments. Not unnaturally, I think that my proposition is very much better than the proposition in the paper that relates to item 2. We should discuss both propositions together.

The Convener: That seems reasonably fair and sensible. If members are relaxed and are not upset about that, I will take the paper that was produced for item 2 as the skeleton for proceeding through the issue, but I ask Donald Gorrie to feel free to raise additional relevant points from item 6 as we progress.

The paper sets out a series of problems and identifies possible solutions to each. In effect, at the core of the report are five recommendations that we are advised to take. Before we begin, Andrew Mylne, who wrote the paper, may wish to give the committee a preliminary statement.

Andrew Mylne (Scottish Parliament Directorate of Clerking and Reporting): I have nothing to add to the paper, which I think speaks for itself. I should say that I have had no notice whatever of the matters to be discussed under item 6 and might not be able to comment very effectively on them, but I will do what I can.

The Convener: As Donald Gorrie raises any additional points, I am sure that he will spell them out pretty clearly so that you can react to them. If you feel at any point that you have not grasped anything, we will go over it again.

Donald Gorrie: I do not want to criticise anybody, but my paper, to which item 6 refers, dates from June and has therefore been around a long time.

The Convener: The paper for item 2 was sparked by a letter from the Presiding Officer, but we have only just received the Presiding Officer's response to the paper that is listed under item 6.

I think that I received that response only last Thursday—item 6 was probably added after the agenda had been substantially composed. I do not think that there is anything more sinister to the matter than that. Although the Presiding Officer is the common figure in the equation, I do not think that even he would have expected his actions to have this particular consequence.

The first issue is the minimum period of notice before stages of bills. That is explored on page 3 of the paper. It is recommended that we should adopt the procedure of having a three-day period of notice before stage 3 debates to allow selection and grouping of amendments to take place in a more realistic time frame. The issue has arisen, as members will recall, because of concern about pressure on the clerks as they establish whether amendments are admissible, produce the marshalled list and draw up the order of business for a stage 3 debate. The process has been very pressured and has run from some point late on a Monday afternoon to—at the very latest—a Wednesday morning. That has resulted in the suggestion that we should establish a longer period of notice.

The paper recommends that we accept the Presiding Officer's suggestion of a three-day period of notice. His letter is attached as an annexe to the paper. I invite members to comment on the recommendation.

Donald Gorrie: The recommendation addresses a specific point and is quite fair, but it does not deal with two points: that a different time scale is necessary between the stages of a bill to allow more consultation with outside groups; and that more time is needed to consider amendments when they have been lodged. My proposition is that there should be a two-stage process, in which amendments would be lodged by a certain day, but members who lodged them would have two or three days in which to adjust or withdraw them. In addition, Executive amendments would have to be lodged a day before non-Executive amendments. The latter point is dealt with later in the paper. I am quite happy that the proposal before us deals with the problem that is discussed in the paper, but it in no way deals with the wider problems.

The Convener: Is everybody else happy with the recommendation?

Members *indicated agreement.*

The Convener: The next issue is stage 2 and the reconsideration stage. The question is posed

"whether a 3-day notice period should also apply at Stage 2"

and at any reconsideration stage. I do not think that we have had a reconsideration stage, during which a bill is returned to a committee for re-examination of specific issues.

We have, in effect, two choices. Option A is to do as we have just agreed for stage 3, which is to change the period of notice from two days to three. Option B is to leave the period of notice at two days, but to bring forward the daily deadline for lodging amendments to 2pm on the final day. The argument behind option B is that moving the deadline back a few hours would provide more time to do the necessary work. The volume of work that is necessary at stage 2 and the reconsideration stage is perhaps not the same as that which is necessary at stage 3, when we have to be more careful. Are there any thoughts on that? The recommendation is that we choose option B.

Donald Gorrie: I think that option A is better. It would give more time for members to react to amendments that have been lodged at stage 2. There is an Executive habit of lodging huge rafts of amendments, apart from any amendments that are lodged as a result of private enterprise. It is quite difficult to obtain neutral professional advice on amendments. Having a longer notice period would be a step in the right direction.

The Convener: Would you prefer option A for both stage 2 and the reconsideration stage?

Donald Gorrie: Yes. As you say, we have no experience of the reconsideration stage, but I suppose that it would be sensible to have the same rules for both stages.

Janis Hughes (Glasgow Rutherglen) (Lab): Paragraph 15 explains that increasing the notice period would mean that there would be less time before the deadline in which to lodge amendments. That is an especially strong consideration when there are two committee meetings in the same week, because the deadline for amendments for the second meeting might expire before the first meeting has taken place. That does not make sense. Any member who has been involved in bills knows that that can happen—one can be left with a very tight, if not impossible, time scale.

Option B—which is to leave the notice period at two days, but to bring forward the deadline time—is preferable.

The Convener: I wonder whether the circumstances that are identified in paragraph 15—a committee meeting twice in a week—are not somewhat unusual. If such meetings occurred and created deadline difficulties, the facility would exist to suspend standing orders to take them into account. Andrew Mylne does not look convinced by what I am saying.

Andrew Mylne: When we were preparing this part of the paper, we were aware that this issue

was less clear-cut. That is why we have set out the options. Janis Hughes's point is an important one to bear in mind. If the notice period is increased before the second of two committee meetings, the period after the first meeting when amendments can be lodged for the second meeting is reduced—there is a trade-off. It is right to say that two committee meetings in one week would be unusual.

The Convener: It has happened.

Andrew Mylne: Most committees would hope to avoid that whenever possible, but there are circumstances in which that would be difficult to avoid—for example, if the deadline that was set by the Parliamentary Bureau was very tight and more amendments were lodged than was anticipated. I am not sure whether suspension of standing orders in those circumstances would be possible, given the steps that have to be taken to secure such a suspension, or whether it would be particularly helpful. It would be better to produce standing orders that will work in most circumstances that one can anticipate. Suspension of the standing orders should be kept up one's sleeve for the very rare occasions on which exceptional circumstances arise. It should not be relied on to deal with foreseeable problems. Because of those factors, we recommended option B.

I want to make it clear that the reconsideration stage takes place after a bill has been passed. A bill may be passed at stage 3 and then come back before Parliament because an order has been made against it under the Scotland Act 1998. Convener, you may have been thinking about a bill being referred back for further stage 2 consideration.

The Convener: I was.

Andrew Mylne: This is a slightly different thing.

The Convener: Therefore, if a bill was referred back in the circumstances that I was thinking about, it would simply be for a re-run of stage 2 for the relevant sections.

Andrew Mylne: If a bill was referred back to the committee, it would be for further stage 2 proceedings and stage 2 rules would apply as they did for the original stage 2.

The Convener: Thank you for that clarification.

10:15

Donald Gorrie: Janis Hughes has a point: there are two separate issues. We need a longer deadline before the first stage 2 meeting. That is the stage at which there is often a raft of amendments that we need to consider carefully. Fewer amendments are lodged in between one meeting and the next. The other issue concerns having enough time to lodge an amendment. Would it be possible to have a three-day deadline before the first meeting, and a two-day deadline for subsequent meetings? In my paper, I suggest six-day and five-day deadlines before the first meeting of stage 2 and stage 3, which is more sensible. However, if we are considering the paper for item 2, we should have different rules for the first meeting at stage 2 and subsequent meetings.

The Convener: I wonder whether that might be confusing.

Donald Gorrie: The whole thing is confusing.

The Convener: My first reaction is that I am not sure that the amendments that come before the first stage 2 committee meeting are necessarily more complex or numerous than the ones that come before subsequent meetings. The Transport and the Environment Committee's experience of going through the Transport (Scotland) Bill has been the opposite: the more we have gone on, the more substantial and the more thoroughly worded have been the amendments. I appreciate that Donald Gorrie lodged a big amendment in the early days, but the minister introduced all kinds of weighty matters towards the end. I am not sure, therefore, that a general pattern can be seen.

Views have been expressed in favour of both option A and option B in paragraph 17. I get no sense of consensus. Are there any other suggestions on whether there should be a two-day or a three-day period of notice?

Mr Gil Paterson (Central Scotland) (SNP): Option B is a trade-off.

The Convener: Option B is a kind of trade-off. Janis Hughes favoured option B; Donald Gorrie favoured option A. I see that only Donald favours option A, which is to change the period of notice from two days to three, whereas three members are in favour of option B. For what it is worth, the committee recommends option B.

The second issue in the paper is the daily deadline for lodging amendments. Paragraph 24 says:

"An earlier deadline during the day would enhance the service clerks can offer to members by allowing the clerks more time to improve the wording of amendments and to discuss them with members."

The paragraph also suggests that such a deadline would let everyone home at a reasonable hour, which is not an unimportant consideration. The paper gives earlier deadlines and recommends that the committee approve them. Do we approve them?

Members *indicated agreement.*

The Convener: Good—that was painless.

The next issue is the minimum intervals between stages. At present, a period of at least two weeks is required between the completion of stage 1 and the start of stage 2, and between the completion of stage 2 and the start of stage 3. The paper outlines the difficulties with that arrangement and, in paragraph 39, proposes that there be seven whole sitting days between stage 1 and stage 2, and nine whole sitting days between stage 2 and stage 3, if the bill is amended at stage 2. Bills have always been amended at stage 2 so far—I think that we can assume that that is always likely to happen.

I do not know how significant is the assumption that Andrew Mylne makes in paragraph 38—that the rule that prohibits committees from meeting at the same time as the Parliament will remain in place. I think that that might change. I flag that up because the fact that he stated that assumption means that he obviously gives that rule some weight.

Andrew Mylne: One of the reasons why that rule does not work particularly smoothly is that it was drafted before the current meeting pattern of the Parliament was established. What we are trying to do is adjust the rule to fit the meeting pattern. I have made it clear that the recommendation assumes that the same sitting pattern will continue. It is right to flag up the assumptions on which the recommendation is based. If the sitting pattern were changed—which would also require a change to standing orders—it might be appropriate to revisit the issue, or at least to bear it in mind that it might be necessary to revisit it at a later date. My main concern was to ensure that the committee was aware of the various factors that had been taken into account in the recommendations.

The Convener: Fair enough.

The proposal is that there should be seven and nine days between stages, with an alternative if the bill is not amended at stage 2.

Janis Hughes: I do not have a problem with any of the proposals. However, would not it be sensible to say that the minimum interval should normally apply? The Census (Amendment) Scotland Bill, for example, could have gone through in a day. In cases such as that, why should we have to wait for nine whole meeting days between stage 2 and stage 3? That works both ways. There might also be occasions when there is a need for ten whole sitting days, if there is something really serious to consider, although more often, we will deal with bills that do not need so long. We could leave the matter so that we do not have to go through any major suspension of standing orders to deal with those bills.

Andrew Mylne: From the outset, the view that we have taken of the rule is that it is designed to set a minimum, not to deal with normal cases. As members are well aware, bills are pretty variable things—some are much longer than others and some raise many more difficult issues or are much more politically controversial than others. Any standing order must be able to cope with the range of bills that one can anticipate. The rule is designed to set a minimum that is suitable even for simple and relatively uncontroversial bills. We would then anticipate that when a bill was more complex or difficult, the intervals that were established would be longer than the minimum that would be required under standing orders. The time scales would then be for the Parliamentary Bureau to decide in its timetabling motions.

The standing orders provide a minimum guarantee in the interests of all members and they provide a degree of certainty. The discussion about how much time is needed for members to lodge amendments and for the Executive to respond to the complex issues that may be raised at stage 1 is a matter for the bureau to take into account when it sets the time scale. The proposals are for a basic minimum on which members can rely. The possible disadvantage of inserting the word "normally" would be that members would not be assured in advance that they had a minimum number of days in which to lodge amendments, because the period could be varied without notice. If an emergency arose or there was a genuine case for urgency in exceptional circumstances, the rule, like any other standing order, would be suspended. In such a case, there is a formal mechanism that must be gone through, which protects the interests of all concerned.

The Convener: I believe that Gil Paterson has a question.

Mr Paterson: My question has been answered.

Donald Gorrie: I want to be clear. Is not there a facility for Parliament to speed things through, as happened with the bill to ensure that all those chaps did not walk out of Carstairs?

Andrew Mylne: That was an emergency bill. There is separate rule in chapter 9 of the standing orders, which allows an Executive bill to be classified by Parliament as an emergency bill. Any bill that has been classified in that way—which requires a resolution of Parliament—is not subject to the rule on minimum intervals. In fact, the standing orders create a presumption that such a bill will go through all its stages in one day. That facility therefore exists in extreme emergency situations—in which, for example, public safety is involved—to get a bill on to the statue book quickly.

Donald Gorrie: My proposals were that the minimum period between the stages of a bill

should be extended from two weeks to four. Andrew Mylne's paper correctly makes the point that we should count sitting days rather than weeks. I am happy to go with that, but there should be more time for reflection between the stages of a bill. At the moment it is difficult for the interested groups to get their act together to inform MSPs of the various issues. The nine whole sitting days should be increased to 18, or significantly more than nine. The seven-day period should also be increased significantly.

The whole thing is too rushed. Amendments are constructed in an unduly amateur fashion—that is a criticism of MSPs rather than clerks, who help as well as they can. MSPs need more time in which to draft well-informed and well-researched amendments. More is needed than the proposed seven or nine days.

Andrew Mylne: The seven or nine days is meant to be a minimum. I appreciate that there are political arguments about the need for more time, but I suggest that those arguments are better addressed through the Parliamentary Bureau, where the political parties can be encouraged to allow more time if that is felt to be necessary. Obviously, political factors will need to be balanced. The Executive will wish to get its bills through more quickly and opposition parties will usually wish to have more time. That is a political matter that needs to be discussed in that forum. The recommendation aims only to provide the minimum floor, which would perhaps be suitable for cases in which fewer issues need to be discussed.

Donald Gorrie: The Executive will always take the minimum as the normal. As Andrew Mylne says, the Executive wants to get its bills through, so it is in the Executive's interest to press on with a fast time scale. It is in members' interests, regardless of our party, that the Parliament scrutinises properly. A more restrained and sedate time scale would allow us to do our job properly, which at the moment we do not.

The Convener: I do not disagree in principle with what Donald Gorrie is saying, but we both sit on the Transport and the Environment Committee and are aware that we have had quite a bit more than nine whole sitting days—I cannot remember whether it is three or four weeks but it has been a reasonably adequate period—to deal with the necessary work between stages 2 and 3 of the Transport (Scotland) Bill.

Have our criticisms been over-influenced by the situation that we experienced in the summer, when a lot of business was being compressed because bills had to be passed before the recess? Do members feel from their experience in other committees that that is still the case? The matter is, to a certain degree, empirical: if business is not being compressed there is not a problem but, if the stages of bills are being squeezed up too close together, it might be reasonable to insert longer periods between the stages.

Perhaps Gordon Jackson will tell us whether the Justice and Home Affairs Committee has dealt with bills recently and whether there has been adequate time between stages 2 and 3?

Gordon Jackson (Glasgow Govan) (Lab): Andrew Mylne will know better than I—he can remember the procedures. There have been situations in which we have done more than one session a week on amendments.

I have never felt that the period between stages 2 and 3 is particularly inadequate. I accept that it is always possible to do a better job if more time is spent and more research is done, but I have not been conscious that we have had a problem dealing with legislation, although we have not been doing that so much recently.

Andrew Mylne might be more conscious of any problems because he was the clerk to the committee. He might have a better idea of how members managed with the time scale.

Andrew Mylne: The Justice and Home Affairs Committee is perhaps not a typical example because it had to deal with a lot of legislation in a short period. That committee's problem of being overburdened with legislation was one of the motivations for the recent changes to the structure of committees, so I hope that the problem is unlikely to arise again for that committee, or any other, with quite the same intensity.

Our experience was a difficult one because the Justice and Home Affairs Committee was expected to do a lot in a short time. It is not for me to say whether a given period of time is sufficient, but I was not aware of members being particularly exercised about the length of time between meetings at stage 2. The cause of the problem was members being expected to deal with two bills at almost the same time.

10:30

Gordon Jackson: That is right. The problem was the amount of work rather than the time scale, which was never a huge issue.

The Convener: There are only two bills that I can talk about in this context. I felt that the time scales were very tight for the National Parks (Scotland) Bill, where each meeting came hard on the heels of the one before. However, I have felt more comfortable with the more generous periods for the recent Transport (Scotland) Bill.

I am therefore inclined to say that we should recommend acceptance of the sitting day

proposals that are made in paragraph 39 in the full understanding that the time scales are a minimum, and that the Executive and the bureau will respect them and treat them as such. If evidence begins to accumulate that the recommendations are not being treated as a minimum, we can re-examine them. That facility exists: nothing is final. Given the nature of our discussion this morning, we would have every justification for coming back to the issue, if we felt that what we had wished to see being done was not happening in practice. Does the committee agree?

Members *indicated agreement*.

The Convener: Thank you.

Donald Gorrie: I will fight harder on the next one, I warn you.

The Convener: Right.

The next issue in the paper concerns a differential deadline for Executive amendments. I assume that, in paragraph 48, Andrew Mylne's attribution of natural human tendencies to the Parliamentary Bureau, and to business managers in particular, is a gesture of seasonal good will rather than an attempt to prepare an upward career path.

Executive amendments are, I think, always admissible. They will always be selected and will virtually always be passed. That has been the pattern so far.

There is sometimes a feeling that the Executive lodges amendments on some fairly weighty matters too close to the deadline and that members of non-Executive parties in particular would perhaps have lodged amendments to Executive amendments, or reacted in another way, had they been given more time and more information and had they known the full picture. There is a sense in which the Executive has all the big guns and a feeling that somehow it is cheating when it lodges substantial amendments very close to deadlines. The suggestion in the paper is that the Executive should have to lodge its amendments at least a day earlier than the deadline.

As the paper makes clear, the difficulty is that the Parliament's ethos is that all members, even ministers, should be treated alike. If a minister were required to lodge amendments earlier than other members, that would be a departure from that ethos.

Donald Gorrie indicated that he is not happy with the recommendations, so the floor is his.

Donald Gorrie: I contest that statement of the Parliament's ethos. The Executive is, in a sense, a being outwith Parliament. Parliament's job is to keep control of the Executive. Henry McLeish and I are not equal members. Each of us has one vote in Parliament, but he—the leader of the Executive—and the members of his Executive team are different forms of animal from back-bench members. I dissent from the concept that the Executive should be treated absolutely the same as back benchers.

Arguments have been advanced—in my paper, in the Health and Community Care Committee's letter and by Murray Tosh today—that it is very important that members have a chance to respond to Executive amendments and that they should have at least another day before the deadline in which to do so. Members may then withdraw amendments, alter them, or lodge amendments to the Executive amendments. The differential deadline for lodging amendments is important. It is related to my idea that there should be a day on which amendments are lodged and a later day by which they must be finalised. There would be room for manoeuvre during the intervening days.

We will come to that proposal later. At the moment, I strongly support option B: that we change the rules to have a differential deadline. If we must have a paper on that, so be it, but I would be happy to vote for a differential deadline now. It is a key issue.

Mr Paterson: I take the same view as Donald Gorrie. If there is a problem with the Executive lodging motions late, we must address it. We must look at that closely.

Gordon Jackson: I would be content to stick with option A, that is, to keep the situation under review. That is not because of a lack of sympathy for what Donald Gorrie says. I have some sympathy with the point that it is fair that members get a chance to respond. I have some sympathy with the view that, in general, it is not right for the Executive to lodge a major amendment that changes the structure of a bill with, as it were, five seconds to go, so that members cannot respond to that amendment. It is wrong in principle for the Executive to behave like that. If it has been behaving in that way, I do not know about it.

Ministers are not the same as back benchers. A back bencher could look at a bill and think, "This is all right. I don't have a problem with this." Then, with five seconds to go, the Executive could hit the back bencher with a huge amendment. All of a sudden, it is a totally different ball game and the back bencher does not like it. He goes to respond, but the door is shut.

The principle is serious, but I am not persuaded that there is a problem at the moment. I would go with option A to keep the situation under control, but I do not want to be thought to disagree with Donald Gorrie's attitude to the problem.

Janis Hughes: Gordon Jackson is right. I do not

know the background to the Health and Community Care Committee's letter, but I presume that it has had experience of the matter. The convener suggested earlier that our vision might be clouded by our different experiences. The committees that I am on have not yet encountered the problem of late lodging of Executive amendments, but it might happen in future. Option A is best at the moment. I have some sympathy with Donald Gorrie's comments, but opinions are down to personal experience in some respects. We should monitor the situation for a further period before we make any decisions.

The Convener: As two members are in favour of option A and two in favour of option B, I will throw in my tuppence worth. I do not want to be censorious of any minister, but when I opened my e-mail this morning to look at the amendments that had been lodged for tomorrow's debate on the Transport (Scotland) Bill, there were several additional Executive amendments. I know that the Minister for Transport has tried very hard to lodge amendments in good time and that a huge number were lodged last week. Given her earlier statements that she would try to avoid late lodging, I am sure that the fact that a further 10 amendments were lodged late in the day was a disappointment to her.

I do not understand one of those late amendments—I do not know what it means. I am in a committee meeting now, I am in a committee meeting this afternoon and the debate is tomorrow, so I will not have an opportunity to react to that amendment. I might have wanted to know what that amendment means, in case I wanted to amend it. That opportunity has gone, although tomorrow I will no doubt find out what the amendment means and vote yes or no.

That being my most recent experience, I think that late lodging is a problem. I agree with Andrew Mylne's observation that it is a natural human tendency for work to go to the deadline. If ministers have a tougher deadline to meet, they will achieve it. The Parliament would be the better for that.

My preference, therefore, is to go with Donald Gorrie and Gil Paterson and choose option B. I understand the point that all members are equal, but it is a fair point that the Executive is a corporate entity in itself. In this context, ministers are not individual parliamentarians but representatives of the Executive. An earlier deadline for Executive amendments is a reasonable principle, which should be established.

Members' views will be recorded in the *Official Report*. Do we need a formal vote?

Members: No.

The Convener: Our debate was interesting and constructive. I thank everyone for taking part.

Gaelic

The Convener: We have received petition PE251 from the comann ceilteach of the University of Edinburgh. I will not attempt to pronounce its full name, especially not the word in the middle.

It is significant that in writing to us, the comann ceilteach left us the responsibility of translating its name and indeed its address. That, perhaps, is an argument as good as any for insisting that someone who contributes documentation in Gaelic ought to consider translating the documentation for those of us who do not speak the language. The way that the comann ceilteach has presented its submission militates somewhat against its own argument.

The position, ladies and gentlemen, is that work is being done within the Parliament on language issues. That work is not in our remit and is driven by resources and a range of other considerations, which are beyond our remit. I propose that we note the petition in the interim and that when that work is progressed to the point where it falls within our remit, we can consider what changes to standing orders might be necessary. Anything other than that would be premature.

Mr Paterson: What attitude would the Parliament—or any of its committees—take to a letter that had been written by someone from Siam, for example? Say the letter was from a Government official. What would we do if it came in their language? Would we send it back and say "Please send an English translation," or would we do the courteous thing and have it translated?

I find the terms that the convener has used offensive, to be quite frank. I do not disagree with his recommendation, but I find it offensive to say that someone who wants to communicate in their own language should provide an official translation. We would not expect that of anyone else, so we should not expect that from our own people. That makes me uncomfortable.

The Convener: In the circumstances that Gil Paterson has outlined, how the Executive dealt with that letter would be a matter for the Executive, not for the Parliament.

We decided that people may submit documentation in the Scots language, but we expect an accompanying translation. The point about any document that comes to us—be it a letter, a motion, a petition, a question—is that the words have a certain meaning. It is important that the people who deal with the document are aware of that meaning. The only way for that to be established beyond any doubt is for those who submit the document to make the meaning clear in their own language and also in the language of the people who will receive it. We have a Gaelic officer to act as our strain, or sieve, through which approaches in Gaelic might come. Presumably, the Gaelic officer can mediate on the precise meaning of words.

Ultimately, the decisions of Parliament are taken in English, which is the language that is natural to something like 99 per cent of the population of this country. English is spoken by the vast majority in Scotland. There is no significant population in Scotland which speaks Gaelic and does not also speak English. For sheer, practical commonsense reasons, we must conduct our business in English.

We have tried hard to demonstrate a respect for Gaelic and for Scots. We want to continue to do that, but there are obligations on everybody in the process. Just as we are obliged to cope with Gaelic, people who wish to address us in Gaelic ought to be prepared to cope with English. It is a matter of mutual respect and tolerance.

10:45

Mr Paterson: I agree with mutual respect—that is how I live my life—but it is a two-way street. I do not disagree with the recommendation, but if we intend to take the language seriously, we must give it a fair wind. We have a Gaelic officer—that is a great step forward. However, let us not only pay lip service to the language; let us say that it is a living language. In the past, it was literally beaten out of people with a stick. Whether we use a stick or some other way of preventing people from speaking and nurturing Gaelic, it is an endangered species. If it were a bird, we would be spending money to save it.

I hope that the work that has been done in the Parliament and elsewhere ensures that the language thrives and that we will not need to discuss matters such as this in future, because when an individual or an organisation submits a petition, we will automatically give it the respect that it deserves.

The Convener: I would differentiate between parts 1 and 2 of the petition. I have no difficulty with the idea that we should respect Gaelic on the website to a reasonable degree—it will be up to other people to bring us a report on that. However, it is reasonable for the petitioners to provide the petition in a language that I understand.

Janis Hughes: I agree that parts 1 and 2 are significantly different. Gil Paterson wondered whether, if someone in Siam wrote to the Parliament in their own language, we would ask for a translation. That is bizarre—of course we would. If you wrote to the Parliament in Siam, Gil, in your own language, you would not expect it automatically to translate your letter. Every effort is being made to assist native Gaelic and Scots

speakers, but the first language of the Parliament is English. It has been demonstrated in the chamber that few MSPs speak Gaelic.

Mr Paterson: I wonder why.

Janis Hughes: It is acceptable for members to submit motions and so on in Gaelic, but they should provide an English translation. There is nothing wrong with that. We can consider part 2 in due course, in the report that is being commissioned. However, I disagree with part 1. The action that has been suggested is correct.

Mr Paterson: Until 18 months ago, I wrote almost weekly to departments and companies in China, but never in Chinese—no one expected me to.

The Convener: I am sure that our Government is equipped to deal with letters from Thailand, without redirecting them to Siam.

Donald Gorrie: I have a practical point. If petitioners submit their petitions in Gaelic, it is helpful if they provide a translation—the working document for most members would be the English version. The petition might concern a technical matter—for example, on crofting or peat—and if our translator does not get it right, the petitioners will have a grumble, in that we will not address their point. If petitioners provide their own translation, they will have dealt correctly with any technicalities. It is in their own interests that we ask them to supply an English translation.

The Convener: I would guess that the amount of Gaelic paperwork that comes in will be relatively slight. I would have thought that, as a matter of operational practice, our Gaelic officer would want to speak to the petitioner about any ambiguity or dubiety in the meaning of the petition and that an agreed piece of wording would come before the Parliament. We can work satisfactorily around that, in the interests of all, so that everyone can express their point of view in the language of their choice—the Parliament should be receptive to that.

We agree that the work should continue and that if standing order changes are necessary as a result, they will be introduced and discussed in the normal way.

Committee Substitutes

The Convener: We come to the paper on substitution on committees, which was produced late in the day—we apologise for that. The remit to come up with a paper on substitutes was given last week, although we knew it was coming. A paper has been circulating, but it was cleared by the various parties that had to be consulted only yesterday, hence its late arrival by e-mail yesterday evening.

A number of issues have been discussed previously, although by only three of us. The paper asks us to take a view on a narrow range of issues for decision. We were slow to come in this morning because we attempted, as we normally do, to have a little chat before the meeting about how we might take the discussion. We found that many issues arose on the matter that were not covered in the paper. For example, what happens if we have one named party substitute for a committee and two party members are sick? If a committee of seven members was dealing with a bill, that would raise a material issue. Is a party prepared to have amendments or motions defeated in committee because it is unable to cover for someone who is ill or otherwise absent? Does the one named substitute automatically get the papers, including the private papers? Does that person have the right to come to the committee without notice? Should that person be allowed simply to opt in and out of committee work? In my circumstances, I can imagine dividing the work of a committee between me and a deputy, who would replace me for certain items of committee business.

Many such issues that were not addressed by the paper arose in the course of our discussion. We find ourselves in a difficult position, because the Parliament is keen to agree on and establish substitutes quickly. I remain nervous that we have not consulted particularly widely. I referred to the paper having been circulated internally—I meant by that that it had been circulated within the directorate of clerking and reporting. We do not have views from other members on how substitution will work. We do not have an especially clear steer from anyone, because there has been no official consultation response from anyone.

Although it is difficult to give the committee a comprehensive list now, we thought that we might usefully talk through some of the issues, including any that members want to ventilate. We could devise some kind of questionnaire, which we will circulate among all our colleagues, to seek their opinions. As part of that process, the views of business managers would be canvassed. The

questionnaire would result in the publication of a summary that would not identify the views of any individuals. However, in addition to individual input, we would want the business managers to speak for their parties. The conveners group might reasonably have views on substitution as well.

I am not anxious to hurry on this and to get it wrong. I would rather take the necessary time—if that means that the Parliament has to work for a few weeks without substitutes, so be it. We have done it for a year and a half and we have survived. We would be better to take time, to consult and to come back with a considered report, which reflected the views of as big a majority as we can assemble behind the suggestions. I throw that suggestion to you for your consideration, ladies and gentlemen.

Mr Paterson: A questionnaire is a good idea, but we should perhaps include a tick box so that members can say whether they are a front bencher, a back bencher or a committee convener. In the short time that I have had this draft report, I have made a few notes. For example, given the powers invested in subs, why do we not make them full members? Frankly, it seems silly to call them substitutes in the first place.

Let us take the Local Government Committee, whose membership has been reduced to seven, and which will have one sub. That committee has to consider the Kerley report, conduct an inquiry into local government finance—the committee has to conduct that inquiry because the Executive will not do it—and consider a local government bill. In all, it will have to consider five or six big chunks of legislation. A substitute in that context would have to keep themselves up to date—they could wander in the door some day and participate in a vote. It has been difficult enough for members of the committee to keep everything in the air, particularly over the past six months. It would be impossible for a substitute to understand everything that was going on at the drop of a hat, as it would be for a member who attended meetings only when their direct interests came into play.

I find it difficult to get my head round how the system would work. God forbid that each party's substitutes walk into a meeting on the same day—that could happen. Do parties get two substitutes each? Where would that leave Tommy Sheridan or Dennis Canavan?

There is also the idea of a proxy vote. If that were accepted, it would pay members to stay in bed and send somebody else to a meeting. They would in effect have two votes.

The Convener: Or four.

Mr Paterson: Yes. We are skating on thin ice. The substitutes proposal has been made for committees that have recently been chopped in size. It is a mechanism to take care of what is, quite frankly, a stupid change. The proposal on substitutes is just window dressing to make the reduction in the size of the committees work. I do not think that it will work, no matter what we do.

Donald Gorrie: The suggestion at our previous meeting was, on the whole, reasonable: that there should be named substitutes, and that a party's business manager or whip would produce a chitty of some sort, saying that A N Other was substituting for J Smith. I do not accept what the report says about what happens when two people in a party are ill at once. They merely nominate two substitutes. If a party wants to say that a certain person will normally be the substitute—they have first call—and that person tries to keep abreast of developments in the relevant committee's work, that is fair enough. However, I think that substitutes ought to be nominated on individual occasions. That would mean substituting a member for another member and allowing the substitute to vote; it would not be like swapping voting cards.

It would just be impossible for the substitute to keep up to speed. Some European institutions have substitutes, but they have no other job, so they get all the papers. I think that the Committee of the Regions has involved substitutes, certainly in the past. Because the substitutes had nothing else to do, they could read the papers and keep up to speed, but that is not the reality here. The best that we could expect would be for the person who must be absent to brief the substitute on the line that he or she would take.

Given the party political tensions that arise, substitutes must probably be agreed. What we recommended last time is fair enough, but if other members want to discuss it further, that is fine.

11:00

The Convener: I want to clarify something. The suggestion was that we should have a named party substitute for each committee. The point was made that we should try to identify a regular substitute, who would have a better chance of knowing about the issues that a committee was dealing with and of being able to contribute from a relatively informed position.

Our difficulty this morning has been that we are trying to graft on the idea of additional replacements if the substitute could not attend a meeting. In discussing that, you appear to be talking about a two-tier substitution system, but I am not sure that that is necessarily what you mean. I am referring to the idea of having a named substitute and, in addition, the ability to bring in

other people as and when necessary—for example, to preserve the voting balance on a bill. It would be accepted that those people had not followed the consideration of the bill and that they were not up to speed with the work of the committee, but were there simply to vote.

Such a situation is inescapable if we seek to have substitution. The principle of having a person on standby in each party to fill in for any colleague who might not be able to attend gives the substitute a chance of developing a reasonable degree of knowledge and continuity.

Donald Gorrie: I acknowledge that point, but the point that is made in the paper is that people such as you or me, convener, who are the only members of our respective parties on a committee, would have a named substitute. What if the substitute and I were both in a car crash and neither of us could come? The party should be able to nominate somebody else. If Labour's representation was too light in number for whatever reason, the party should be able to nominate two people. The idea of having a reserve is reasonable. With the reduction in the size of committees, I think that one or two people in our party will be asked to attend committees fairly regularly, although not as voting members. Ultimately, it must be open to the party whip to nominate a substitute on each occasion, although the substitute would regularly be the same person.

Janis Hughes: I agree with Donald Gorrie that we covered some of the same points at our previous meeting. I was happy enough with them then. I do not understand some of Gil Paterson's comments: I think that he is getting confused with the debate that we had recently on committee restructuring. He should bear it in mind that we have been discussing substitutes on committees for a long time. That discussion predates by far discussion of committee restructuring.

Mr Paterson: Does it?

Janis Hughes: I am not sure whether last week's debate has left Gil with a sour taste in his mouth—there is perhaps a bit of that creeping in. I do not understand what the issue is. Two members of my party are not at this meeting, for different reasons.

The question of substitutes is well recognised. We must be careful. I refer members to our previous discussions about a named person being allowed to substitute. If that person wants to keep up to speed on the issues that a given committee is considering, so much the better. We need to be careful about whether we are simply allowing people to be chosen to go to a committee.

The convener mentioned the possibility of a member using a substitute from their party for part of a committee meeting. I have concerns about that. That is in no way the spirit in which discussions on substitutions have taken place. I believe that a list has been produced of the reasons that could preclude a named person from being at a committee, which include, I recall, sickness and emergency constituency business. A substitute would be able to take that person's place in such circumstances. We must take care in deciding why we use substitutes. We are getting away from the original arguments that were proposed.

The Convener: That said, I understand Donald Gorrie's point about there being one or two members of his party who will be asked to attend committee meetings, presumably because the party's spokesman has an interest in the discipline being discussed, or because it is felt that the work load is best managed by two people.

I can understand the justification for a party being entitled to only one vote on any matter. One of the distinct advantages of the revised smaller committee structure is that members will have time to go to other committees. There have been occasions in the past year and a half when members have gone to other committees and have not felt entirely welcome; they have felt like outsiders—that they are extraneous—and conveners have given them short shrift. If we are genuinely saying that additional people should go to committees, we should perhaps be more flexible. A party may have only one vote and the official member of the committee may be the person who votes, but is it unreasonable for a couple of people working together to split the work load between them?

I find having to read every paper on every issue and being a spokesman a heavy burden, especially as I am on two committees. I do not know how Labour members organise their work load, but if there are four or five of them on a committee, it is more realistic for them to divide up any research or background work that must be done to advance a particular argument. We must examine the process from everybody's point of view and appreciate that different groups of different sizes might have different ways of looking at things. That is another reason why I want to progress on the basis of a survey of opinion.

Gil Paterson made a point about differentiating between conveners and ministers and so on. I do not know whether that is valid, but it might be reasonable to differentiate by party affiliation. I am extemporising as we go through. I have a way of looking at this, which is dictated by my party's circumstances—not by my political viewpoint. We have one member per committee, so I look at this in a different way from Janis Hughes. Her viewpoint is not political either; it is just that the Labour party has a different perspective because

there are more Labour members and there are many of them on each committee.

It might be pertinent for us to examine the issue on a party basis. If it emerges that a majority of MSPs take a view on a particular aspect, and that the Labour MSPs take one view and, say, the Liberal and Conservative MSPs take another, that will give us a basis on which to ask, "Are we trying to share the power? Are we trying to come up with a decision that respects everybody's interests and points of view?" I do not know what the committee thinks of that suggestion, but I offer it to members.

Mr Paterson: It is fairly reasonable. I am asking that the views of back benchers in particular be identified. Not only are most of them on the back benches, but they are on the back burner. It is reasonable to suggest that there may be a party political element to people's views and it is fair to register it. The more information we gather, the more we will benefit from the exercise.

The Convener: We would have to promise that it would not be possible for anyone to cross-refer, and that nobody's views would be distinguishable. We would present views only as being those of a party or of back benchers as a group. We would not identify back benchers from a party, because that would narrow down the results too far.

Donald Gorrie: Such a survey would be helpful. You have persuaded me that a sort of job share is worth considering. Previously, I would have thought that it was out of the box, but it is worth considering. The one thing that is not worth considering is proxy votes. The idea that one person can come along and cast two votes is absolutely out.

The Convener: Six members of a committee could take a decision, with a four to two vote, but it would not be valid because the committee was inquorate.

Mr Paterson: Or a member could turn up and vote on behalf of everybody. I have been consistent since the start; I do not hold with Janis Hughes's view that the proposals on substitutes and committee restructuring are unrelated. This is the selling job on the restructuring that we undertook last week. I will wait for the results of the survey.

Janis Hughes: The general view is that a survey would be a good idea, but I remind members of what we said:

"We think a substitution system should probably be used sparingly. The members of committees should aim to attend all or the vast majority of their committee meetings. It is important to maintain a stable committee membership."

I am concerned that the discussion is moving well away from that. We must be careful about how the questions in the survey are phrased. I want to ask questions on the original concept of a substitute, which was that substitutes should be used when members cannot attend committees for emergency reasons. The discussion is now going in a completely different direction.

The Convener: You say that that was the original concept, but whose original concept was it? The report is credited to the clerking and reporting directorate, but that might mean a single official of the Parliament. The committee's role is to consider the issues and, as we discuss them, to tease out other points. What we have discussed this morning may include a lot of stuff that is off the wall, which we will consider and knock back, but we must proceed on the basis that everything is considered.

The survey will detect what members think. I do not feel overly constrained by the report. The theory is that such reports are mine and that I present them to the committee, but I do not know one thing about them until they arrive by e-mail. That is a wee fiction that we should perhaps strip away. Perhaps there should be a named person on reports, rather than the directorate name. We will blame Carol McCracken, but it may well have been Elizabeth Watson—who knows?

Donald Gorrie: I wish to respond to Janis Hughes's point. I agree entirely that substitutes should be used as sparingly as possible. I thought that whips would write a chitty—which is in effect a sort of parental sick note—saying that because J Smith is unable to go to a committee meeting, due to a family bereavement or the fact that he is in hospital or whatever, R Brown is nominated as a substitute. It is up to the whip to testify that the substitution is a genuine necessity. That would address the point that was made.

The Convener: That brings back memories of years of staffroom humour at the various ways in which diarrhoea is spelled, or at least begun to be spelled and then scored out to be replaced by something more graphic.

Mr Paterson: God forbid that I see a good use for a whip, but it may be a good idea in the situation that we are discussing. There is a serious point: our job is to scrutinise. Do not forget that substitutes will have commitments elsewhere. If substitutes are doing their job correctly, they will be busy people, which might mean that they do not pay as much attention to their substitute committee as they should. The whips might be a useful beast—I will take a raincheck on that.

The Convener: You cannot take that comment out of the *Official Report*, I am afraid.

Mr Paterson: That is why I included the raincheck—as a health warning.

The Convener: We have agreed that we will

identify a grid of reasonably appropriate questions. We will issue a survey early in the new year and will try, in presenting the findings of that survey, to tease out the views of back benchers and to get different perspectives from the various political groups. Our ultimate recommendations will try to balance everyone's interests and points of view as best we can, bringing to bear the magisterial sagacity for which the committee is justifiably famed—it is too near the end of the year, is it not?

Janis Hughes: I hope that the survey will be done as timeously as possible, because I am conscious that this issue has been on the go for some time and that committee restructuring is about to happen.

The Convener: I agree absolutely.

Mr Paterson: Substitutes and committee restructuring are not connected.

The Convener: Behave, children.

Correspondence (Presiding Officer)

The Convener: That takes us to item 5, which arises from a suggestion that I made to the clerk. The background, as I am sure members will recall, is that the Presiding Officer approached us a long time ago about how questions to the Presiding Officer might be handled if the Presiding Officer, or the Scottish Parliamentary Corporate Body, were to take oral questions in the chamber.

The Presiding Officer is particularly anxious about the fact that, if there is a session in which questions are put about the Holyrood project, he is not the obvious person to take such questions—the convener of the progress group would be. A similar issue might arise in relation to other groups that the SPCB establishes on an ad hoc basis.

After the previous committee meeting, I came up with a form of words that, as members can see, is not particularly polished, but is a suggestion of how we might empower the SPCB to put forward someone who is not one of its members but is more appropriate to answer questions in such circumstances. If members think that the suggestion is reasonable, it can be considered along with everything else.

11:15

Donald Gorrie: What is the state of play regarding other questions to the Presiding Officer in his role as convener of the corporate body? He was not enthusiastic—

The Convener: I think that in principle he accepts that the circumstances could arise in which it would be reasonable for him to answer an oral question. His concern—if I have understood rightly—is that, in relation to the Holyrood project but also conceivably in relation to some other piece of work, he might not be the appropriate person to answer the question, as somebody else might have that remit.

The standing orders allow any member of the corporate body to answer questions. For example, if Des McNulty was in charge of something, he could reply. The issue is that the corporate body has set up the Holyrood progress group for a specific purpose; in these and any similar circumstances in future, there could be someone more appropriate than the Presiding Officer to answer questions. I am seeking to facilitate that—indeed, I hope that it might lead to a question-and-answer session, although the indications so far are that the powers that be are not keen on that. We should note the suggestion in paper PR/00/14/5.

Members *indicated agreement*.

Correspondence (Parliamentary Bureau)

The Convener: I invite Ken Hughes to join us.

We now have the Parliamentary Bureau's response to Donald Gorrie's paper on Parliament gaining more control over its business. It has taken a long time for the reply to come and I regret that there is no response to the final section of the paper, which is on the bureau's minutes, even though that issue has been around the longest and is relatively straightforward to address. Perhaps Ken Hughes will tell us whether that is unfair.

Ken Hughes (Directorate of Clerking and Reporting): Yes it is.

The Convener: Although we have Sir David's letter, I suggest we begin by inviting Ken to give a summary of the main points. Then I will invite the committee to discuss each point in sequence.

Ken Hughes: I repeat the apology made in the letter for the tardy response. The paper contains a number of wide-ranging issues and to summarise it too neatly would not do it justice, so I will just add a few wee points.

On the creation of a question time for the Minister for Parliament to answer questions on bureau business, it is not mentioned in the paper that party members may of course question their business managers.

The Convener: Not when the business is confidential.

Ken Hughes: On the point on fewer but longer debates, we recently sent statistics to the Procedures Committee on the management of debates. We are calling most members in most debates; the average number of members not called in a debate is now 0.7, so there is some progress.

On debates on a subject rather than a motion, it is already possible to hold such a debate, although the situation has not yet arisen. All the business managers were reasonably relaxed about trying that proposal, with the proviso that, if any business manager argues that the debate should be on a motion to force a resolution by the Parliament, their veto would stand and the debate would have to be on a motion.

I do not need to address the points about bills. On members who request to speak in a debate but are not called, the response suggests that

"overall statistics should continue to be published from time to time".

So far we have published a summary of the statistics on that once, in the business bulletin. We envisage doing so from time to time to update members.

On the suggestion that the number of three-hour Executive morning debates should be reduced, the bureau was in agreement that longer debates are needed from time to time. When we were in Glasgow, we spent all day debating Glasgow regeneration and, as I remember, we struggled to allow every member who wanted to speak to do so—and that debate lasted for seven hours. However, the bureau will pay attention to the scheduling of such beasts and will make decisions on a case-by-case basis.

The Convener: Thank you. The letter usefully highlights each issue and gives the bureau response. We should now decide what, if anything, we wish to do to progress any matter; we must decide where we accept the response and where we wish to continue to consider the matter. Does anyone have a comment on the first point, which is on a question time for the Minister for Parliament? The response is fairly categorical—members should challenge the business motion if they wish to make a point to the Minister for Parliament.

Mr Paterson: Challenging the business motion would be overkill. There is a difference between speaking to one's party business manager and asking him a question and getting an answer—there are three separate elements to that—and having someone in the Parliament whom members have the right to question about the Parliamentary Bureau. The bureau is the fulcrum of the Parliament and it is like a secret society. To open it up for questioning would be beneficial for everyone.

For instance, there was a debate last week where almost every speaker was saying, "This is not what we have been told—we have been told this, that and the next thing." Before we got to that stage, it would have been nice to have been able to ask a couple of pertinent questions so that all the parties knew exactly where they stood, whereas everybody was completely in the dark as to what the other parties had agreed—or not agreed—or how they had got themselves into that position. I think that it would be extremely useful for Parliament to be able to question the Minister for Parliament now and then.

The Convener: Would you want the question time to happen sporadically or would it be timetabled, perhaps for a 15-minute session every couple of months? If you are going to push the idea of questions to the business manager, you must suggest how it would be done.

Mr Paterson: We could have a space on the timetable for questions on the business motion,

even though that space may not be needed. I have already used the word "overkill", and it would be overkill to define a time that had to be used for that purpose. However, it would be of no use whatever if we had only a quarterly or monthly opportunity to ask questions. We must be able to ask questions when the need arises. I suggest that minutes of Parliamentary Bureau meetings should be taken. If minutes were available, there would probably be no need to ask questions.

Donald Gorrie: Like Gil Paterson, I think that it would be helpful to be able to ask questions. In his response to my paper, Sir David Steel says that we cannot

"expect Executive Business managers to answer questions on behalf of Non-Executive parties or Committees."

We are not asking for that, but it is reasonable for the Government business manager—who is the person who designs the timetable of the Parliament—to answer questions about that timetable. That is a perfectly sensible request.

Gil Paterson says that there would be no point in asking questions after the event: most issues have to be dealt with on the instant. Perhaps it would be reasonable to have a formal facility for asking questions before the business motion is moved each week. In effect, we are being challenged to challenge the business motion. I accept that challenge.

The Convener: I thought that you might.

Donald Gorrie: I think that I am the only person to have challenged a business motion, which I have done twice. I accumulated only a small number of votes, but the challenge to the motion meant that the Executive got into a flap and brought in all sorts of people. If the Parliamentary Bureau wants a challenge, it can have it. However, its response to a reasonable request that we should be able to ask questions has been foolish. I know that we are not meant to copy Westminster slavishly, but one of the better things about Westminster is the hour in which Tom McCabe's counterpart answers questions.

The Convener: I have a difficulty with the suggestion that we challenge the business motion. John Patterson, the clerk, is just checking this, but as I understand it, the Presiding Officer is required under standing orders to allow the business motion to be opposed—not questioned, but opposed. One speaker may speak for the motion, and one against. That does not facilitate questions. However, by loosening up the process, we may be able to find a workable way of proceeding. The Presiding Officer could allow a question to be put, which the minister would answer.

Issues tend to come up in the final two or three minutes of the morning meeting. If the morning meeting has to run 10 minutes into lunch time, perhaps we have to say, "So be it." If answers are required to genuine questions, we have to ask whether we should dismiss them simply because we have a theoretical obligation to stop at 12.30. We often go past 12.30 anyway. That may be a little disingenuous, because the standing orders do not allow time to be used in that way, but it could be the answer if the bureau is prepared to allow it.

Perhaps we should clarify what the standing orders say and then communicate with the Presiding Officer and the Parliamentary Bureau. Let us see if we can agree on an acceptable way of conducting this business. If we have to tweak the standing orders, we can look into that.

Ken Hughes: I can confirm that, under standing orders, one person may speak for the business motion and one against. A maximum of five minutes is allowed for each speech, and that is it.

The Convener: In that period, half a dozen questions could be asked, if the arrangements were a bit more flexible. No business or time would be lost.

Mr Paterson: The problem with the existing approach is that people may not want to oppose the business motion but may have legitimate questions on a particular topic.

The Convener: A member may not think of opposing the motion until he or she has heard the answers to the questions.

Mr Paterson: Quite.

Janis Hughes: Members just make points of order instead.

The Convener: Yes, they do. Such points of order are sometimes dealt with, but more often the Presiding Officer has to say, "I am sorry, but that is not a point of order."

Janis Hughes: Which is accurate.

The Convener: Yes, but it is unsatisfactory, because it means that issues that people want to ventilate cannot be ventilated.

We now come the vexed question of having fewer debates but allocating more time, to allow more, and slightly longer, speeches. Ken Hughes's response was that the evidence suggests that we are disappointing relatively few people. I wonder whether that is because few people try to participate, because the system in which parties nominate speakers in advance has taken over completely.

11:30

Mr Paterson: It is wrong to assume that people

are getting the chance to speak—there is a queue before members get on to the queue. It is a bit like the health service.

The Convener: Gratuitous, but on you go.

Mr Paterson: Before they can speak in a debate, members have to sook up to whomever the spokesperson is.

Surprise, surprise, but I agree totally with Donald Gorrie. Two weeks ago, I had written a four-minute speech, but the Presiding Officer squeezed the time.

The Convener: You spoke for four minutes anyway.

Mr Paterson: No, I did not; I ended up throwing the speech away—not that it was all that good. The point is that, at the start of the debate, there had been plenty of time for all speakers. My party lists its speakers; others who want to speak may or may not get the chance. The members who open the debate, and the party spokespeople, get all the time in the world. It is the other people who want to contribute who always suffer—and they tend to be the same people.

It would help if the Presiding Officer, whoever he or she may be, were more rigid with the opening speakers—and the closing speakers, for that matter—rather than being rigid with the other speakers during the body of the debate. There seems to be plenty of time to make statements but no time to get answers. The management of debates should be better.

Donald Gorrie's suggestion of having fewer but longer debates, with speakers having a little more time, is good. Allowing speakers the opportunity to take up to six minutes may be the answer, always remembering that they do not have to take the whole six minutes. I do not agree with the four-minute limit; I have seen people struggling to make good substantial points because they needed more time to develop their argument. I agree that we need fewer and longer debates. Speakers should be flexible: if the point that they want to make will take only a minute, they should take only a minute and not the full six minutes. We do not need to hear people just for the sake of hearing them. Too often at the moment, people take their four minutes no matter what, even though, in that four minutes, there is not even one gem.

The Convener: Unless we significantly reduce the time for ministerial speeches, we will not generate any more time for other members to speak. We need a better distribution of the time. Under Donald Gorrie's suggestion, all of us may make fewer speeches in a year; however, when we make those speeches, we will have more time in which to make our points.

Mr Paterson: It would be wrong to accuse only ministers in this case. They are the most guilty—they are most fortuitous in being allowed to speak for longer than is allotted to them. The front-bench speakers of all parties tend to be allowed a bit more time. It is like a knock-for-knock agreement between two insurance companies; if the minister is allowed to speak for a bit longer, the front-bench speakers of other parties are given longer. That means that, down the line, tail-end Charlies are squeezed off the list.

The Convener: One way of addressing the issue might be to ask back benchers what they think. I do not think that we should rush to do that—we will survey MSPs after the turn of the year. The Parliamentary Bureau's response said that if we want to circulate a questionnaire, we should go ahead. This is perhaps an area that we should examine in the survey. I suspect that there will be a marked divergence of opinion between back benchers and front benchers.

Mr Paterson: You can bet that there will be.

The Convener: Conducting a survey might be a good way to push the issue.

Donald Gorrie: I will not rehearse what Gil Paterson and I have said. The four-minute limit inhibits people from taking interventions. Although one is allowed injury time, one is never quite sure about it. More time for speeches would make members more relaxed and more willing to take interventions. A lot of time is wasted when members stand up to try to intervene and the member who is speaking says that they will not take the intervention. That aspect should be considered.

Janis Hughes: I want to ask Donald Gorrie how the idea of having fewer but longer debates correlates to the proposal to reduce further the number of three-hour morning debates. He is saying both that three-hour debates are not a good idea and that there should be longer debates to allow more members time to speak.

Donald Gorrie: That is a fair point. My argument is based on the choice of subject. For example, recently there was a whole afternoon on finance. Finance is an important subject, but the particular issue under discussion was a reasonably technical report from the Finance Committee, although members—as they will—strayed beyond that topic. We were encouraged during that debate to speak for a bit longer than usual, whereas in the morning's debate on the Scottish Qualifications Authority was truncated, partly because there was a political shemozzle over a vote of no confidence. Even without that, the timetable was too tight. Often, the Parliamentary Bureau is not clever at distinguishing subjects that need more time from

those that need less.

The next issue—debates on a subject rather than a motion—is related to that. Many of our debates are not wildly exciting, because they are on a dull Executive motion that says how marvellously the Executive is running whatever it might be, with amendments by the Opposition that say that the Executive is making a complete mess of things. Alternatively, the debate will be on an Opposition motion that says that the Executive is making a mess of things, with Executive amendments that say that it is not. Such debates are singularly unprofitable. I would prefer real debates on real subjects.

The Convener: The response from the Parliamentary Bureau indicates that that is a matter for the political parties. We can have subject-focused debates if we wish, but I suspect that neither of the two main Opposition parties will be anxious to change tactics. Perhaps if the Executive set a good example, there would be a good effect, but it is likely that the Executive will continue to project its own policies and opt for self-congratulatory motions. We cannot progress this matter other than by establishing that the facility exists for subject debates.

Donald Gorrie: I agree with the proposition that we include this subject in a questionnaire for members. They might all disagree with me, but they should have the chance to express their opinion.

The Convener: We will test opinion on the matter.

Ken Hughes: The presiding officers are aware of the need to manage opening and closing speeches strictly. Recently in particular, they have paid close attention to that to constrain those speeches to the times that have been agreed.

The Convener: We look forward to George Reid being set on Henry McLeish at some early date.

We dealt earlier with the stages of bills.

Donald Gorrie: One of the principles that I tried to set out was that there should be a period after an amendment is lodged in which it could be adjusted. That is an important concept, which we should not lose sight of.

The Convener: I do not propose to lose sight of it. If we agree to issue a questionnaire, it would be appropriate to survey members' views on all these issues—the adequacy of time, the need to draft and redraft amendments and so on.

Donald Gorrie: If the issue will be included in the questionnaire, I can live with what has been proposed.

The Convener: The bureau suggests that we should consider having informal open sessions of lead committees. It is suggested that that is up to committees. I do not think that there is anything in standing orders that would stop committees doing that. That is slightly different from taking the view that it should happen.

Again, maybe we should survey members' opinions on the matter. The mechanism for us would be to draw the attention of committees to the views that are expressed by members in the survey. It would then be up to committees to decide what weight they gave to that request. There is a clear desire to do better on legislation, but committees have many other things to do and must seek to balance their time.

I am convinced by what the Parliamentary Bureau says about members who request to speak in a debate but are not called. Tommy Sheridan would just press his button every time—he probably does. What information would one get by listing those members? I think that Donald Gorrie seeks to establish that members are unable to participate in debates in which they want to speak. The risk lies in the mechanism. What will members use it for? I do not mean anything by my reference to Tommy Sheridan—I was using him merely as an example. Will any member try to misuse the system? Will the mechanism obtain the information that is sought?

Donald Gorrie: I thought that the issue was about guarding one's back. One may not be called to speak in a debate on an important regional issue, but if the fact that one has tried to speak is on the record, one's back will be guarded against political opponents or local people who are misinformed and who might think, for example, that Murray Tosh is not interested in railways in Ayrshire because he did not speak in a debate on that issue. I suppose that the system could be open to abuse, but it would be reasonable for members to press their button if they were in the chamber for a significant length of time.

The Convener: The difficulty is that the system is not open. In theory, members come to debates, push their buttons and are selected to speak. In practice, we know that parties nominate who will speak and the presiding officers attempt to call all the members who are nominated, while giving reasonable respect to the three individual members. By and large, other members do not attempt to speak. It might be that in the circumstances that Donald Gorrie envisages, the issue would be best addressed if it were felt to be problematic. If a nominated member was not called, he or she might be identified.

That point is related but quite separate. Identifying those members would reveal that a member was expected to speak, rather than the fiction that that member might want to speak but did not do so because they were not on their

party's list. The real question is why the member was not on their party's list at that point, rather than why they were not called to speak. If Ken Hughes is right that 0.7 members per debate are not called, do we have a problem?

Janis Hughes: Given Ken Hughes's comments, would not it be easy for the Presiding Officer to say at the end of a debate, "I apologise to J Smith and R Thomson because they were not called"?

The Convener: That is a good idea.

Janis Hughes: If only a small number of nominated speakers were not called, that would seem to be an appropriate step to take.

11:45

Donald Gorrie: It would also be on the record.

The Convener: We should make that helpful suggestion.

Ken Hughes: I could raise that suggestion at the briefing—

Janis Hughes: It will be noted in the *Official Report.*

Ken Hughes: What you suggest happens on occasion already.

Mr Paterson: For clarification, are we talking about members who are on the official party speaking lists or members who press their request-to-speak buttons?

I have great sympathy for Donald Gorrie's comments. The way in which our system operates in practice is that a member who presses his or her button to make an intervention is taken off the list again. Who decides whether the member has pressed their button because they want to speak or because they want to make an intervention? I would like to see a system in place.

The Convener: I do not think that members press their buttons if they want to make an intervention—they do so in order to request to speak.

Throughout the time that Parliament has been in operation, members have risen and started to make their interventions before the Presiding Officer called their name and the microphone was switched on. I am surprised that the official reporters have not complained about that, as I suspect that the first few words may be lost sometimes. I do not think that pressing the button means anything.

In any event, we do not want members to press their request-to-speak buttons during an Executive closing speech in order to register that they wished to speak, because they would then appear in the *Official Report* as having asked to speak and been knocked back, which would be false.

If a member's party has not put them down to speak, the member must resolve that with their party. The idea that we should identify designated speakers who are not called is fair. If a member were to plot over a period of time that they had lost out two or three times, they would have a legitimate point to raise with the Presiding Officer on the next occasion that they were on the margins. That information would benefit us all for all sorts of reasons.

Mr Paterson: Perhaps I am confused. I thought that the Presiding Officer instructs members who want to make an intervention to press their request-to-speak buttons. Am I wrong?

The Convener: You might be right in theory, but in practice, members simply stand up and then the Presiding Officer calls their name and their microphone is switched on.

Ken Hughes: That is correct. When some members try to intervene but do not get in, they cancel their request to speak, while others leave their request standing. When that occurs, a clerk may go up to ask the member to confirm whether they wish to be added to the speakers list or whether they wish to cancel their request to speak.

The Convener: That makes the case for changing practice, because it is the member who is speaking who decides whether to accept interventions. That member does not know whether other members have pressed their request-to-speak buttons, as pressing the button is immaterial.

Mr Paterson: That is right.

The Convener: Perhaps we should clarify the process, if it causes people to run around feeling a bit confused about whose light is on and whose is not.

Are members happy to issue a questionnaire on those issues a little while after we have issued the other questionnaire? We will try to sample opinion on all the issues that have been raised during our discussion, to provide the basis for further discussion in the Procedures Committee and for further correspondence with the bureau as we try to sift through the areas on which we might be able to reach agreement.

We have continuing work on manuscript amendments, which we will address in the fulness of time. We have already covered the issue of three-hour morning debates.

Earlier, I made a personal point that bureau minutes should be published, at least to the extent that we can see what has been decided. Personally, I am not seeking a resumé of bureau discussions—who said this or that and who said

the next thing—but it would be appropriate for members to know what has been discussed and decided. I hope that the bureau will be able to respond to that suggestion reasonably soon.

Donald Gorrie: Will we press the bureau on that point?

The Convener: That is inferred from sending the bureau your paper, Donald. I am not trying to make too much of an issue out of it, but I hope that the bureau will accord with that suggestion soon. It is bound to give us a response and if that response is yes, I presume that we will be happy. If the response is no, whoever is on the Procedures Committee in January can decide what to do to progress the matter.

That concludes our discussion of the Parliamentary Bureau's response.

Committee Operations

The Convener: Elizabeth Watson, who has been sitting nervously in the wings for nearly two hours, joins us for item 7 of the agenda. This is your moment, Elizabeth.

Elizabeth Watson (Scottish Parliament Directorate of Clerking and Reporting): This is yet another item that relates to the continuing inquiry into committee operations. The issue for consideration today is "relatively minor", as paper PR/00/14/7 says.

To summarise the paper, our standing orders proceed on the basis that committees will meet in public, unless they decide to meet in private. Such decisions can be taken only in committee meetings, which may result in difficulties for members of the public or for external organisations if the decision to meet in private has not been taken in advance of the meeting at which the particular topic is under discussion.

We cannot show on the agenda that the item is definitely to be taken in private in the absence of such a decision, although we can give pretty clear indicators—as occurred in relation to item 1 of the Procedures Committee's agenda today—that the committee will at least consider whether to take an agenda item in private.

The paper suggests merely that committees should try to minimise that potential inconvenience by good forward planning and that, where possible, we should try to anticipate items that might reasonably be taken in private. When a committee decides to meet in private or to take an item in private, the reasons for so doing should be stated clearly.

The Convener: When it is decided during a meeting that a later agenda item should be taken in private, would it be appropriate to spell out the reasons for that decision at the time that the decision is taken, as happened at the beginning of our meeting today? Should those reasons be repeated immediately prior to the item to be taken in private to inform members of the public who might have come in during a meeting, so that they know why they are being asked to leave?

Elizabeth Watson: That would be very helpful.

The Convener: Let us do that—[*Interruption.*] People do not need to leave just yet, although they will have to do so in two seconds. I was going to implement that practice immediately by inviting members of the public to leave, but I have been pre-empted. It all seems very straightforward.

John Patterson (Clerk): The person who left the room is an Executive official.

The Convener: Is he? In that case, he counts as someone from an outside organisation. I presume that he works for Tavish Scott.

John Patterson: Yes.

The Convener: There you go. We should have been told about him at the beginning of the meeting—this is an open Parliament.

That is enough levity. The suggestion in the paper is sensible; we should agree it and urge good practice on all committees and clerks.

Mr Paterson: Is it always the case that the likelihood of an item being taken in private is intimated?

The Convener: The suggestion is that it should be intimated, but that might not have happened previously. That is the purpose of our recommendation.

As we have agreed the recommendation, we will implement it at once. I invite any remaining members of the public, press or outside organisations to leave. We will move into private session, as agreed earlier.

11:54

Meeting continued in private until 12:04.

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