

PROCEDURES COMMITTEE

Tuesday 1 May 2001
(Morning)

Session 1

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CONTENTS

Tuesday 1 May 2001

	Col.
PARLIAMENTARY QUESTIONS	705
PARLIAMENT AND THE EXECUTIVE (RELATIONS)	730
BILLS (AMENDMENTS)	737
FINANCIAL RESOLUTIONS (AMENDMENTS)	740

PROCEDURES COMMITTEE

4th Meeting 2001, Session 1

CONVENER

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

DEPUTY CONVENER

*Mr Kenneth Macintosh (Eastwood) (Lab)

COMMITTEE MEMBERS

*Brian Adam (North-East Scotland) (SNP)

*Patricia Ferguson (Glasgow Maryhill) (Lab)

*Donald Gorrie (Central Scotland) (LD)

*Mr Frank McAveety (Glasgow Shettleston) (Lab)

*Mr Gil Paterson (Central Scotland) (SNP)

*attended

WITNESSES

Hugh Flinn (Scottish Parliament Directorate of Clerking and Reporting)

Michael Lugton (Scottish Executive Parliamentary Secretariat)

Mr Tom McCabe (Minister for Parliament)

Andrew Mylne (Scottish Parliament Directorate of Clerking and Reporting)

Euan Robson (Deputy Minister for Parliament)

Janet Seaton (Scottish Parliament Information Centre)

CLERK TO THE COMMITTEE

John Patterson

SENIOR ASSISTANT CLERK

Mark MacPherson

ASSISTANT CLERK

Katherine Wright

LOCATION

Committee Room 2

Scottish Parliament

Procedures Committee

Tuesday 1 May 2001

(Morning)

[THE CONVENER *opened the meeting at 10:33*]

Parliamentary Questions

The Convener (Mr Murray Tosh): Good morning and welcome to the fourth meeting of the Procedures Committee in 2001. The principal business today is to take evidence from the Minister for Parliament as part of our inquiry into parliamentary questions. I welcome the minister to the meeting. He is accompanied by Euan Robson, the Deputy Minister for Parliament, and Andrew McNaughton and Michael Lugton from the Executive. Hugh Flinn and Janet Seaton from the Parliament are also attending the meeting.

The report that is before the committee sets out a list of issues and potential areas for discussion with ministers. I suggest that we offer the minister the opportunity to make some initial remarks before we proceed through the issues that are picked out in annexes A and B of the report.

The Minister for Parliament (Mr Tom McCabe): We welcome the opportunity to contribute to the committee's work on such an important matter. I welcome the co-operation between Executive officials and Parliament staff. That is a hopeful sign for future work in this and other areas. It is worth noting that the joint participation in the seminars on PQs was very valuable.

I reassure the committee that there is full recognition in the Executive that it is important to provide timeous answers to PQs. It is also recognised that the quality of information contained in the answers is equally, if not more, important. The Deputy Minister for Parliament and I do not see this as a contest between the Executive and the Parliament. We all came here to work together as parliamentarians and to ensure that the new institution works. My colleagues in the Executive and I are very interested in doing all that we can to achieve that aim. I hope that this morning's discussion will take us further along that road.

The Convener: Thank you. I can testify to the spirit in which Andrew McNaughton contributed to the seminars in February and to the very good discussions that we have had with Andrew

McNaughton and Michael Lugton in previous evidence sessions on this topic. We have reached a good level of accord.

Let us turn to the annexes. The first items for discussion are the results of the monitoring exercise and the relevance, quality and quantity of questions. The report contains several points for discussion with the minister: the usefulness of the monitoring exercise, the monitoring figures and the general aspirations for the Executive's future performance on turnaround times. Members should chip in after the minister has had a chance to give us his thoughts on those points.

Mr McCabe: Again, the level of co-operation between the Executive and Parliament staff has been an encouraging indicator. The Executive will continue to produce the monitoring statistics on a quarterly basis for the foreseeable future. In an ideal world, that would not be necessary. However, we are some way off that position and are more than happy to continue the monitoring exercise.

It is difficult to draw firm conclusions because we are still at an early stage in the exercise. February shows an upturn, but a sizeable number of questions were lodged in March. However, February and March show an improvement on the position in January. Perhaps there is some early cause for optimism.

There is considerable fluctuation in performance, which adds to the difficulty in forming firm conclusions at this early stage. The reasons for the fluctuations are not readily obvious to the Executive. It is encouraging that the backlog of questions from 2000 is now clear. The most recent figures for the backlog in 2001 are 17 for January, 27 for February and 74 for March. I hope members are aware that we are greatly interested in continuing to reduce the backlog.

Donald Gorrie (Central Scotland) (LD): I do not expect the minister to clype on any of his colleagues, but does the Executive consider the comparative performance of departments and try to improve that of the departments that seem to be performing less well than others?

Mr McCabe: I appreciate Donald Gorrie's first remark. We consistently monitor the performance in each department. As part of our management processes, we examine whether there are particular reasons why some questions progress through departments more slowly than others. There is constant dialogue. I will say this a number of times today and you will have heard it a number of times since the Parliament was created: we are still a relatively young institution. Management processes are still being worked out and politicians who are far closer to the day-to-day operation are still expressing their views about

what needs to change so that the machine operates in the way that best suits them.

Mr Frank McAveety (Glasgow Shettleston) (Lab): On the role of departments, is a pattern emerging to indicate where blockages—to do with individuals' ability to respond, the work load of the Parliament or the nature of the policy area—may be occurring? Are any patterns emerging that assist you in deciding how questions should be dealt with?

Mr McCabe: There is only the obvious pattern that departments such as health receive a large volume of questions, which presents its own difficulties. Health is an important brief and there are great demands on the health ministers, who sometimes have to work out their relative priorities. However, we are aware of that and it is part of our discussions with that department. The departments that receive the highest volumes of PQs are the ones that most urgently need to work out their processes for dealing with questions.

Mr Gil Paterson (Central Scotland) (SNP): There is a correlation between the quantity of questions and the quality of answers. Is there any way to monitor the quality of the answers?

Mr McCabe: A great deal of work is done by ministers to convey to the civil servants who work to them the style and approach with which they are more content. As the staff who work to ministers become more aware of ministers' individual approaches, the answers will become more acceptable on a first-off basis. We are aware that one of the more important reasons for the backlog and the unacceptable time that it takes to answer questions is that the initial drafts go back and forward more often than we would like. That has been identified as an area in which staff have to become more aware of the individual preferences of ministers. Ministers have to spend more time conveying their preferences to their staff. Sessions have been set up to ensure that that happens.

Mr Kenneth Macintosh (Eastwood) (Lab): Some questions must take longer to answer than others. Is there any process for marking those questions? The topicality of questions must be an issue. Are any criteria applied so that questions that are especially topical and should be answered quickly are pushed through, or are all questions treated in the same way, with the obstacle being the draft coming back from the minister?

Mr McCabe: As far as I am aware, the biggest obstacle is the complexity of the questions. The more branches of the Executive that require to be involved in formulating an answer, the longer it takes. New systems are being put in place to attempt to reduce the time scale when more branches are involved in answering a question—

we may discuss those in more detail later.

On priority, I take it as read that if an issue crops up and a topical question has been lodged, the minister may find it prudent to ensure that that question is answered more speedily than others. Members expect that and I expect ministers to be sufficiently aware of current issues to react in that way.

10:45

The Convener: We had discussions with Executive officials about the relationship between letters and questions. Would it be reasonable to assume that letters—primarily from parliamentarians—come in at a more or less uniform rate, or could they be a reason why there is sometimes a backlog in answering questions? I presume that the same people deal with letters from third parties, outwith the parliamentary world, and that there may be surges of correspondence. Does that affect the rate at which questions can be answered?

Mr McCabe: There is undoubtedly a correlation between the overall volume of work and the rate at which questions are answered. It is the Executive that deals with all the issues that have been mentioned. If the volume of ministerial correspondence and parliamentary questions rises to a great extent, pressure is put on the system. As I understand it, those matters are dealt with by broadly the same staff. Mr Lugton will say whether that is the case.

Michael Lugton (Scottish Executive Parliamentary Secretariat): That is right. From time to time, topics become matters of high political and public interest and the volume of questions and letters tends to increase. We experienced that in relation to the problems over the Scottish Qualifications Authority a few months ago. Often, we cannot increase the resources in the system as quickly as the volume of correspondence and questions increases, the consequence of which is that people struggle to keep up with the work load. I expect that the same will happen in connection with foot-and-mouth disease. I have noticed a significant increase in the number of questions to the rural affairs department on that topic and I imagine that the number of letters has increased too. The same group of officials has to deal with questions and letters in that subject area, so they will be under more pressure than usual.

The Convener: It may be pertinent for parliamentarians to ponder on the fact that there will be times of pressure, when events—as we are fond of saying—will inevitably cause delays and affect a department's work load.

Patricia Ferguson (Glasgow Maryhill) (Lab): I am struck by two things about the comments that have been made. First, Mr McCabe mentioned that the health department receives a lot of questions. As I often end up chairing members' business debates, I have noticed that the health department also gets more than its fair share of those debates. Is there a mechanism for ensuring that a department such as that is given additional back-up?

My second question, on Mr Lugton's comment, follows on from that. When there is a crisis such as foot-and-mouth disease, is it possible to take a couple of members of staff from one department and put them into another to help to cope with that crisis? The last thing that the staff who deal daily with that crisis want is a backlog of questions. Is the work load taken into consideration when staff are being allocated?

Mr McCabe: I mentioned the age of the institution. There is an on-going review of the resources required to deal with the work load in each department. It is becoming evident that many of the questions and much of the ministerial correspondence is directed to the health department. There is an on-going managerial review of the level of support that is required there, just as there is an on-going review of the level of support that each minister requires so that they are content and feel properly able to discharge their duties. All those things are under review.

Michael Lugton: The top management team recognises that it has a responsibility to adjust the shape of the organisation in response to pressures from outside. Each month, the management group looks at the volume of questions and, once the questions have been disaggregated by department, at the levels of ministerial correspondence. If a crisis arises, it is always open to us to reinforce a particular area in the short term. Of course, bringing in new people who may not know much about the problem may for a time be an added burden on those who usually deal with it and know about the background.

The Convener: We have now exhausted that subject. The next item is holding answers. Does the Executive want to comment on the proposed change to reporting the date of holding answers?

Mr McCabe: Is that with regard to the tagging and identification of holding answers?

The Convener: Give me a second while I read the paragraph in the clerks' paper. Perhaps Hugh Flinn will clarify that for us.

Hugh Flinn (Scottish Parliament Directorate of Clerking and Reporting): We are referring to the situation where a substantive answer is given after a holding answer has been given. The committee wanted the date of the holding answer

to be given alongside the substantive answer.

Mr McCabe: As has been said, we hope that the gap between the holding and the substantive answer will be short enough to make the notification of when the holding answer was issued almost irrelevant. We are attempting to improve the process, but we have no difficulty with that suggestion.

The Convener: The committee has seized with great glee on the fact that the acronym for the written answers report is WAR, which is what we are trying to avoid.

Mr McCabe: Absolutely.

The Convener: The next issue concerns the admissibility of questions. The three points that we want to raise are listed in the clerks' paper under the heading "Memorandum by the Scottish Executive: advisory cost limit, Executive staff resources and tracking system". The number of staff in the Executive's parliamentary branch will be increased from three to four. What difference will that make? When will the tracking system become operational and what are its main features? When will the advisory cost limit be decided and what issues will be weighed in coming to that decision? I will open up the discussion to committee members after Mr McCabe has responded.

Mr McCabe: Some initial work has been carried out on the advisory cost limit, which is still about £82 or £84, but further work is required. It is important that we establish an accurate cost for answering questions. It is no good for the Executive to exaggerate the cost so that it can say that the number of questions represents an inappropriate cost to the public purse. An accurate figure with which everyone is content has to be established. Although we are working with an advisory cost limit of £82 at the moment, we recognise that that needs further refinement. Further work is being done.

On the upper limit, if the cost of answering the question is disproportionate, we are content to operate with the figure that is currently applied in Westminster, which is considerably above £500. That allows a big enough margin for error.

What were your other points?

The Convener: What difference will the increase in staff in the Executive's parliamentary branch—from three to four—make? Also, when will the tracking system be fully operational and what will its main features be? If that is hugely complex to explain and unlikely to add anything, please say so, but we are interested in how it will work.

Mr McCabe: We are currently assessing the correct staffing complement to deal with the

situation. We have seen marked improvements following the increase in staff from three to four. There are also two additional staff to ensure that the tracking system is implemented successfully. We hope that the system will become fully operational by early summer.

The main benefit of the system is that we will know the state of play at any time. Experience has shown us that that is extremely important. Too often in the past two years, departments have not known the current status of an answer and that has led to considerable confusion. It is important that we remove that confusion from the system and that everybody who is responsible for answering a question knows its current status and what needs to be done to make progress. That is what we hope to achieve through the tracking system. The additional staff are in place to try to secure smooth implementation and the current indications are that we will be successful in that.

Mr Macintosh: Am I right in thinking that the tracking system puts every letter into electronic form—everything is scanned in?

Mr McCabe: Yes.

Mr Macintosh: Occasionally I e-mail letters—I am referring to letters, rather than questions—and I would like to know whether it is helpful to use e-mail, rather than to send a typed letter.

Is it okay for me to talk about letters rather than questions, convener?

The Convener: The same people do all the work.

Mr Macintosh: Is it quicker for MSPs to e-mail inquiries?

Mr McCabe: E-mail saves a few days in the process—it is quicker than conventional methods. There is some advantage to that, although I am not sure how much. If an inquiry is received electronically, it can be transferred to the other system more easily.

Mr Macintosh: I do not know how ministers deal with the letters that they receive, but I imagine that the civil servants end up printing off the e-mails and handing them to ministers in paper form.

Mr McCabe: Yes, that would happen. Ministers are unlikely to read letters directly from the screen. Often, when a minister receives a letter they are given advice or further information with it.

Mr Macintosh: Has tracking indicated any difference between the time taken to respond to e-mails and to letters? I take it that the volume of letters is huge compared to the volume of e-mails.

Mr McCabe: My understanding is that the majority of inquiries are received by conventional means, but I am not sure of the split.

Michael Lugton: That is right. Most of our correspondence is still in the form of hard copy. We have a central correspondence unit that scans in all hard copy letters, which are then moved around the organisation electronically. However, as the Minister for Parliament says, ministers often prefer to read documents from hard copy before they sign off a letter and response. At that stage, hard copies of the correspondence are available.

If e-mails are received, the central correspondence unit also handles them. What helps is the initial period—instead of relying on the post to take a day or two to get the letter to us, the member is assured that it is in the system more quickly. After that it is dealt with in much the same way as a hard copy letter.

The Convener: If one was seeking to e-mail a minister, would it be better to e-mail the minister at the ministerial e-mail address, rather than at the Parliament e-mail address?

Mr McCabe: Yes. That is fundamental. To use the Parliament address would add further confusion and delay. The minister's parliamentary assistant might be away from their desk—off sick or on holiday and so on—and that would cause delay. On all occasions, such correspondence should be directed to the ministerial address.

Mr Macintosh: E-mail is more informal than letter writing and that lack of formality tends to speed things up. Is that effect felt in the civil service, or is there a standard for snail mail, which is maintained when dealing with e-mail?

Michael Lugton: The formality does not really have an effect on the way in which we deal with a request. An inquiry from a member of Parliament is always treated as such. The normal process would be for the central correspondence unit to identify the part of the department that is best placed to provide ministers with advice. Advice will be provided together with suggestions as to how the minister might reply to the inquiry. The entire set of documents will go to the minister. As the correspondence is from an MSP, nothing will go out until the minister has authorised the reply. It does not matter how informal the mode of correspondence, the fact that it comes from a member means that it is treated in a particular way.

11:00

The Convener: There are no short cuts.

Mr McAveety: Often, e-mails are not as identifiable as formal letters because sometimes there is no location included, apart from the e-mail address. If a minister receives an e-mail at his Parliament office and passes it on to his ministerial office, which then passes it on to the central

correspondence unit, why does it take so long to get back to the minister, unless the minister takes a personal interest in the issue? That happened to me on one or two occasions when I was a minister. I knew the members who were involved; I passed the e-mail on but a response took four or five weeks to get to them. I was busy doing other things, but felt guilty when the member collared me to ask what had happened to the answer. I had thought that somebody was dealing with it. Why does it take so long? Sometimes questions seem to disappear until they come back to haunt the minister.

Mr McCabe: Often that is a result of the volume of questions that the Parliament must deal with, although sometimes the delay is due to the complexity of the question. The Executive recognises that a timeous reply to ministerial correspondence is of tremendous value to an MSP. An MSP can feel awkward—to say that they would look foolish would be putting it too strongly—about the fact that they have assured a constituent that they will write to a minister, yet they have to wait an inordinate amount of time for an answer. I am very aware that we need to reduce the time that it takes to reply to ministerial correspondence. Addressing that issue will be of great assistance to MSPs.

To answer Mr McAveety's question directly, there are several reasons for such a delay. If the question is directed towards the health or transport departments, for example, the volume of correspondence going to those departments has an impact on how long it takes to reply.

Mr McAveety: How do you feel that that compares to your experience in local government?

Mr McCabe: It is not directly comparable. The civil service is a very formal institution and I am in the same position as the other elected politicians—we are going through a process of learning how best to engage with the people who serve us. There are many people in the civil service who have a great interest in improving the ways in which they serve elected politicians. It is important to point that out.

It is difficult to draw comparisons because of the phenomenal increase in the number of questions that has resulted from the Parliament. The volume of parliamentary questions is six times that of the questions that were put to the Scottish Office. Any bureaucracy takes time to refocus on an increase of such magnitude. At the moment, direct comparisons between the Parliament and local government are not that helpful. However, I would like to put on record the fact that my experience has been that local government places great importance on responding to inquiries timeously.

The Convener: We must now deal with sources of information that are available to MSPs. The Scottish Executive directory is now available on the Scottish Parliament intranet. We must ask the Executive whether it will give us a report at some time on the use that is being made of that directory. If it is possible to do so, it might also be useful to have the Executive monitor the use of the telephone line that we have for making inquiries to the Executive and to include that information in the report.

Mr McCabe: The system became fully available on 23 April. The Executive is more than happy to monitor the way in which the new facility is used by MSPs and I suggest that a reasonable time for that report to be delivered would be about three months after it was set up.

It would be helpful if the Procedures Committee could help the Scottish Executive to stress the fact that it is important that MSPs and members of their staff properly identify themselves when they contact the Executive. The telephone is a quick way of getting information, but people often feel more comfortable putting their inquiries in writing, although it will take a longer time to get a response to a letter. The inquiries will be dealt with at the level of head of branch or above, to ensure that there is a consistent and appropriate response to inquiries. We initiated the system because we think that it could be of considerable assistance to MSPs. We are happy to monitor it and to listen to suggestions about how the system can be improved.

Donald Gorrie: Could those of us who are more comfortable with pieces of paper than we are with electronics have a hard copy of the telephone directory? It might go out of date at times, but it would be helpful.

Mr McCabe: It could go out of date fairly speedily. It has been provided electronically and we think that that is the easiest way in which to ensure that the information is regularly updated and relevant. At the moment, we would prefer to continue to make the information available only in electronic form. However, in line with every other aspect of this innovation, I am happy for that to be reviewed at the end of the three-month period.

Donald Gorrie: As an ordinary MSP, I get a lot of help from the chamber desk and from the Scottish Parliament information centre—although the clerks sometimes give me nought out of 10 for my parliamentary question and tell me to go away and do it again.

What is the degree of help that we can get from the civil servants with whom we can get in direct contact? There seem to be unnecessary barriers. I understand that the civil service is a UK institution and that we are still learning about how we will

work within that structure, but would it be possible to make more senior civil servants more accessible to MSPs, even if only for what might be called easier questions? Some of us hear worth while issues being raised at lunchtime lobbying meetings with one organisation or another and, if we could phone the relevant official quickly to find out the civil service view, that would prevent the need for a huge number of letters, parliamentary questions and so on. If the relationship between senior civil servants and MSPs could be liberalised, I am sure that everyone, including the public, would benefit.

Mr McCabe: You do yourself a disservice by describing yourself as an ordinary MSP. There is nothing ordinary about you, Donald, and I am sure that people recognise the contribution that you have made.

Ministers make policy and the civil service is accountable to those ministers. Clearly, the new system that we are trying out, which has surprised some people and worried others, is an attempt to try to open up the process and make it as user-friendly for MSPs as it can be. However, I worry that Donald Gorrie's suggestion might mean that we are in danger of placing senior civil servants nearer to the policy-making end of the process than they should be. It would not be helpful in the long term to confuse the boundaries between ministers who make policy and civil servants who are accountable to them.

Donald Gorrie: I accept that point. However, it would be useful if it were possible to get access to information on certain factual matters. If a lobbying group told us that disabled people, for example, got no help for X, Y and Z, we could phone up the relevant civil servant who might be able to tell us about systems A, B and C that help disabled people. We would be trying to get access to information more quickly, not suggesting to the civil servant that policy be changed. That would save everybody's time and would cut down on the amount of parliamentary questions and letters.

Mr McCabe: You have clarified your position well. The system was put in place to help members obtain factual information. I hope that MSPs get such information from the system. If, at the end of the monitoring period, MSPs do not think that the system is delivering that, we should examine its operation. I agree that there should be no difficulty in obtaining factual information speedily.

The Convener: The next item in our report is on parliamentary questions seminars. We have nothing to raise in that regard. Do you, Mr McCabe?

Mr McCabe: No. I should perhaps stress that the level of co-operation is encouraging. We hope

that MSPs and members of their staff recognise that they can gain access to information in a variety of ways. If they maximise the number of avenues that they use, they will minimise the burden on the organisation.

The Convener: The next item in our report was our proposal to increase the time period for answering questions in the recess and to extend it to the week before a recess. We assume that the Executive will be content with that, but we want to ask whether the Executive feels that that would help in any way with the speed with which it is able to produce substantive answers during recesses.

Mr McCabe: As I said, neither I nor the Executive regards this in any way as a game. We are here to ensure that the Scottish Parliament and the Scottish Executive serve timeously and with the most comprehensive information possible the people who elect us.

The suggestions from the Procedures Committee will undoubtedly be helpful, as would be any suggestion that allowed the time for answering questions to be increased. However, I must be frank and state that my view is that there is a need to step back from the issue a little. I am aware that the committee has considered the issue in detail but, realistically, we must realise that the facility to submit questions during recesses, particularly the summer recess, puts an undue strain on the Scottish Executive. We know that the view that is taken by the press—that MSPs treat the recess as a holiday—is a fallacy but, just as MSPs take holidays during recesses, particularly the summer, so do Executive staff. That means that the ability of the Executive to cope with the volume of questions, which does not decrease markedly during recesses, becomes strained.

I feel that there is a case for some kind of moratorium during recess. I do not think it would be acceptable to say that, in a seven or eight-week summer recess, there should be no facility for answering questions. However, a moratorium of three to four weeks during that recess—always with the facility for members to submit genuine emergency questions on topical issues that might crop up—would add considerably to the quality of service that members experience throughout the rest of the year. If there were a breathing space during the summer months—when there is a natural downturn in political activity, as we all acknowledge—the Executive could work on the backlog of questions and MSPs would see a marked improvement in the overall quality of the service that they received.

11:15

I understand that other people hold different views. Some might fear that this is the thin end of a wedge and that it would limit members' ability to question the Executive—I do not see it that way. An objective view of how we can perform best over the course of a year would indicate that some respite during recess periods would make a significant contribution. I stress that it is imperative that the facility to submit emergency questions remains.

I am being as honest as I can with the committee. We have to consider the issue in the round, and ask what initiatives would best improve the service that we receive throughout the whole year; not only during parliamentary recesses.

We are, as has been suggested, still an incredibly young institution. Sometimes, to be frank, I am disappointed at how quickly people have become set in their ways. After only two years, they say, "Well, that's the way we did it from the start and therefore it should stay that way." We should be prepared to experiment, to put in place new methods of operation and then to assess their effectiveness. We should be open-minded enough to say, "Well, on that occasion that worked, but on another occasion it didn't, so we should revert to the previous method." If we are interested in finding the most appropriate way of operating the institution to provide the best possible service, I believe strongly that we should be more prepared to experiment.

The Convener: Would introducing a three-week or four-week moratorium in the middle of the summer actually reduce significantly the number of questions asked overall? If it did not, all that would happen would be that a lot of questions in the pipeline would be pushed back to the end of the recess period, when they would still have to be answered. If the deadlines were to be met, the questions would have to be answered in a shorter period of time.

Mr McCabe: I recognise that potential difficulty. If, after having evaluated any new system, that proved to be the case, we would clearly have failed. However, when I consider the volume of questions that are submitted during recess—in the full knowledge that everyone needs a break—there is sometimes no discernible decrease. One wonders where the questions have been generated. Dare I suggest that sometimes enthusiastic researchers can generate questions as readily as enthusiastic MSPs? Consideration of the pattern of the way in which questions are submitted at the very least raises a question in what, I have to admit, is sometimes a suspicious mind.

The Convener: One of the most prominent

questioners assures me that he writes all his own questions, but he never takes holidays and I am sure that he does not sleep either.

Mr McCabe: I have this vision of certain MSPs with a laptop and an infrared mobile phone on a beach somewhere, submitting questions.

The Convener: You are in the papers tomorrow.

Mr Paterson: Aye, a beach. If only.

I sympathise very much with some of what you are saying, Mr McCabe. However, I think that it would be an enormous step backwards. The world continues to roll; it does not stop for four weeks. Problems and issues will arise but, if there is no one in the Parliament, there will be no facility for asking questions. Not being able to get answers to questions for a four-week period would have a dramatic impact on the Parliament.

I agree that some form of policing is required. You said yourself that MSPs will be on holiday during the summer recess and that staff have to get holidays as well. I would rather go down the route of appealing to MSPs to cool their feet a wee bit during that period. If the Executive, the parties and this committee did a bit of work on that, we would be pushing at an open door. However, the last thing that we want to do is to close off the opportunity to get important questions answered when there is no other mechanism for asking them.

Mr McCabe: I appreciate that point, but I would like to offer some clarification. The facility for questions being answered during the recess should remain. It is very important that questions that have been lodged continue to be answered; it is the facility to ask questions over that period that concerns me. As I said earlier, if there were a period during which the facility to ask questions were reduced, it would be vital that the facility remained for asking genuine emergency questions. I hope that that offers some reassurance. I appreciate what Mr Paterson is saying.

Mr Paterson: I want to press you a bit further, Mr McCabe. If a question is not answered by the beginning of the recess, it may not be that urgent and may be able to wait a wee bit longer. However, things may happen during the recess that are fairly urgent. Questions may arise on which action must be taken. I would rather have an open door so that we can get answers, because things may happen in Scotland—or anywhere else, for that matter. People may be on holiday, but you may be answerable on some issue, and the only way that we will be able to get to you will be through a question.

Mr McCabe: I am sure that every question has great importance to the member who lodges it.

However, if we can find a way of reducing the backlog during the summer recess, the service that members receive during the rest of the year may be of a higher quality. I accept your point about a situation arising during a recess. That is why I have suggested that there should always be a facility to answer a question in an emergency. However, there may have to be some guidelines from the Presiding Officer or the chamber office on the definition of a genuine emergency.

Brian Adam (North-East Scotland) (SNP): I want to ask about that particular point. The committee has considered the designation of a priority question, but we decided not to pursue that. However, if we are to have some kind of moratorium, we will have to reconsider that.

What would have happened if, instead of happening in February, the foot-and-mouth outbreak had happened in July, when there was a three-week or a four-week moratorium? Would there have been one emergency question on the issue, or one per member, or what? Heaven forbid that we see another similar situation, but such situations do happen and the Executive does not get one question on an issue, but a whole range of questions that need to be answered. It would be difficult to avoid the situation that the convener referred to, with all the questions being backed up to the end of the moratorium period and MSPs ending up with even longer delays into the autumn.

Mr McCabe: Clearly, foot-and-mouth was a genuine national emergency. Had it reared its head during the summer recess, there might have been a case not only for reinstituting the facility for asking questions, but for recalling Parliament. If a situation arose that was clearly a national emergency, I hope that the Executive would have its finger sufficiently on the pulse to recognise that a suspension of the moratorium on that particular subject would be justified. Such situations can be dealt with. My point is about general questions during that period. If a crisis or issue arose during a moratorium, any Executive that wished to exercise common sense would recognise the need to suspend the moratorium for that.

Donald Gorrie: I accept the minister's wish not to generate question-constructing factories. They may exist at Westminster, where there is a higher number of personal researchers and energetic American assistants who generate many questions. We do not want that system. Ministers catch up during the summer, as do MSPs who are not very well organised, such as me. We study our correspondence and notes of visits and say, "I promised to do that and didn't do it," so we compose many questions that might relate to past events.

We have fewer than two years of information on

which to base judgments, but the figures show that in the past year, the difference between the numbers of questions asked in July and August, which are in the 500s, and the numbers in September and October, which are in the 600s, was quite small. That suggests that we are slow starters when we return from the recess. You would have thought that we would be full of zeal and would generate many questions. The numbers rise to a rough plateau, and fall in December and April, when holidays occur. A high point is reached in May and June.

I am not sure whether, as the convener said, stopping questions at one time would build up questions for another time. I do not know whether we can try to concentrate on genuine questions rather than less relevant researcher-inspired questions. That is difficult, because one man's relevance is another man's irrelevance. It would be better if we could avoid a moratorium. I am happy for the time limit for answering questions to be extended still further. We all deserve our holidays, even ministers and civil servants.

The Convener: Especially civil servants.

Mr McCabe: I accept that there is no exact science. I do not know exactly how people would react to a moratorium. I return to the point that an institution that is as young as the Parliament should be prepared to experiment. To some extent, we would depend on the good faith of members not to abuse the system. I hope that, as someone suggested, gentle pressure could be exerted to try to improve the overall performance of the institutions. We are not conducting a contest between the Parliament and the Executive. We are trying to find out how we best shape this place and how we best raise the public's regard for it.

Mr McAveety: Would writing letters to ministers be more appropriate than the PQ system during the summer?

Mr McCabe: As we said, largely the same staff deal with both tasks. The pressures that emanate from a question or from a letter are not much different. Input from staff and time are required to answer letters, and that adds to the overall pressure on departments.

The Convener: I think that we have exhausted that issue. Our next stage will be to consider a draft report at our next meeting. We will reflect on our exchanges. An extract from the *Official Report* will be provided to remind members of what was said. We will consider the issues when we make our recommendations in the report.

We should move on. I am conscious that we have used the hour for which we had booked ministers. I have no doubt that they will tell us if they have a timetable problem. We will try to finish the discussion quite quickly. We move on to

inspired questions. We will pursue two issues with ministers. The committee accepts that ministers want to use inspired questions and answers, but we still have some difficulty in identifying which issues ministers choose to publicise through inspired questions. I browsed the Executive's website yesterday, when I think that 12 press releases were issued. All contained new information or positions, and one was attached to an inspired question. I still have no sense of when or why an inspired question seems appropriate.

Will the minister respond to the suggestion of tagging inspired questions when they are lodged, to alert all members to the fact that it is intended that an answer will be given within a day or two at most?

11:30

Mr McCabe: I was grateful that the committee acknowledged that inspired parliamentary questions have some relevance. They have considerable relevance in an institution that meets in plenary for one and a half days. It is not possible for the Executive to deal with all its work directly through the chamber. Any reasonable person would fully recognise that.

I would be disappointed if policy changes were announced through press releases that were not accompanied by an inspired parliamentary question. Occasionally, that may not happen. We spend considerable time stressing to ministers the importance of ensuring that Parliament is given its proper place. I would be interested in working with the committee if it could show me examples of Parliament not being given its proper place. If a press release announces a policy decision, it should be accompanied by a parliamentary question, to ensure that the information is available on the parliamentary system to all parliamentarians. That is a perfectly legitimate route.

I am disappointed when, for point-scoring reasons, some Opposition members try to portray the MSPs who put their names to inspired parliamentary questions as lackeys. That is inappropriate and does not recognise the practicalities of running an institution with one and a half days of plenary meetings. I ask the committee to give us any assistance possible in stopping what I consider quite offensive behaviour of making accusations about people who are assisting in the transmission of information to other members. Such caricatures are inappropriate.

The mechanism is appropriate. I hope that we always accompany a policy announcement with an inspired parliamentary question. I would be more than happy to receive examples of our not doing

that and to do anything that I can to ensure that that does not happen in the future.

If the committee feels that tagging questions is appropriate, that is fine. I have no objections to that in principle, other than to reiterate that I fear that some people will abuse the system and use press releases to try to denigrate other members. That is an unacceptable practice.

The Convener: The Presiding Officer dealt with the incident to which the minister refers. We need not pursue that further.

Mr Paterson: If questions were tagged, we would know where members were coming from and no one would be able to level accusations at anyone, because we would all be involved in the game. However, the perception is that some members are assisting the Executive. It is not the job of back benchers to assist the Executive. Ministers should do their own work. Nevertheless, if questions were part and parcel of the system and were tagged, I do not think that anyone could complain.

Mr McCabe: I agree—I do not think that anyone could complain, but I reserve my position on whether members will complain. I appreciate what the convener said about that incident, but such events have happened more than once. We are becoming more sophisticated—perhaps that is the wrong word—about the ways in which information is put into the press. In the past few weeks, I have noticed small articles in the newspapers that may not contain names, but allege that some members are inappropriately co-operating with the Executive.

We should monitor the situation. I hope that, if we felt that the tagging system was being abused, the Procedures Committee would be prepared to recognise that with us. In principle, we have no difficulty with tagging inspired questions. I hope that the Procedures Committee will assist us in reinforcing the point to Parliament that the inspired parliamentary question is a viable mechanism for ensuring that the Parliament and its members are given their proper place.

The Convener: We will be happy when, having gone through all the issues, we reach the stage of reporting on them, in order to set the seal of approval on the process. I hope that that will protect individual back benchers from adverse comment.

I see signals being exchanged—are members concerned?

The Deputy Minister for Parliament (Euan Robson): Sometimes when the Executive makes an announcement, it uses a question that has already been lodged. A tagging system would have to take into account the fact that a minister

may look down the list of questions and see one that is an appropriate vehicle. I am not altogether clear how the tagging system would work in such situations. I was almost in that situation myself—I had drafted a question but was then asked to lodge a question. I did so, but the text was the same. I understand that the Executive has used questions that have been lodged already. It might be unfair to the member who had already lodged a question if their question was tagged. I do not know how we will cope with those situations, which is a relevant consideration for the committee.

The Convener: If ministers decide to use a question that has already been lodged, it is obvious that that question would not have been lodged as an inspired question. It would not be tagged—it would simply be a question that had been lodged to which the answer might incorporate an announcement on a shift in ministerial policy.

I recall that, about a year ago, the Minister for Transport—who was then the Minister for Transport and the Environment—did something on the back of one of my questions. I was somewhat surprised by that. For some reason, my question was chosen for a response on borrowing consents to water authorities. I have no difficulty with ministers choosing that approach. In fact, some members have complained that questions that they lodged have not been used as the vehicle for information that has subsequently been delivered by means of an inspired question. Members would appreciate knowing what the rules are and having an agreed procedure. Once a procedure has been agreed, I hope that we will all be able to live with it.

Donald Gorrie: I take Mr McCabe's point about the shortness of the parliamentary week. Either a statement is given that is open to questions and takes about half an hour or there is no statement. Would it be worth considering making what might otherwise have been an answer to an inspired question into a statement of two minutes or less but without questions? Such statements would be on the record and people in the chamber would be able to hear them. I appreciate that there might be some rumblings about that and that people might say, "It's very wicked to have a statement without questions." However, my view is that it would be better to have a statement with no questions than to have no statement at all.

Mr McCabe: It is important to stress that statements are for urgent, rather than routine, issues. Although it is not always made clear in the chamber, the majority of statements are emergency statements; we will have received permission from the Presiding Officer to make an emergency statement on the date in question.

I do not share Donald Gorrie's optimism about

the way in which a statement, however brief, would be received if there was no facility to ask questions on it in the chamber. Members would rightly become aggrieved about that.

The point was raised about the lodging of an inspired PQ when another member had already lodged a PQ on the same subject. I can think of an example in which a member was rightly aggrieved that, although they had asked a question some time previously, the answer appeared through an inspired PQ. That procedure was entirely wrong and the Executive learned that lesson. It has been stressed strongly to ministers that when they wish to make an announcement through an inspired PQ, they should always check to see whether a question that has been lodged already could be used instead.

Brian Adam: I welcome the minister's approach to inspired questions. We should tag those questions, notwithstanding the difficulties that may arise from that.

The minister highlighted the case in which members were being criticised for lodging inspired PQs. However, the counterpoint is that, on more than one occasion, the Executive parties have criticised individual MSPs about the number and relevance of questions that they have lodged. There has been some biting of tongues on that issue. I was certainly the victim of such criticism when I represented the genuine interests of beekeepers in my area. Although I accept that the inspired question is a perfectly legitimate tool, the feeling shared by most committee members is that it should be transparent, which should reduce the risk of attacks on individuals. However, I ask the Executive parties to be careful about how they handle the other side of the issue.

Mr McCabe: I fully accept that relevance is subjective and that what is important to one person might not be so to others. However, every MSP has the responsibility to ensure that the system is used to best effect. That decision is down to each individual.

Mr Macintosh: I have a suggestion rather than a question. I welcome the modifications because they will mean greater transparency and will, I hope, give the process credibility. However, if they are not accepted by all sides, I wonder whether the Executive would consider forgetting the questions system altogether and moving to a system in which information is published in a parliamentary gazette. Although I understand Donald Gorrie's suggestion, I do not want ministers taking up any more of our parliamentary time with lists of their policy announcements. An Executive publication might be a more transparent and acceptable method.

Mr McCabe: That is a suggestion. However, I

think that it is important that parliamentarians are given their proper place. It is also important to the Executive that its announcements are received in the best possible light. As a result, we would not be over-keen to have a system that revealed at 5.30 pm one day the details of what ministers were going to say at 12.30 pm the next. There are print deadlines to meet and, having some knowledge of how the world works, I know that secrets are hard to keep. There is an imperative on both sides in this matter.

Brian Adam: In response to Kenneth Macintosh's positive suggestion, I think that the danger with the gazette system is that there is no forewarning. With the current system of inspired questions, there is at least a warning that an announcement is coming within a period of time, which better satisfies the parliamentary scrutiny process. Although I am sure that the suggestion was made with best of intentions, I believe that the inspired question is a perfectly acceptable technique and that parliamentarians who are keen on scrutinising all the daily details will be prepared and in a position to respond.

Michael Lugton: I will make what might seem a rather fine point. The justification for the inspired PQ system is that the process begins with an MSP asking a question and the Executive responding to that inquiry. That is the right process for anything that goes on to the parliamentary record. If we had a parliamentary gazette, for example, questions would arise about how Parliament controlled what was in it. I struggle with the proposition that the Executive should be the editor or author of a parliamentary document without any parliamentary control. Those may seem rather theoretical points, but there are some important underlying constitutional questions that should not be overlooked.

The Convener: Do you mean that parliamentarians sometimes refuse to ask an inspired question?

11:45

Michael Lugton: That is right. It seems to me that the advantage of the inspired parliamentary question system is that the Executive has to approach a member of Parliament and ask him if he will raise the issue. It is open to the member to say no. Control rests with the legislature, rather than with the Executive.

The Convener: Has every inspired question that appears in the business bulletin been the subject of that procedure? Has a member been approached and agreed to the question being lodged in his or her name?

Michael Lugton: As far as I am aware, that is the process that is followed.

Mr Macintosh: I completely agree that the Executive should not control parliamentary time or publications. Perhaps such a publication should be called an Executive gazette, rather than a parliamentary gazette. I do not think that the Executive should command parliamentary time any more than it does. There must be some mechanism that is controlled by the Parliament for getting out that information. Even if it is inspired control, it should still be controlled by the Parliament. I hope that the reforms will work. If they do not, we should consider the matter again.

The Convener: Your gazette will reappear, will it?

Mr Macintosh: The Macintosh gazette.

The Convener: Are we going to call it the Macintosh gazette?

Mr McAveety: Ken Macintosh must have shares in a publishing company.

The Convener: We are bordering on frivolity now.

If there are no further questions, we shall proceed to the issue of question time. The point was raised during our deliberations that we could increase the length of question time or introduce questions to ministers on Wednesday afternoons. What is the Executive's response to those suggestions?

Mr McCabe: We have already reviewed the amount of time that is devoted to question time and increased it from 40 minutes in the early days to an hour. Approximately an eighth, or about 12 per cent, of available plenary time is handed over to question time. The Executive thinks that that strikes a reasonable balance as a proportion of the overall time available in the chamber.

We currently have 90 minutes after question time on a Thursday afternoon. Often, we are near the margins in terms of the usefulness of that debate slot. The more that that 90-minute period is reduced, the more frustration builds up among parliamentarians about their ability to speak and contribute to the debate. Frustration levels rise proportionately with the reduction in the amount of time that is available for a debate. That causes a practical problem. If we increase question time by 15 minutes, the usefulness of the remaining slot comes into sharp relief.

At the moment, we have two hours and 25 minutes for debates on a Wednesday. If we move question time to a Wednesday, and take an hour or more off that time, we could arrive at the same position as we find ourselves in on a Thursday. It is difficult to see how relevant that debating slot would be. Those are practical considerations. However, I reiterate that we should consider changes against the background of the

Executive's feeling that the proportion of plenary time that is currently devoted to questions is reasonably balanced.

Donald Gorrie: I think that a longer time should be allowed, but let us set that aside for a moment. Because we ask questions of the Executive as a whole—at Westminster, members address their questions to a specific minister—we do not have our questions brigaded together. Might it help the quality of the debate, or the minister, if the first half of question time this week dealt with health issues and the second half dealt with the environment, and if next week's question time dealt with education and economic development, or whatever? Would that be better than questions being dotted about all over the place, as they are at the moment?

Mr McCabe: We would be open to that suggestion. However, a cursory examination of question time would reveal that areas such as health and transport receive a disproportionate level of attention. I wonder whether it would be unfair on the ministers with responsibility for those areas if they were required to make a more regular appearance in a prolonged slot. Nevertheless, we should be prepared to experiment and to consider other ways of conducting question time. I am not entirely convinced that the parliamentarians would be satisfied by such a move, but an experiment might answer your question.

The Convener: We have not considered such a move in any depth in our report, but I expect that we will undertake a further review of questions—that work will never end—and we will be able to explore such issues then. Are there any other points to raise about question time?

Members indicated disagreement.

The Convener: The penultimate section of the report deals with a range of issues that we called, for convenience, annexe E issues, as they are in an annexe that reveals that they will not be pursued further in the report. You have received the report, minister. Is there anything in that section that you feel we should pursue? Do you have any points to make on any of those issues?

Mr McCabe: No. I have noted the committee's position and I am content to leave the matter. If the committee is happy, I am happy.

The Convener: The final item is the transparency of answers involving third parties. In essence, we are trying to close down the unfortunate practice of issuing to individual members private responses that never reach the public domain. We recommend steps to ensure that certain documents and letters from the executive agencies are reproduced in the text of ministers' answers. That may delay some answers, but it would ensure that the material was

accessible equally to everybody. Do you have any views on that issue?

Mr McCabe: When, in answer to a question, a minister has undertaken to write to a member, we would be content for that answer to be included in the written answers report. The incorporation of letters from third parties would be a matter for the Parliament to decide, but it seems a dangerous step to take. The Executive and the Parliament would not be responsible for the responses that were received from third parties. To incorporate such responses in the *Official Report* would be inadvisable, and I would not be keen to do that.

The Convener: Does Janet Seaton have anything to raise in relation to this item?

Janet Seaton (Scottish Parliament Information Centre): My only concern is that, if the answer promises that somebody else will write to the member, that letter should be made available. The remedy may lie in the wording of the answer.

Mr McCabe: Yes, the remedy lies in the wording of the answer. The Executive should not promise that someone else will write to the member. If the subject of inquiry is more appropriate to another agency, the Executive should indicate that and advise the member that their inquiry would be more appropriately raised with that organisation than with the Executive. It would not be appropriate for the Executive to undertake to pass on letters, as that would imply that the Executive was responsible for ensuring that a reply was forthcoming, and we cannot guarantee that. It would be more useful for the Executive to indicate to the member that the matter would be more appropriately raised with an external organisation.

The Convener: Are there any further points on that item?

Members indicated disagreement.

The Convener: That takes us to the end of appendix A. Appendix B includes the statistics for reviewing performance up to the most recent period, which is February to March, or March to March in certain tables. The minister has referred to those statistics already. Are there any further points that the ministers or committee members would like to raise?

Mr McCabe: March was encouraging. In March, we managed to answer almost 1,000 questions. I hope that that demonstrates the considerable emphasis that has been placed on clearing the backlog of questions.

The Convener: As there are no further points, I draw the discussion on the report to a conclusion.

On behalf of the committee, I thank the ministers and their officials for attending this morning. We

have had a useful discussion, and we will reflect on the evidence that was given and the views that were expressed when, at our next meeting, we finalise a report to be submitted to Parliament for approval. I stress what I said earlier: this has been a second bite at parliamentary questions—not the last bite—and there will be plenty of opportunities in future to review practice as we work together to evolve a satisfactory way in which to handle that aspect of our business.

Mr McCabe: Thank you, convener. I express my appreciation for the way in which committee members have presented their questions.

11:56

Meeting adjourned.

12:02

On resuming—

Parliament and the Executive (Relations)

The Convener: The next item on the agenda is the paper by Donald Gorrie that we deferred, which makes suggestions on how we should handle effectively Executive defeats in the Parliament.

Donald Gorrie: The genesis of the paper was the publicity that accrued after the various votes on fishing. I accept that according to the Scotland Act 1998 and the law in general, the Parliament does not have a legal power to compel the Executive to do something, but that needs attention, because it seems pretty bizarre that we can vote to throw out the Executive, but we cannot vote to say, “Please do X.” The publicity of the fact that the Executive ignored the will of Parliament was damaging to us all, so I have composed a suggestion.

I accept that Parliament may, in its enthusiasm, pass a motion that is illegal, or on reserved matters, or which is impossible to put into effect either for technical reasons or because it would be far too expensive. I do not think the Executive should instantly leap into action to implement whatever Parliament votes for, but it should be compelled under standing orders to respond. I suggest that the Executive should respond within a couple of weeks, to say, “Yes, we are putting into effect what you have asked for by doing A, B and C,” or “It is not legal to do what you have asked,” and give reasons, or, “It is not possible because it is not financially feasible, but to try to meet your objective we are doing X, Y and Z instead.” The Parliament could then decide whether the response was reasonable and if it did not think it was, pursue the matter in another debate.

I suggested on a previous occasion that we could run the proposal past our parliamentary groups. The only hostile comment I got from our group was that it was badly timed and would be seen as anti-Executive action, which it is not—it is a response to a series of events that brought us all bad publicity and it is an endeavour to balance the powers of the Executive and the Parliament. It is an issue that is worth pursuing. I hope that the committee agrees that the suggestion should be conveyed to the Executive. Thereafter, we could hold a debate on the issue, at which somebody may have a better suggestion about how to deal with the situation.

The Convener: I do not suppose you would be prepared to tell us whether it was George Lyon who complained that it was an anti-Executive proposal.

Donald Gorrie: It was not, actually.

The Convener: Did you feel that the way in which the Executive handled the particular incident—I do not mean the final decision in the debate, but when it discussed whether to come back to Parliament or whether it had the ability in effect to ignore Parliament, but ultimately came back with a statement and a debate—was the correct way? Would your proposal make much difference, because I am not clear what is different between what you propose and what the Executive ultimately agreed to do on fishing?

Donald Gorrie: That is a fair comment. A lot relates to how things are done. In the heat of the moment, unhelpful remarks were made on all sides of the argument. I felt that the Executive was trying to respond to the issue of short-term assistance to fishermen. Whether that short-term assistance was effective is a matter of opinion. I was persuaded to vote for it, but I have doubts as to whether my vote was well cast.

The Convener: I am not trying to go into the rights and wrongs of the issue; I am trying to stay with the procedure. You will remember that there was a discussion about whether the Executive could simply turn its face against what was decided. Ultimately, there was another debate the following week. It may be that the issue did not move on, but the Executive came back and won a vote. That is in effect what you are calling for.

The only difference I can see between what happened and what you are calling for is that you are asking for what happened to be accepted as the practice, rather than something that is—as it appeared to be in the particular case—in the gift of the Executive. That is, the Executive happened to decide to proceed in that way, but it argued for a few days that it did not have to. What you are asking for is just recognition that what was done was the proper way to sort the matter out—whether you like the ultimate decision or not is immaterial—and that it is the way in which any similar circumstances should be dealt with in future. You are looking for a statement from the Executive saying, “If we lose a vote in Parliament we will come back with a response.” Is that a fair summation of your position?

Donald Gorrie: Yes. I am not sure that the wording of the Executive motion in that instance was in line with what I propose, but in effect, it was an Executive response, which is what I am asking for. Just in case a future Executive takes the line that it does not have to pay any attention to a vote in Parliament, the procedure should be laid down

in standing orders.

Mr McAveety: I disagree with Donald Gorrie's suggestion that the procedure needs to be enshrined in that way. He touched on the key issue, which is the handling strategy in the 48 hours after the vote, rather than the fact that, in the following week, the Parliament readdressed the issue. Irrespective of the differences of opinion among members of our political parties, it would be inappropriate to enshrine the procedure, as the situation would probably have arisen as it did anyway.

The broader concern in Donald Gorrie's submission is the handling strategy. It would be inappropriate to enshrine a procedure when mechanisms are already in place. Thinking outside the box, it is clear that it is a political judgment to ignore the Parliament's intention and that the Executive will pay the consequences if it continues to ignore it. Political judgment must be exercised and that is a better way of dealing with such situations than having the procedure enshrined in new guidelines.

Brian Adam: There is no doubt that the situation that led Donald Gorrie to produce the paper brought parliamentary procedure into disrepute. The general public expect the will of Parliament to be acceded to. Whether we should constrain the Executive procedurally and how we could do so are much wider issues and I am not sure that Donald Gorrie's suggestion would address them. He is trying to ensure that the Executive follows a certain course of action if it is defeated.

Would it be reasonable for an Executive to return to the Parliament repeatedly, seeking a fresh mandate to do what it wishes, without subsequent action? I do not think that we should leave the matter wholly open, as Frank McAveety suggests, and allow the Executive to react to a defeat in whatever way it feels is appropriate, but I am not sure how any procedural constraints could be implemented. Donald Gorrie's proposals would not prevent what happened from happening again.

The Convener: Except that, initially, it appeared that the Executive would not accept the defeat, although it subsequently thought better of that. Donald Gorrie is trying to lay down some kind of procedure or addition to standing orders, but those are secondary considerations. The issue is whether we want to engage with the Executive and suggest that there are proper ways in which to respond in such situations.

Brian Adam: I agree. We need to find a mechanism that is widely understood for dealing with a Government defeat on an issue. Perhaps we should invite the Executive's view on the matter, as it as well as the committee should give

serious consideration to it. The incident did not enhance the reputation of the Parliament or the Executive.

Mr McAveety: The reaction to the debate in Parliament resulted in the Executive's returning to the issue the following week. Establishing a mechanism to ensure an automatic return to the Parliament would alter the balance of political judgment. In the light of the concern about the result and the Government's reaction to it, it was appropriate for the Executive to call for further deliberations to address concerns that were not voiced in the first discussion. That happened for that specific issue, although the situation might be different on other issues. We should be flexible rather than rigid on the matter of an issue's returning to Parliament.

Mr Paterson: Our starting point is the fact that the public perception worldwide is that, in a democracy, when a majority votes for something in a Parliament, it happens. In this instance, the perception was that the present Government would just go on until it got its way.

Brian Adam: It would keep asking the question—

Mr Paterson: Yes, it would go for another vote until it won. That damages the Parliament and the responsibility that we all have as MSPs. We would be as well not taking part in debates if the Executive eventually wins.

Donald Gorrie's paper is useful in that it puts the issue on the table, but it does not answer the question. I propose that we ask for an issues paper on what happens elsewhere. That would be worth while. Usually I would come armed: I would ensure that I knew the answer before I asked the question. I do not know the answer. If there is a way of handling the matter in other democracies that works and is seen to work well, I suggest that we ask our officials for a paper on them.

12:15

The Convener: We could ask them to focus on Parliaments where there is a coalition or a minority Government, to see what solutions they have found.

Mr Paterson: That is a fair suggestion.

Mr Macintosh: There would seem to be broad agreement about how to proceed. My own interpretation of the event is that it was the first time that the Executive had been defeated and that the Executive did not intend to defy the will of the Parliament. That would never be the case. I say that as a member of the main party in the Executive. For the first time, the Executive was faced with a situation and it responded in a certain way. If that response has been interpreted by

different people in different ways, that is unfortunate.

The Executive would never have been able to defy Parliament. Not only that; there are plenty of procedures in place by which Parliament can force its will on the Executive, not least of which is a motion of no confidence. There are any number of methods by which we can control the Executive.

We should not follow the suggestion made in Donald Gorrie's paper, not because it is from Donald Gorrie, but because I can envisage that a minority Administration could be defeated quite often—I do not mean any slight to our Lib Dem colleagues by that, but that is easy to envisage, not just in this session but in future sessions. We cannot put a formal procedure in place to tie the Executive to a course of action, so that the Parliament in effect becomes the Executive.

We might need to do further work on the matter, but rather than ask for an issues paper, a more positive step would be to write to the Executive to ask for its views on what should be done in the event of the Executive being defeated. I suspect, and I hope, that the Procedures Committee would welcome the Executive's response. Once we had received the response, we could take a decision on how to proceed if it continues to be an issue.

The Convener: The Executive might not welcome that, because it does not want to contemplate the possibility of losing votes publicly in the Parliament, or of the steps that it would take if it lost theoretical votes. In this particular dispute, there was strong pressure on the Executive. There was an expectation, eagerly fanned by the press, that because it had lost a vote in Parliament, the Executive would change its policy. In a sense, by asking the Executive for a procedure for such circumstances, we are underwriting the Executive's right to go back for a second opinion. We should know what the likely ground rules are for each coalition and each governmental relationship in each Parliament.

I would like to explore that further. I am fairly open about whether we ask for an issues paper or seek an Executive response as a first step. It is obviously open to us to do both—simultaneously or seriatim.

Mr Paterson: I do not disagree that we should seek the views of the Executive—we will need to do that anyway. However, I would rather be forearmed with information about what happens in other Parliaments before I have a wee chat with the Executive about Donald Gorrie's proposal. In other words, if we find no resolution to the matter from any other Parliaments I would, to be frank, just pass it back to the Executive.

The Convener: It might help to shape our expectations if we knew what other Parliaments

did. Could we do a little bit of research on other Parliaments, come back with a further report and then consider whether we want to pursue the matter and, if so, how?

Members *indicated agreement.*

Donald Gorrie: I am obliged to members for their comments. It would be helpful to find out what happens in other Parliaments—I was going to suggest that. However, one Parliament cannot bind another.

I was certainly looking forward, as Kenneth Macintosh was, to the possibility of a minority Government. However, even in the present arrangement, the two parties can break off the coalition and get divorced at any time, but to have an intelligent matrimonial disagreement does not seem to be possible, although it should be. There could be issues that are not coalition-breaking or Government-felling, but on which there might be an opposing majority in the Parliament. I suppose that that was the case on warrant sales. It is a technicality whether that was an Executive defeat.

It would be better if MSPs knew the ground rules. At the moment we do not. I accept that the wording of my proposal to sort that out might not be brilliant. However, we should pursue the matter. It would be interesting to find out how the European countries that have minority Governments—some of them even have minority coalitions, which must be even more difficult—cope with such matters.

That would be helpful, but I suggest that we could simultaneously write to the Executive and pursue the research that Gil Paterson suggests.

The Convener: I have no difficulty with doing those things simultaneously. We could obviously send a copy of the *Official Report* of this debate to the Minister for Parliament and ask whether the Executive has any views that it wishes to express on the matter. We could commission some research. We do not want an academic tome, just a thumbnail sketch of situations in other Parliaments. That might help us to make progress on the matter.

If the recent dispute brought the political process into disrepute to any extent, it was primarily because nobody knew what would happen when a vote went against the Executive. The expectation was that the vote meant more than perhaps it realistically could have meant. It might be an important step for us to take to try to clarify what should happen in such circumstances, although I suspect that we might find some reticence about discussing theoretical defeats.

Patricia Ferguson: Although I welcome the idea of getting examples from other Parliaments—and, presumably, Assemblies—I suspect that that

exercise will not necessarily be helpful to us in so far as, as with many other matters, we will be inventing new rules for the situation. There are not many Parliaments that have the same constitutional arrangements that we have and which are unicameral. I suspect that any information that we get might not be as helpful as that which we might find in other areas of our work. That is a slight caveat so that members do not get too excited about the information that comes in about other Parliaments, which might not necessarily fit what we are trying to do here.

The Convener: That narrows the research focus to unicameral Parliaments. The clerks had anticipated that. Obviously there are some interesting issues to address. We will see what response comes back and then discuss the matter further.

Bills (Amendments)

The Convener: The next item on the agenda is consideration of committee amendments. It has been suggested that it would be possible to identify certain amendments to bills as committee amendments without changing the standing orders. Mike Watson, the convener of the Finance Committee, is the originator of the correspondence. Because this is an Andrew Mylne issue, he joins us for this discussion. Andrew, do you have any comments to make as a preface to our discussion?

Andrew Mylne (Scottish Parliament Directorate of Clerking and Reporting): Very few, convener. As the paper explains, it is quite a straightforward and essentially administrative proposal that requires no changes to standing orders. I have spoken to Mike Watson, who originated the correspondence, and he has said that he is content with our proposal and that it meets his initial suggestion.

The Convener: Is the committee broadly content with what has been suggested?

Donald Gorrie: I have a question that probably reflects my ignorance of the law. Might a committee be acting wrongly if it lodged an amendment during stage 2 discussions? In other words, if a committee is acting in a judicial capacity by going through a bill and agreeing or disagreeing to amendments, and then lodges its own amendment, is that a problem legally, morally or in any other way?

Andrew Mylne: The paper does not envisage that a stage 2 committee—that is, the committee to which the bill has been referred for stage 2 consideration—will lodge committee amendments. The mechanism would be that other committees should lodge amendments at stage 2. It seems unnecessary for the stage 2 committee to agree to lodge an amendment in its name, because the same committee will dispose of the amendment. If the committee agreed that an amendment was desirable, it could simply agree to it and enter it into the bill.

The Convener: I presume that the same applies to committee amendments, other than amendments from the lead committee that are lodged at stage 3.

Andrew Mylne: Indeed. At stage 3, it might be appropriate for the committee that conducted the stage 2 debate to lodge an amendment in the committee's name. The decision whether an amendment is agreed to and should therefore become part of the bill is for the whole Parliament to make.

The Convener: Thanks for that clarification.

Brian Adam: Although I can understand the motivation behind enhancing the weight that is given to committee views in the Parliament, I have some concerns about the idea that committee members are bound by committee decisions. An amendment might well have been agreed to without any particular challenge, because the matter had not been scrutinised as much as it might have been. One of the dangers of our unicameral system is that there are no arrangements for revision, which is probably why it is important to deal with matters as best as we can at stage 2. However, I can well imagine a situation in which fresh information comes to light after the committee report is published. Although I am in favour of the notion that committees should be regarded as an important part of the Parliament, I am not too convinced by the idea that we should bind committee members to committees' views. That might undermine the position of a convener or vice-convener who lodged an amendment on behalf of a committee.

The Convener: I do not think that the proposal is intended to be binding. Paragraphs 12, 13 and 14 of the paper make it clear that committee members cannot be bound in that way.

Brian Adam: If the members are not bound, the underlying premise that the committee can lodge an amendment is—

The Convener: The point was—well, I do not even remember the initial issue that gave rise to the proposal. Based on the information that it had, the Finance Committee firmly held the collective view that an amendment should be passed. The committee felt that it would give its viewpoint greater weighting in other people's deliberations if it were possible to express the amendment as a committee amendment. Clearly, if a committee amendment unravels and in the light of subsequent discussion, information, party pressure, full attendance or anything else—who knows what might change—committee members do not entirely support the amendment, that would delete the significance of the collective view. However, if a committee felt that, despite what fate could throw at it, it still held to its view and wished to express it, it is not unreasonable for such a committee to find a way to express its point of view.

That said, we recognise that, if the whip comes out and a member is told that he or she will vote the other way, he or she will vote the other way. This is simply an attempt to strengthen a committee's voice, particularly where the committee has a clear-cut view that might be in conflict with the views of the ministers who are in charge of bills.

Brian Adam: Okay.

The Convener: Sorry about that—it was a bit of a sledgehammer. Are we agreed?

Members *indicated agreement.*

The Convener: I think that we have to write to everyone concerned.

Financial Resolutions (Amendments)

The Convener: The final item on the agenda is consideration of a paper on amendments to financial resolutions, which is also an Andrew Mylne issue. Andrew, do you want to say anything about the paper?

12:30

Andrew Mylne: Very little. This short paper was prompted by a question at the committee's previous meeting, which was on a point that had not been addressed by the financial resolutions working group that I chaired.

The Convener: I commend your turnaround.

Andrew Mylne: It is useful to have this opportunity to complete the picture. The fact that standing orders do not provide for motions to amend financial resolutions was almost certainly an oversight. It is consistent with the spirit of the existing rule—and indeed the new rule that the committee has recommended—that that situation is corrected. I hope that it will prove to be a relatively uncontroversial matter.

I have one more point to make. Earlier, I spotted a slight error in the annexe to the paper. The final rule change should refer to rule 9A.14.7, not rule 9A.14.4. That is merely a typographical mistake.

The Convener: Does the committee agree to that manuscript amendment?

Members *indicated agreement.*

The Convener: If we say that such a motion might not be amended, the word “amended” in this context does not have a meaning that would prevent the negation of a financial resolution.

Andrew Mylne: Certainly not. The Parliament's decision on whether to agree to a motion remains a straightforward—“Take it or leave it”.

The Convener: That is fine. Subject to that clarification, are members agreed to the proposal, which will go to Parliament in a subsequent report?

Members *indicated agreement.*

The Convener: That brings the meeting to a conclusion.

Meeting closed at 12:32.

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