PROCEDURES COMMITTEE

Tuesday 4 February 2003
(*Morning*)

Session 1

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PROCEDURES COMMITTEE
4th Meeting 2003, Session 1

CONVENER

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

DEPUTY CONVENER

*Mr Kenneth Macintosh (Eastwood) (Lab)

COMMITTEE MEMBERS

*Susan Deacon (Edinburgh East and Musselburgh) (Lab)
*Donald Gorrie (Central Scotland) (LD)
*Fiona Hyslop (Lothians) (SNP)
*Paul Martin (Glasgow Springburn) (Lab)
*Mr Gil Paterson (Central Scotland) (SNP)

COMMITTEE SUBSTITUTES

Phil Gallie (South of Scotland) (Con)
Trish Godman (West Renfrewshire) (Lab)
Richard Lochhead (North-East Scotland) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Lee Bridges (Scottish Parliament Directorate of Clerking and Reporting)
Hugh Flinn (Scottish Parliament Directorate of Clerking and Reporting)
Andrew Mylne (Scottish Parliament Directorate of Clerking and Reporting)
Catherine Scott (Scottish Parliament Directorate of Legal Services)

CLERK TO THE COMMITTEE

John Patterson

SENIOR ASSISTANT CLERK

Anne Peat

ASSISTANT CLERK

Lewis McNaughton

LOCATION

Committee Room 4

Scottish Parliament

Procedures Committee

Tuesday 4 February 2003

(*Morning*)

[THE CONVENER *opened the meeting at 09:32*]

Election of Presiding Officers

The Convener (Mr Murray Tosh): Good morning and welcome to the fourth meeting this year of the Procedures Committee. Paul Martin apologises for being late—doubtless the transport system is creaking slightly again today.

The first item on the agenda is a paper on the election of the Presiding Officers, for which Lee Bridges of the Scottish Parliament Directorate of Clerking and Reporting joins us. I invite him to comment on the paper.

Lee Bridges (Scottish Parliament Directorate of Clerking and Reporting): I am here to report back to the Procedures Committee following its approval of our review examining the procedures that were in place when we last elected the Presiding Officer and Deputy Presiding Officers. Our review also ascertained whether those procedures were fit for purpose. We considered several things and concluded that the procedures were satisfactory last time, and we are thankful that the Parliamentary Bureau agreed. We are happy to take comments from the Procedures Committee.

The Convener: Do members wish to make any comments on that Panglossian recommendation?

Mr Kenneth Macintosh (Eastwood) (Lab): The procedure is so successful that other Parliaments, including Westminster, are copying it. That is an endorsement.

Mr Gil Paterson (Central Scotland) (SNP): With reference to the recommendation that each of the candidates gets 10 minutes—

Fiona Hyslop (Lothians) (SNP): That recommendation refers to the nomination of the First Minister.

Mr Paterson: I am sorry. I started on the wrong section.

The Convener: The committee is very dedicated.

Mr Paterson: I thought that I would hurry it up a bit.

Donald Gorrie (Central Scotland) (LD): I am happy with the secret paper ballot and with counting votes in the hall and so on. We should hold the ballot as late as the law allows so that people can consider the issue for as long as possible.

The Convener: That is more of an operational decision than a decision about the rules. The rules specify a time period within which it must be done.

Lee Bridges: Rule 3.2.1 says:

"The Parliament shall, at its first meeting after a general election, elect from among its members a Presiding Officer."

That means that it has to be done on the first day, after the oath taking.

Donald Gorrie: Is that in the Scotland Act 1998?

Lee Bridges: It is in the standing orders of the Parliament.

Donald Gorrie: If it is not in the act, we can change the rule.

Lee Bridges: I am not sure whether it is in the act. I will have to check that.

Donald Gorrie: It might be worth holding back the meeting at which we swear ourselves in. I do not know whether that counts as a meeting.

The Convener: That would be fixed in relation to the meeting to elect a Presiding Officer, which would probably be arranged in order to aggregate in two or three days all of the key decisions, including the election of a Scottish Parliamentary Corporate Body and, presumably, the swearing in of a First Minister, if possible. Essentially, those are juggling arrangements that take place within the framework of rules that are laid down. It would be possible to change the rules, but you would need to consult and have pretty good reasons for doing that. I do not think that we have the time to do that.

Donald Gorrie: I simply feel that we should not rush into things. Apart from that issue, I am content with the report.

The Convener: Do we agree to note the proposals?

Members *indicated agreement.*

Scottish Parliamentary Corporate Body Elections

The Convener: The next paper deals with the election of members of the SPCB. Everybody was frustrated the last time there was such an election because there were four nominations for four positions but we had to have four separate elections as there was no facility whereby the four people could be elected in a consolidated way to the four positions.

A range of issues is examined in the paper and most aspects of the process have been found to be fit for purpose. However, paragraph 29, which summarises the issues, suggests that we consider changing the standing orders in order to allow the option of a single vote where the number of candidates is equal to the number of vacancies, unless anyone objected to that. That would reduce some of the time that is spent on the exercise.

I am bound to say that I do not think that the next election will be as awkward as the last one was, when no one knew the rules and the meeting had to be suspended while everyone got the situation explained to them and we all had to have our hands held while we pressed the yes buttons for the appropriate people.

Of course, it might be that we will never again have a situation in which there are four candidates for four vacancies. These things cannot be predicted.

Paragraph 29 also asks whether the period of 10 sitting days within which the election of members of the SPCB should take place is sufficient, or whether, given the longer period set for the First Minister and ministers, the period should be amended. It also asks whether we think that the nomination period of up to 30 minutes before the election appears to provide sufficient flexibility or whether we want to change that rule. We are further invited to consider whether we are happy to stay with the electronic voting system and whether the current arrangement whereby the Presiding Officer can appoint members of the SPCB should remain.

Mr Macintosh: For the sake of clarity, I point out that the current four members of the SPCB will remain members of the SPCB throughout the period of dissolution. Therefore, when the Parliament meets again after the election, we will have four members of the SPCB, plus the old Presiding Officer.

The Convener: At least two of those people will not be members of the Parliament, which is why it is proposed that we move as quickly as possible to the election of a new corporate body.

Mr Macintosh: Will the two members who were previously members of the SPCB need to seek re-election?

The Convener: No. They retain their responsibility until they are replaced. The argument is that, if all members of the SPCB stood down at once, there would be no SPCB at all for a week or 10 days but somebody has to be responsible for anything that might happen in that period. However, it is clearly not desirable that non-members should hold those posts and it is essential that those positions be filled quickly.

The issue has arisen because it has been suggested that a longer period should be allowed. In particular, there has been discussion about whether the corporate body should be formed after the Government has been formed. The argument in that regard is that members might choose not to be elected to the SPCB because they had hopes of ministerial office. However, the recommendation is that we retain the status quo and fill the post with new people more or less as soon as there is a Parliament. That might happen on the same day as the Presiding Officer is elected, but it would certainly take place no more than 10 days after the election.

Donald Gorrie: The point you dealt with is a strong one. We want the best possible people on the SPCB. Members who have hopes of either ministerial office of some description on the Government side, or some prominent position in the Opposition parties that might hamper them from being members of the SPCB, might be discouraged from standing. It is more sensible that the Government and the parties sort themselves out and then we elect the members of the SPCB. I am sure that some interim arrangement can be made for the intervening period, during which dramatic decisions need not be made. My preference is for a longer time in which to elect members of the SPCB. Otherwise, the voting system is fine. When we start with four candidates for four vacancies, or once we have got down to four candidates for four vacancies, a single vote seems sensible.

The Convener: The difficulty with a prolonged period in which previous members of the SPCB remain in place is, of course, that a month will already have passed, from the end of March, in which the Parliament will have been dissolved, no one will have been an MSP, and all five SPCB members will have been non-MSPs. You suggest that we add another 10 days to that, in the expectation that nothing dramatic should happen. However, that period will now have stretched to six weeks, and it is likely that decisions will have to be taken—by a body which for a long time will have had no MSPs and which for a short time will have had only those members who have been re-

elected as MSPs. That is a significant responsibility to give to people who are no longer members.

Although I understand your second point, I think that the reverse should hold: acceptance of an SPCB post should be seen as no debarment to anyone who has ministerial ambitions. Clearly, if someone who is appointed to the SPCB is subsequently on the receiving end of a phone call offering a ministerial post, they can resign with no aspersions cast, and an election will be held to fill that vacancy as it would for any casual vacancy. If that were understood at the outset, it would be seen as a fact of life; just as a ministerial appointment might lead to committee changes, it could also lead to SPCB changes.

Susan Deacon (Edinburgh East and Musselburgh) (Lab): It is important to note, as Donald Gorrie did, that this concerns not only the issue of potential ministerial office, but that of the entire settling-down period, across the parties and the committee system. How we marry the appointment of the SPCB with other appointment processes must be seen in that wider context.

Having noted that point, I also agree with what the convener has just said. I am no expert on the operation of the SPCB, but I sense that it has quite a bit of work to do in the early weeks of the new parliamentary session. If nothing else, housekeeping such as the allocation and organisation of accommodation and information technology support to new members will be done at that time.

We have only come this way once and that was for the first time ever, so it is difficult to know whether wider issues will surface to the level of the SPCB the second time round. There is at least the potential for that to happen. It would be preferable to have new members in place to make decisions on those early set-up issues, rather than non-members carrying over from the previous session. As the convener said, in the event that an individual so elected is subsequently offered another position somewhere in the Parliament or in the Executive, scope exists for further changes to be made.

09:45

Fiona Hyslop: I should like to reflect some of the views that were expressed at the bureau and that were subsequently developed. There was a consensus that we should acknowledge that the corporate body is a distinctive body that represents the Parliament, rather than the Executive or the party system. It is questionable whether one would necessarily want somebody on the corporate body who is waiting for a Government or Executive position. We must remember that the legal responsibilities for the entire Parliament lie with the corporate body. We will have an unusual situation in which the Conservative member of the SPCB will retain legal responsibilities for the Holyrood project until the new corporate body is established. That member might be happy to ensure that he is replaced as soon as possible, because the corporate body's legal responsibilities are critical.

I strongly believe that we should respect the Parliament's independence, and the Executive should work round the Parliament, rather than vice versa. As the convener said, it is sensible not to have legal responsibilities lying for a long time with former MSPs who are not re-elected and who, by dint of the Scotland Act 1998, would retain power. The proposals would ensure that elections to the corporate body take place as soon as possible, in order to reflect and retain the power of the Parliament rather than leave the corporate body at the mercy of party-political preferences.

Mr Paterson: I agree although, to be honest, I do not like the idea of the gifted failing so that they can get another post. I am not sure whether I understood correctly: I see the point of having a carry-over period, but I am unclear as to whether there is a subsequent election for those whom another group of MSPs has elected.

The Convener: I do not understand your question.

Mr Paterson: If there were two non-MSPs on the corporate body, they would automatically leave after an election. However, would those who remain automatically be on the new corporate body?

The Convener: No. They would be members of the same corporate body, which would continue beyond the election. All the positions—including those of members who hope to be re-elected to a fresh period of office—come up for re-election within 10 days of the establishment of the new corporate body. That is similar to the Presiding Officer's position: if a Presiding Officer wanted the post again, they would have to stand for re-election. All those positions are renewable.

Mr Macintosh: I would like to concur with the general points that have been made, but I would like to know about the options for reforming the voting system. We all remember that the initial vote was a rather clumsy affair, to put it mildly. We talk about transparency, but that vote was not transparent—it was ridiculous and cumbersome.

I quite agree with introducing the option of a single vote, which is described in paragraphs 18 and 19 of the paper. If there were four candidates for four positions, and if no one objected, we should be able to have a single vote. Paragraph 21 contains a different option for four separate votes on the four candidates, using yes and no

votes. I do not think that, under the existing system, members can vote against somebody—we can vote for someone only. If a member were to put himself or herself forward for the SPCB, there would be a vote. If there were five candidates, the bottom one would drop off and there would be a vote on the other candidates. However, I do not believe that members can vote against somebody. Am I mistaken?

The Convener: I think that the context of the arrangement was that the four political parties agreed to nominate one person each, despite the fact that the appointments were parliamentary rather than party based. That meant that there was no reason why anyone would have to vote against someone. However, the option to object to a candidate exists to cover the situation in which four people were nominated but only three or fewer commanded the confidence of the Parliament. You would not automatically elect somebody just because there were four positions and only four candidates. If one of them were unacceptable to the majority of members, members would be able to object, demand a separate vote and not elect that person. That would result in a vacancy. I am not sure, but the Presiding Officer might have the power to fill that vacancy, or it might be filled by a sort of by-election. I do not think that members would be compelled to elect a candidate if there were four vacancies and four candidates. A no vote is possible, but the last time members simply did not use that option.

Catherine Scott is here to give us legal advice and I suspect that she has been champing at the bit while we have been stumbling round the issues in our state of quasi-informed ignorance.

Catherine Scott (Scottish Parliament Directorate of Legal Services): The proposed new rule 11.10A would create a two-stage voting process. There would still be a first stage in which members would choose between candidates. They would have the opportunity to eliminate candidates if there were more candidates than vacancies. In some circumstances, members might move directly to the second stage, with yes, no and abstain voting, without going through the first stage. Of course, there is the opportunity before the first stage to vote all four candidates on to the SPCB en masse.

The Convener: Am I right about the ability to vote no?

Catherine Scott: Yes. In the second stage of the process, members would be able to vote no in relation to one candidate or in relation to all four candidates en masse.

Donald Gorrie: I will abandon my argument about the timing, as I do not seem to have carried the committee with me.

I have no interest in standing for the SPCB and—[*Laughter.*]

The Convener: You are guaranteed a nomination now.

Donald Gorrie: I have a point that is philosophically quite serious. As I understand it, the posts are parliamentary, but the parties conduct the process. The Liberal Democrats could say, "We want Donald Gorrie to be our person on the SPCB." If enough people in other parties thought that I was a complete waste of space and would make such a mess of running the Parliament's affairs that I should not be so elected, would they have the moral or legal right to say no and force the Liberal Democrats to nominate someone else?

The Convener: You have taken the argument much further than it would go. The understanding that the Liberal Democrats should have a representative was reached among the parties. I do not think that any party has a right to anything in this situation. It is conceivable that the largest party could carry all the positions, if they wanted to give up four people to do that work. It was a gesture of the camaraderie of the new politics that led the parties to think that it would be sensible if each of the largest political groupings had a representative on the SPCB. I assume that that desire will continue in the future, but it is not part of the rules.

If any particular political party—we should not specify the Liberal Democrats, because they are all so personable—put forward a candidate whom other people could not stand and were not prepared to have, the consequence might be that members would vote no. You can now go away and compose a little list.

Donald Gorrie: So a gentleperson's agreement exists at the moment.

The Convener: Yes.

Fiona Hyslop: Do you think that such an agreement should be in the rules?

Donald Gorrie: No. I was exploring the issue.

Mr Macintosh: It is an interesting point. I asked the question because whether there should be a recommendation from a party for the election of the Presiding Officer—or whether there should be party politicking during that election—is a sensitive issue. The same goes for the election of the SPCB.

I am still intrigued about voting no. I am looking at annexe B and trying to work out where members could vote no in the initial round, if it were conducted under the system that we used last time. Paragraph 7 of the proposed new rule says:

"after each name is read out, those members who wish to vote for that candidate shall cast their vote … when the votes for the last candidate have been cast, members shall be given an opportunity to abstain."

We are talking about affirmative voting or abstentions, and it is not clear whether members have an opportunity to vote no. I would like to be absolutely clear about that. I am pretty sure that members cannot vote no and can only vote yes or abstain—at least, that is how I remember the system. I think that it was more than just a gentleman's agreement. The choice was yes or abstain.

Let us suppose that we had a rough agreement whereby the four parties put forward their nominees. The other parties could prevent one party's nominee from succeeding; they could influence that. I am not saying that that is what would happen—I do not think that it would, but we should still be fair. Under the new system that we are introducing, we are being asked to choose between allowing all the votes to go forward en bloc or having them one after the other. We are also introducing the idea of a no vote.

The Convener: Let us seek a legal interpretation.

Catherine Scott: The system that is proposed is as follows. If there were four vacancies at the start of the next session and, say, six candidates for those four vacancies, members would move to the first type of voting, which is mentioned in paragraph 7 of the proposed new rule and thereafter. That method of voting—without a no vote—is used as a way of narrowing down the field of candidates until, say, four remain. It is possible that, at that first stage, members could end up electing someone, because that first round of voting allows for the election or elimination of candidates.

When members reach the stage at which the number of candidates and vacancies is the same, they would move to the second type of voting, which is outlined from paragraph 13 of the proposed new rule onwards. The first choice that members would be given is whether they wished simply to elect all the remaining candidates to all the remaining vacancies. The yes-no-abstain method of voting would be used as a way of speeding up the process. Members may recall that one of the reasons why the voting became rather prolonged the last time was that there was no simple yes-no-abstain voting. Voting was conducted in a series of rounds in which members could vote yes for a candidate or abstain from the whole voting process in each round.

If we had used the proposed new rule in 1999, there might well have been just one vote, given that the membership of the corporate body had basically been agreed beforehand. The proposed new rule is flexible enough to allow a single vote for all four candidates to be elected. If some dispute or competition for places were to arise, the new rule would allow a method of selecting and eliminating various candidates.

10:00

The Convener: You have described a process by which the Parliament could choose the four most acceptable people out of six. Let us imagine a circumstance in which the Parliament likes only three of the six people. It eliminates two of them during the earlier stage, and gets to the stage at which the Presiding Officer puts the question that the Parliament proposes the election of the remaining four people. However, members object to that and an election for individuals has to take place. In that election, would it be possible that one of the four people for the four positions might not be elected because members wanted to vote no? Would it be possible to vote no?

Catherine Scott: It would be possible to vote no for a particular candidate at that stage. In that case, not all the places would be filled, so it would be back to the beginning again with the nominations.

The Convener: So there is an escape route for you, Ken. Even if you are nominated against your wishes, you can persuade all your friends to vote against you.

Mr Macintosh: I was thinking of everyone ganging up on me.

An extra element is being introduced, and I am not 100 per cent sure that we want it, but if everybody else is happy—

Fiona Hyslop: We had the option last time round, and the yes or abstain vote was just a simple way to get us through a situation where there were four people for four places. I suggest that we are not moving away from the system that we had; we just did not use the no option last time. We wanted to simplify the system and prevent too many rounds, and we just agreed not to use the option of voting no.

The Convener: We shall now deal with the specific points in the paper and come to a decision. Paragraph 10 asks us to consider whether the time period for the corporate body election should be amended. I think that the majority of us felt that it should not be amended. Are we agreed?

Members *indicated agreement*.

The Convener: The nomination period closes 30 minutes before the start of the elections. It is suggested that that be left unchanged. We have not really discussed that, so I guess it is not of

great significance. Are we agreed on that recommendation?

Members *indicated agreement*.

The Convener: I think that the bold text in paragraph 12 is there simply to draw our attention to the point, so the next decision lies in paragraph 20. We are asked to consider whether the option of a single vote should be proposed. Are we agreed that there should be the option of a single vote?

Members *indicated agreement*.

The Convener: In paragraph 23, we are asked to consider the possibility of there being more than four candidates. If that situation arose, we would go through the elimination stage until we got to four candidates and, at that point, we would allow the election en bloc of the remaining four candidates. Are we agreed?

Members *indicated agreement*.

The Convener: In paragraph 24, we are invited to agree to something about there being less than four vacancies—

Mr Macintosh: We are invited to use a similar method when filling less than four vacancies.

The Convener: That should be, "fewer than four vacancies" of course, but do we agree to that change to the standing orders?

Members *indicated agreement*.

The Convener: Paragraph 25—which is entitled "Minimum numbers of Members voting"—suggests that there should be no change to the figure of one quarter that is set out at the moment. Are we agreed on that recommendation?

Members *indicated agreement*.

The Convener: The voting method is spelt out in paragraph 26. We are invited to continue to use electronic voting. Are we agreed?

Members *indicated agreement*.

The Convener: In paragraph 27, we are invited not to change the arrangements for the filling of vacancies. Do we agree with that?

Members *indicated agreement*.

The Convener: Is that sufficient clarity to allow us to proceed?

Donald Gorrie: I have a question about paragraph 25, which concerns the minimum number of members voting. If someone abstains, does that constitute a vote?

Mr Macintosh: Yes.

Dissolution Issues

The Convener: That takes us to our third paper, for which we are joined by Andrew Mylne. The clerk has asked me to point out that the covering paper contains an error, in that the Parliamentary Bureau has not considered the issues in question. The directorate of clerking and reporting felt that the paper did not need to go to the bureau, so it has come straight to the committee.

I ask Andrew Mylne to introduce the paper.

Andrew Mylne (Scottish Parliament Directorate of Clerking and Reporting): I have very little to say about the paper; indeed, I hope that it speaks largely for itself. It covers one or two issues that relate specifically to the forthcoming dissolution of Parliament. As I say at the beginning of the paper, we are simply trying to ensure that everything works in that context in the way that we have envisaged. We have also taken the opportunity to include a few other unrelated changes to bill procedure.

My only substantive point is to ask the committee to disregard paragraph 6 of the annexe, which deals with consolidation bills. Since the paper was prepared, we have had cause to revisit the issue and the Executive officials who read the paper pointed out that our suggestions might cause complications. In any case, we are aware that the Parliament's first consolidation committee—which has been set up to deal with the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Bill—has recently published a stage 1 report that invites the Procedures Committee to examine a few issues about consolidation procedure. I imagine that that matter is likely to come before the successor committee in the new session. If that committee is to undertake a more general examination of consolidation procedure, it seems more sensible not to jump the gun by raising a very small point at this stage, especially as we might not have got things entirely right. If that explanation sounds reasonable, the committee might agree to disregard the paragraph.

The Convener: For the reasons given, is the committee happy to exclude the issue of the consolidation bill from our consideration of the paper? We will hold it over for our successors.

Members *indicated agreement*.

The Convener: I wonder whether Andrew Mylne could clarify a particular point for my benefit. In relation to paragraph 3, which concerns marshalled lists, I did not really understand what you wished not to include in those lists.

Andrew Mylne: The paragraph refers to the fact that a manuscript amendment can be lodged at any stage. As members know, a manuscript amendment is lodged after the deadline and can be considered with the amendments that have been lodged before that deadline only with the agreement of the Presiding Officer or committee convener. The committee has already examined the criteria for making such decisions. If the convener or Presiding Officer decides that such an amendment cannot be moved, it means that it cannot be disposed of, even though it will be published in the business bulletin like all other amendments. Because the purpose of a marshalled list is to provide an agenda of the options that are available to the committee or the Parliament at a particular meeting, it seems to be more appropriate not to include in marshalled lists manuscript amendments that it has been decided cannot be moved.

The Convener: Are such amendments included in the marshalled list at the moment?

Andrew Mylne: I think that we have not been including them if we know that it has been decided that they cannot be moved. However, the rule is not entirely clear as to whether that is expected. As a result, it is simply a matter of ensuring that the rule is clear on the point.

The Convener: So it is simply clarification of existing practice.

Andrew Mylne: Indeed. I should point out that, if a decision has not been taken by the convener or Presiding Officer by the time the marshalled list is printed, we would include the amendment in the list to ensure that it was there if it were decided that it could be moved.

The Convener: I am happy enough with that. Do members have any questions?

Donald Gorrie: Do manuscript amendments appear in the business bulletin?

Andrew Mylne: Yes. Every amendment that is lodged is printed somewhere.

Donald Gorrie: So the public would know about it.

Andrew Mylne: Yes.

The Convener: The next item for approval deals with members' bills and proposals, which would, in effect, require in the new Parliament the support of a sufficient number of members to proceed. That seems perfectly reasonable.

Fiona Hyslop: It might have been helpful if the section on members' bills and proposals had gone to the Parliamentary Bureau, because not only the bureau but the Procedures Committee is considering non-Executive bills generally. Issues that would have an impact might arise from that. It makes sense to have to make decisions prior to dissolution about what will happen pre-dissolution and post-dissolution.

Andrew Mylne: It might be possible to inform the bureau of what the committee decides before anything goes to the Parliament for approval.

Fiona Hyslop: The bureau should be informed.

The Convener: The proposal is fairly consistent with other proposals that have been to the bureau. That might have been the reason why the proposal was brought straight to the committee. Will you explain exactly what is proposed in paragraph 8?

Andrew Mylne: I have set out the circumstances in which it might be appropriate not to print a proposal in the bulletin for the full month that is currently required. As I explain in the earlier paper, there are good reasons for publishing proposals for a full month, even if they get 11 supporters quite early on, because there is a lot of symbolic significance attached to getting supporters for a proposal. Members quite often continue to add their names after the procedural threshold has been reached, which seems to be perfectly proper.

It would seem slightly odd to continue to print a proposal if the bill had already been introduced, because the bill supersedes the proposal, so to speak. When the Parliament has been dissolved, there are no business bulletins, so we could not continue to publish the proposal. If dissolution is particularly short, it is theoretically possible that the month might still be ticking along when the Parliament returns; that would seem very odd.

The Convener: So, is the paragraph a request to take a bill proposal out of the business bulletin when there is no longer any requirement for it to be there, although it is still technically within the publication time?

Andrew Mylne: The situation is unlikely to arise and in the vast majority of cases the proposal will continue to be published for the full month.

The Convener: Are members happy with that?

Members *indicated agreement*.

The Convener: I like your proposal to introduce the subjunctive. Donald Gorrie and I, as the committee's pedants, particularly approve of that sort of thing. I think that you are proposing to call amendments "amendments" and to call motions "motions", but to treat both the same way.

Andrew Mylne: That is pretty much as simple as it gets.

The Convener: That seems to be sensible. Do members agree?

Members *indicated agreement*.

The Convener: What a day.

Paragraph 17 relates to a minor inconsistency. At the moment it is clear that we move to a vote immediately after debate on the lead amendment in each grouping. You wish it to be made clear that only the lead amendment requires to be moved immediately and voted on immediately and that all the others are voted on as soon as they are moved. In effect, the paragraph underscores existing practice.

Andrew Mylne: Indeed—it precisely reflects existing practice. The existing wording of the appropriate rule was no doubt drafted to produce the system that we operate, but it implies a slightly different system, which we not only do not operate, but could not operate.

The Convener: Do members agree?

Members *indicated agreement*.

The Convener: Paragraph 18 is possibly more substantive. I do not know whether the situation has ever arisen in practice, but it would be infuriating for a member to be in that position. Standing orders do not allow members who are—for the purpose of taking part in debates on a bill—attending a committee of which they are not members to object to the withdrawal of an amendment by the unanimous agreement of the committee.

You suggest allowing members who are attending but who are not committee members to require a moved motion to be voted on. That would give them the equivalent right to the right that they have at the moment to move an amendment that has not been moved. That change would allow all members to participate fully in the work of a committee at stage 2. That is an important change, although I suspect that nobody has ever realised that it is a problem and it has never happened—or has it?

Andrew Mylne: I am not aware of its having happened. It is probably a smaller problem in practice than it is in theory. I presume that if all of a committee's members were happy for an amendment to be withdrawn, and if the non-committee member succeeded in forcing a division on it, it is unlikely that the amendment would be agreed to. Nevertheless, it seems to me to be right in principle that the option should be available.

10:15

The Convener: Is that agreed?

Members *indicated agreement.*

The Convener: This is a real dancing-on-the-head-of-a-pin session. It will be a little gem to be treasured in the annals of this committee.

We have agreed that the issue with consolidation bills should be held over until consolidation is addressed in the round.

The issue about members in charge is another delicious little one. I am sure that Andrew will enjoy explaining it to us.

Andrew Mylne: As I have tried to set out in the paper, there is a small anomaly in relation to Executive bills and committee bills. The Parliament has agreed to changes to the member-in-charge rule, in particular to acknowledge that although ministerial responsibilities might change during the passage of an Executive bill, that should not affect the rights of the minister in charge simply to keep the bill moving through its stages.

We want to ensure that the same is true of committee bills in all relevant respects, because they are also the expression of a collective will, unlike member's bills, which are the expression of individual MSPs. I suggest further tweaking of the rule to ensure that the process works in the context of dissolution and where—as is possible—a committee is wound up and replaced by another committee with a similar remit during the course of a session. The proposal seeks to ensure that a bill is not frustrated in its progress by such eventualities.

Fiona Hyslop: That change would mean that you could have a member who was no longer convener piloting a bill for a committee that still exists.

Andrew Mylne: It would mean that if a committee bill was introduced by the convener of a committee, the bill could continue its progress and continue to have a member in charge even if that individual ceased to be the convener. Whoever takes over as convener of the committee becomes the member in charge under the existing rule, but the proposal would ensure that if a whole new committee came along during the same session, the convener of that committee would become the member in charge.

Fiona Hyslop: Where a convener resigns, moves or whatever and there is a new convener, you are not precluding that new convener of the committee from being the member in charge. However, if you are introducing an option, how would you ensure which person is in charge of the bill?

Andrew Mylne: The current rule provides that if the convenership of a committee changes during the passage of a bill that that committee originated, the new convener automatically picks up member-in-charge status and therefore has the necessary procedural rights. That is already covered in the rules.

Fiona Hyslop: Are you adding a complication? Would the proposal apply only when a committee ceased to exist?

Andrew Mylne: Yes.

Fiona Hyslop: That is fine.

The Convener: Do members agree to the proposal, and to the consequent changes to standing orders?

Members *indicated agreement.*

The Convener: Thank you, Andrew. I am sure that you enjoyed that.

Andrew Mylne: I did.

The Convener: I did too. If Mike Russell were still a member of the committee we could have discussed that for two, if not three, hours; but they were giants in those days.

Item 4 is another dissolution issues paper, for which we are joined by Hugh Flinn, as well as by Andrew Mylne. They will invite us to consider the highlights and the changes that they want to make.

Andrew Mylne: The paper is a joint effort between Hugh Flinn and me. I am primarily responsible for the material on changes to the standing orders and I am happy to answer questions on it. However, the material on what will happen in the new session with the general procedure for parliamentary questions and motions is mostly Hugh's; he will be happy to answer questions on those aspects.

The Convener: The first specific recommendation is that motions should fall at the end of the parliamentary session and should not carry over into the next one. There is nothing to stop members who are re-elected from lodging the same motion, either to air an issue or to pursue a members' business debate. However, the idea is that when the Parliament ends, all the unfinished business, including motions, should disappear. Are members happy with that?

Members *indicated agreement*.

The Convener: We are invited to agree that there is no need to change the rules on oral questions in relation to dissolution because the existing rules are adequate. Do members agree that there is no need for change?

Members *indicated agreement*.

The Convener: The suggestion on written questions is, in effect, to close written questions 14 days before the dissolution or expected dissolution. The suggestion is made on the basis that difficult, complicated and research-intensive questions are unlikely to receive a substantive answer in that period. Do members agree to the suggestion?

Members *indicated agreement*.

The Convener: On questions that are lodged before the axe falls, but which are not answered before dissolution, it is suggested that the member who asked the question should receive an answer if the answer arises in the course of dissolution. I presume that that includes the period after the election but before the swearing-in of new members.

Andrew Mylne: Strictly speaking, that is not correct. Dissolution ends when Parliament meets first after an election.

The Convener: So, a written answers report could be produced before the swearing-in of members.

Hugh Flinn (Scottish Parliament Directorate of Clerking and Reporting): The date on which the written answers report would be brought out is not settled. In practice, it would probably come out around the time of the first business bulletin of the new session.

The Convener: Would that fall on the day of the swearing-in of members?

Hugh Flinn: I am not absolutely sure, but it might well fall on that day.

The Convener: Anyway, the intention is that, as soon as is realistically possible, any answer that has not appeared in the public record—including outstanding answers to members who are no longer members—will be produced in the first written answers report.

Fiona Hyslop: I have a few concerns about paragraph 18 of the second dissolution issues paper. I understand that the Executive will desist from answering questions during dissolution and that answers will be sent in letters to members during that time. However, given that during dissolution members who are standing again will cease to be members and will become candidates, I am concerned that the Executive will treat former MSPs as candidates and will correspond with them in the same way in which it would correspond with other candidates.

Given the counting-days rule that questions cannot be asked in the 14 days before dissolution, the Executive should not have to answer questions during dissolution. It will still be possible for urgent issues to be addressed by oral questions. If an urgent constituency issue arises in the 14 days prior to dissolution, the member could pursue it by writing to the minister. We must also be aware of emergency questions. The Presiding Officer would have to look kindly on a request for an emergency question that involved an urgent constituency issue that could not be addressed by a letter or an oral question.

That is probably what paragraph 18 means when it states:

"such answers will be sent in letters to the members who asked them before dissolution."

I do not anticipate a great deal of that during the election period because the Executive could be open to the accusation that it is not providing answers or that it is only providing answers to members from the Executive parties. Our recommendation should be that we steer away from such activities during dissolution.

The Convener: I do not think that we can recommend that. We can either accept the approach that is possible or, if we do not want answers to be given to questions during dissolution, we would have to change standing orders to stop questions being answered. The Executive could be invited to stop answering questions, but that will not be binding.

Fiona Hyslop: I understand that the Executive has proposed that and that it will not answer questions. However, it will correspond with candidates if required.

Hugh Flinn: It is hoped that the situation will not arise, but that if it does, it will happen rarely. The Executive has made a commitment that it will, if possible, answer every question substantively before dissolution. Paragraph 18 is merely a contingency to deal with specific situations in which it is not practical to answer a question before dissolution because of, for example, the volume of research involved.

It is also correct that the Executive will deal with such questions in a letter to members. The issue for the committee is that, from the point of view of transparency, it is clearly appropriate that a substantive answer should, when given in a letter, be public, as would any answers given before dissolution. That is why we suggest that such answers appear in a written answers report when a new session starts.

Fiona Hyslop: I am quite comfortable with that.

The Convener: Although the answer to an individual member might be given during dissolution, there will be no publication of that answer—it will not appear on the website, for example—until after dissolution.

Hugh Flinn: Yes.

The Convener: So, only the person who asked the question would get the answer.

Hugh Flinn: We would be quite happy with that. The answers could appear on the website at the same time as the written answers report was published when the new session starts.

The Convener: Okay. Are we happy to go with that?

Members *indicated agreement*.

The Convener: After the election, we would ask to note when the lodging of new questions will begin. Is everyone happy with that?

Members *indicated agreement*.

The Convener: We therefore approve the changes to standing orders 1, 2 and 3 to give effect to those recommendations.

Members *indicated agreement*.

Sewel Convention and Sewel Motions

The Convener: We move to agenda item 5.

Some months ago, the committee discussed an intention to pursue the issue of how Sewel motions and the Sewel convention are handled. The clerks have produced or obtained two memoranda from the respective Governments—one from the Scotland Office and one from the Scottish Executive, which is accompanied by a letter from the Minister for Parliamentary Business.

The issue for us is what we want to do in relation to Sewel motions. My judgment is that we are unlikely to be able to bring any work on the matter to a conclusion within the time we have left to us. We are also not likely to be able to issue a substantive report.

On the other hand, we have seven committee meetings left. Within that time, it would be possible for us to undertake some of the initial stages of that work. For example, we could interview relevant officials from either Government. The Minister for Parliamentary Business has also indicated a willingness to speak to the committee about the matter. There are also academics who have been involved in the growing volume of academic literature on the matter, one of whom has expressed a desire to come and speak to the committee.

Realistically, we could only start some work that we would be unlikely to finish. However, we could arrange one or two evidence sessions if members want them. Once we have finished the consultative steering group inquiry report—I believe that that will happen—there will not be an awful lot left for us to do, so we will have time for such work. I seek views on how to proceed.

10:30

Donald Gorrie: Sewel motions should be seen to be treated seriously and the time scale for dealing with them should be extended so that the relevant committee can examine and sensibly discuss a motion. I say with respect that the discussion of Sewel motions in the Parliament is often not well informed or sensible. If a relevant committee considered a Sewel motion that was found to be technical and trivial, the committee could say that it was all right. If a more substantive issue were involved, that committee should be able to take evidence and discuss the issue thoroughly. Those are my concerns.

Susan Deacon: It is vital that the committee should consider the matter properly. As I have a place in history for moving the first Sewel motion, I argue that such motions have a time and a place, but I acknowledge that valid concerns must be addressed. It is important for the committee to take a measured look at the issues, rather than to have the more politicised exchange that often takes place on Sewel motions.

Detailed points need to be considered about the process and about mechanisms of consultation between Westminster and us. The meaning in practice of some phrases in the Scotland Office's memorandum requires to be drilled into. However, as the Executive's memorandum says, issues that relate to our consideration of Sewel motions once they have been introduced must be addressed.

The issues are important and detailed. I would be concerned about our having a couple of evidence sessions that threw up more questions than answers and that did not allow us to conclude our deliberations. I would like the committee to agree, as one of our lasting monuments for the next Parliament, that Sewel motions require further examination and that a thorough stocktaking exercise is required, now that we have the experience of one Parliament on which to draw. During this parliamentary session, perhaps we could instruct the clerks to gather information. I am aware of relevant academic papers and other papers that have been circulated to members. At the very least, an exercise in collating views must be conducted.

I would like us to make a strong recommendation or proposal—whatever the correct terminology is—that the new Parliament should examine the matter. I feel strongly that we cannot begin to do justice to the issue. Rather than attempt to do so, it would be better to put the CSG inquiry report to bed, tie up loose ends and leave it to our successors to do the job properly on an important procedural question.

Mr Paterson: I endorse what Susan Deacon has said. Members seem to be ill informed, or not exactly up to speed, on what Sewel motions are coming up. A more important issue is that there seems to be no mechanism for tracking bills that have been the subject of Sewel motions. After the motion has been agreed to, the next time we hear about the bill is when it has been enacted at Westminster. There are many issues about Sewel motions that we need to look at carefully and in depth, not in a hurry.

One would think that the natural instinct for a new Parliament would be to grab everything, so having 38 Sewel motions does not look good. Whether they are a good thing or a bad thing, we should look at the issue carefully and do so soon. However, I take on board Susan Deacon's point about timing. If we are serious about the issue—it is politicised—and want to do it justice, perhaps the time to consider it will be during the next

session of Parliament, when we can conduct a good, in-depth inquiry.

The Convener: Could the committee not discuss the issues without being particularly politicised? We would be very much at an exploratory stage over the next two months.

Mr Paterson: Had I been asked that three and a half years ago, my view might have been different. However, having been a member of the committee for all that time—I have been here since the start—I think that this is one committee in which we do not play a lot of politics. I would not argue against your point. The committee could consider the issue in a non-political fashion and come up with some good answers.

The Convener: The issue is more to do with the time scale.

Mr Paterson: Yes. I am a bit concerned that we might rush in and go off at half cock. I would rather examine the issue in depth, because it is important. We have been told that not too many important issues have come in the form of Sewel motions, but I remember a couple of debates that were very politicised. I am more concerned about what might happen in the future and what might be grabbed from the Parliament. We might face political pressure from somewhere else that lets something escape. I am thinking not so much about the past as about the long term. I am looking to the future.

Paul Martin (Glasgow Springburn) (Lab): I agree with both Susan Deacon and Gil Paterson. We need an opportunity to capture both the disadvantages and advantages of Sewel motions. That will require our hearing a wide range of views in evidence sessions. Given that we have only seven more meetings after today, it would be difficult to get quality sessions and to avoid rushing through the issue. We should allow members to consider the issue in detail in the next parliamentary session, as they will be able to take some time over the matter. The Sewel motion procedure raises wide issues and has been subject to commentary since Susan Deacon moved the first one. There are advantages and disadvantages to Sewel motions, so we require a detailed discussion and evidence.

It has been suggested that we could collate some evidence but not take a decision, but such evidence would be difficult for the new committee to take on board. On many occasions, we are accused of being a talking shop that is unwilling to take action. If we just allow the new committee to capture all the detailed evidence over a period, it might then be able to provide alternatives to the Sewel motion. The issue for me is that, although some mechanism is required, no one has been able to provide an alternative to Sewel motions. That should be the subject of the new committee's work.

Fiona Hyslop: I am conscious of the fact that we last discussed the Sewel motion procedure some time ago—on 11 June last year—and that we have discussed it on several occasions. I am a bit wary of saying that we cannot deal with anything in the next seven weeks. The committee was originally contacted by the Liberal Democrat group, which asked us to have a look at the issue, so we would not be fulfilling our obligations if we did not make some attempt to do so. However, I agree that the issue covers a huge area, so we would need time for consideration and to come up with any conclusions.

Gil Paterson made an important point. There is a lack of clarity about the Sewel process, although the documents from the Scotland Office and the Scottish Executive have started up the clarification process.

It might be helpful if we were to conduct a scoping exercise on the issues that surround Sewel motions, some of which are fundamental constitutional issues. Even those who are in favour of the process need to know how it works and the practicalities involved. The memorandum from the Scotland Office states:

"although the Sewel convention refers to the Scottish Parliament, UK departments in practice deal with the Scottish Executive."

That is a huge admission.

We could examine the papers that we already have and seek further information and clarification. That would be of benefit, particularly to those who want to know more about the Sewel process. It would not prevent our successor committee from taking a view on it or making a recommendation. Some clarity would be helpful.

Way back in June, I recommended that it might be helpful to do case studies on issues of particular interest. For example, the Adoption and Children Bill had to come back to the Parliament twice. It would be useful to know why that was and to find out what steps were involved in the process. Even though there were substantive changes to the Proceeds of Crime Bill during the relevant stage at Westminster, the bill was not referred back to the Parliament. Paragraph 12 of the Executive's paper says that, if significant amendments to a UK bill are made,

"The Executive will always inform the Parliament by means of a Supplementary Memorandum".

I might be wrong—that might have happened, but I am not sure whether it did.

In the next seven weeks, it would be useful if we could get the Minister for Parliamentary Business to clarify the operation of the process. We could

examine some case studies that might shed light on the process and we could do a scoping exercise on all the issues that surround Sewel motions. That could include an academic analysis. We would not need to conduct our own investigation, but it would be useful if we could provide some sort of scoping. That would mean that we would end the parliamentary session with a better understanding of Sewel motions than we had when we began it. Leaving such a legacy would be the responsible thing to do.

I hope that, by doing such work, we would satisfy the inquiry that set off our consideration of the issue. I do not like leaving things half done, particularly as one of the parliamentary party groups asked us to look at the issue. We could do some useful work, but that would not preclude due consideration by a future committee, which would be necessary before any judgments could be reached, as Paul Martin suggested.

The Convener: You said that you would like us to do some case studies. What are you suggesting that we should do? What are you suggesting that members of the committee—as opposed to the clerks—should do in the way of preparatory work for the next committee?

Fiona Hyslop: The Proceeds of Crime Bill would be a good example. We could find out about the Scottish Executive's perspective on what happened and why it did what it did. We could make inquiries of civil servants here and of those in the Scotland Office. There must have been significant changes to the Adoption and Children Bill, because it was brought back to the Parliament twice.

The Convener: I am not disputing that those might be the most significant bills to consider. What are you suggesting that we should do?

Fiona Hyslop: Rather than having a committee evidence session, we could ask the clerks to document matters. If necessary, we could then clarify the issues if we wanted to. If the Minister for Parliamentary Business has offered to come before us, we should take that offer up. The clerks could conduct some of the process outwith meetings. We could ask Lord Sewel for his perspective on Sewel motions, since he was the originator of the concept. We could do some useful preliminary work.

The Convener: I am not sure that it would be appropriate to consult Lord Sewel, given that responsibility for the procedure rests with the Scotland Office. It is not usual to go back to people who used to hold a ministerial portfolio. However, he could be invited as an individual or as an academic.

Fiona Hyslop: We went back to the CSG to ask for its perspective on the operation of its principles in practice. That is a useful analogy.

The Convener: It would be useful to ask the clerks to examine the procedures that were followed in all cases and to gather the relevant memoranda and information that were produced. I am not sure what we would do, unless we were to start the investigation. I am not sure what we would call the Minister for Parliamentary Business in to do. The minister has suggested a number of changes that she might want to make, but we might want to be further into the process before we talk to her, so that we have more points to put to her. Of course, I dare say that she might agree to come more than once.

10:45

Mr Macintosh: We are generally agreed that there is a need for the committee to examine Sewel motions, which are matters for constitutional interpretation and therefore touch on an issue of importance to all parties in the Scottish Parliament. However, not only are Sewel motions politically sensitive, but the process that is involved is unsatisfactory. Many of our debates on Sewel motions have been fairly bad tempered—often, we have not engaged with the substance of the motion but have disputed the process itself. That alone would be an adequate reason for examining the matter further. The Scottish Parliament should come to an agreement on what the Sewel motion process is about so that we can properly interrogate the legislation that comes before us by that route.

Some work needs to be done on the point that Donald Gorrie made about the need to clarify the role of committees. When do Sewel motions go the chamber? When do they go to committees? When do we have a full debate? When do we have a guillotine debate? The role of committees is crucial.

We have seven weeks to go. I am conscious that we have not finished the report on the CSG inquiry. I do not know how long it will take to finish it—not too long, I hope. Until that report is finished, it is difficult to see how we can do justice to the matter that we are discussing. I appreciate that Fiona Hyslop is trying to reach a compromise about raising or scoping the issues or doing some preliminary work, but I do not know how we will be able to do that. How will we be able to move on from today, given that we will not have reached any conclusions? We have not been able to engage with the issue substantially or with any rigour because we have had no time. There will be a long pause of several months before we can return to the subject, even though it is of huge importance to us all.

I am not against further discussion of the subject, but I think that we should deal with it if we have any time left after we have finished with our

other business, such as the CSG report. Alternatively, we could recommend in that report that the Scottish Parliament should examine the Sewel motion procedure as a matter of priority.

The Convener: That is already in the report. It is recommended that this committee should do that and that, if we are unable to, our successors should deal with it as a matter of high priority. Even when we were drafting the CSG report months ago, we were conscious of the likelihood that we would be unable to deal with this matter.

Susan Deacon: The suggestion of doing case studies is useful. Part of the problem, as with the CSG, is that there is a limit to how much one can say about such practices in the abstract. We have to examine how they have or have not worked in practice. Four or five years into the working of the Parliament is the correct time to do that.

However, it is not realistic for that kind of exercise to be done in the time that is available. I am not sure that the clerks are best placed to conduct that exercise. I see scope for yet more protracted exchanges of correspondence between the Executive, the committee and/or Parliament and the Scotland Office, which is another player. Already, this very early stage has lasted for quite some time.

I wonder whether there is scope for us to commission a piece of independent work on the subject. When the Standards Committee looked at cross-party groups, the inquiry circled in a similar fashion and a piece of independent work had to be commissioned simply to make a factual record of what worked and what did not. That provided a base from which members could make their judgments as to how they should proceed.

I feel that a piece of work is missing in this case. Were it to be commissioned, it would add to our successors' capacity to examine the matter effectively. An element of independence would also be useful. Perhaps a body of work already exists which answers these questions. The subject area has attracted more academic projects than most, which is why I feel that the clerks should do an audit of what information and analysis is available. In the limited time that we have, we should concentrate our minds on plugging the information gap. However, we should not attempt to take the discussion any further. To take on evidence sessions at this stage would be tokenistic.

The Convener: I am reasonably attracted to what you say, with the caveat that we cannot go as far as engaging people outside. We would need to get a brief for the research, work up a proposal and get funding. I do not think that we can do that.

However, the clerking team has been gathering information. It may not have collected all or enough information, but we could invite the Scottish Parliament information centre to scope a research project and to advance a proposal—covering an adviser and a budget—for the new committee to consider before the summer recess. That work would inform the new committee's deliberations when it looks at the issue in the autumn, assuming that it chooses to do so. Once a committee starts down the road of factoring in budgets and external personnel, there are significant checks and balances and some delays might be expected. My preference is to invite SPICe to scope an independent and authoritative briefing for the successor committee.

Fiona Hyslop: I agree. Seven weeks does not give us enough time to get an external research project done. What I was asking for in the first place was to have the relevant information gathered together, because we must also agree the scope of what we want examined. The subject ranges over several areas. It would be helpful for us to decide initially which of the issues that pertain to Sewel motions should be considered. Some issues relate to simple process and practice, whereas others are more fundamental.

It is unfortunate that we cannot go with Susan Deacon's recommendation for commissioning external research, but, as that is not practical, this initial stage is best. Thereafter, any committee should do what Susan Deacon recommends if possible.

Ken Macintosh mentioned practicalities. Currently, the Parliamentary Bureau is presented with proposals for Sewel motions. It can—and has—decided whether the motions go to committees or to the chamber. The Executive is presenting a paper suggesting some simple changes and it is looking for views from the Procedures Committee on current practice. I suspect that, if our successor committee were to look at the issue, that would take months. Nevertheless, Sewel motions will arise between now and 1 May, and from day one of the new parliamentary session. For that reason, initial guidance and views from the Procedures Committee about how the motions should be treated would be a helpful and practical interim step.

I support the motives for raising some of the issues and believe that we could deal with some matters practically. It is true that the Minister for Parliamentary Business or the new Minister for Parliamentary Business might want to come back and give an overview as part of a bigger inquiry, but we could ask the current minister whether anything useful could be done in the interim to deal with Sewel motions as they come before the bureau and the Parliament.

The Convener: That distils the matter down to two possibilities, which are not incompatible. The first possibility—which I think members agree about—is that we invite someone from the Scottish Parliament information centre and possibly someone from the legislative team to consider the research, to conduct a literature review and to draw up lines of analysis and questioning. External people—perhaps an adviser—could be taken on and a brief worked up so that the successor committee can progress the substantive work. Perhaps we need to make a specific proposal once we have chewed the matter over, but the outlines are clear enough.

The second possibility, which Fiona Hyslop has just outlined, is that, as well as considering the whole issue and how to deal with it, we could deal with those areas of operational significance that the Minister for Parliamentary Business has indicated she is willing to discuss. Amendments to practice, additional safeguards or checks could be built into the process to try to make the existing machinery work less contentiously than it has done. We would have to discuss such matters with her. Do members want to invite the minister to the committee soon for a discussion on improving the process, albeit that such a discussion would go considerably short of fully analysing the whole procedure?

Mr Paterson: I do not have a problem with that. I cannot see why it cannot be done, provided that we do not say that it is the answer to the problem—it is a bolt-the-doors-down-for-a-few-weeks approach. There should be a protracted investigation that takes into account all the different factors.

Susan Deacon: I am not averse to the suggestion. If we are saying that such a session is not a full solution to the problem, clear parameters need to be drawn in respect of the session's purpose. We could drift into and open up many wider areas, rather than pinning down the issues.

Regardless of whether we have such a session, I would like a short paper with a few points extracted from the Executive's paper highlighting specific points for decision. We should take on board what Fiona Hyslop said about changes that could be made sooner rather than later and that we could all agree would be operational improvements, albeit that they would not address the bigger question—I am not convinced that we need further discussions around that. Perhaps some of the information is already there and could simply be put in front of us.

We often invite ministers or witnesses to the committee and tend to have free-flowing discussions. We could get to the point pretty quickly on the basis of what we already have. However, we should all agree that there should be a big health warning that what we are doing is not a solution to the issue, although some immediate improvements could be made. Perhaps the convener and the clerk should look at the matter before the next meeting and think of the best way forward.

The Convener: We could certainly compose a response to the minister that would address some of the operational issues and we could bring that back to the committee for discussion. We could agree to discuss the matter with the minister and put it to her that we like some of the suggestions that she made but wonder about other things. We can discuss with the minister the scope for any changes.

This is not a question of demanding that the minister come to the committee; the minister has said that she is quite happy to come and talk. It is a question of whether the minister feels that the distinction that we are drawing between the short-term operational issues and the fundamental review of the procedures is worth while and whether she sees value in having some sort of discussion before we run out of time. If we proceed on that basis, everybody should be happy.

11:00

Mr Macintosh: I agree that that is a sensible way in which to proceed. I would welcome further clarification of our timetable between now and the end of the session.

The Convener: We have seven timetabled meetings left after today's meeting. Next week, we will consider a further draft of our CSG paper. Depending on how we get on with that, we may need to have another meeting. We probably will have to have another meeting, if only to discuss the writing up of anything that might come out of the next items that we will discuss. I do not think that we will be able to finalise a draft today. I hope that we will make most of the substantive decisions next week.

I say that with the caveat that the clerk and I have worked up revised versions of the committee's third draft of its CSG report. We have still to reconcile our two versions. I have made some suggestions and the clerk has made some suggestions, and we want to arrive at a common position. We hope to do that this week. As before, we will highlight the substantive new text. There are lots of wee bits of editing that we could do, but the substantive new text will be highlighted and I hope that we can agree to most of it next week. However, we may need a further meeting beyond that.

Thereafter, I am not sure that there is a lot that we can deal with. The Parliament has still to act on

our recommendation about the European Committee's remit. However, we do not need to spend long discussing that again. There is some unfinished business surrounding our remit, which we may choose to leave in the CSG report or to include in another report. Offhand, I cannot think of anything that is pressing. Beyond next week and a further possible meeting, the remaining committee meetings ought to be fairly light. I think that we deserve that, given what we have done over the past two years.

Donald Gorrie: On a short-term basis, we should recommend—either in our CSG report or elsewhere—that, as an interim measure, the Executive should ensure that committees can have a look at Sewel motions in advance, so that they can say, "This is a beneficial, minor and technical change, so let's go with it," or decide to consider the matter more thoroughly. Sewel motions obviously have some gestation period in the Executive and at Westminster. Even if the wording of the bill is not available, the Executive might draw a committee's attention to the fact that there would be a bill to include propositions about the shape of teacups and that it would like to agree to draft a Sewel motion on that. That would be helpful as an interim measure without precluding anything in the future. I hope that we can include that as a recommendation.

The Convener: I think that we agreed to determine a basis on which the committee could draw up a response to the minister that would contain the possibility of a meeting, if we all felt that that would be worth while. With respect, Donald, you are taking us back to substantive points and rushing the fences a wee bit. What you suggest may very well be part of something that we would put to the minister in a letter, but we should consider the draft letter first. We are talking about a delay of a couple of weeks. If we agree to any procedural improvements, they are likely to come into effect after the election, given the gestation period.

I think that we have agreed a sufficiently clear path ahead to allow us to take the matter to the next stage. I see members moving towards the coffee pot. Do we want a five-minute break?

Members: No.

The Convener: Then we shall press on.

Correspondence

The Convener: The next item is the continuation of the paper that we started to consider during our last meeting but on which we ran out of time. It is the letter of 9 January from the Presiding Officer on question time and First Minister's question time. The letter is accompanied by the outcome of the questionnaire that was conducted last autumn, which should inform our discussion on the letter.

I shall refresh members' memories. When we discussed the item last time, we talked about First Minister's question time and started talking about question time—we had just got on to the second page. By that time, committee attendance had tailed off; people were heading off to other meetings, so the discussion may not have been entirely representative. However, we received some responses to the Presiding Officer's letter from members. It was not obvious to me or the clerk that there was huge agreement among the responses, or even that the responses covered all the points. Therefore it might be best to start the discussion all over again.

Susan Deacon: May I ask a question?

The Convener: Members are always allowed to ask questions.

Susan Deacon: Who finally decides the matter?

The Convener: The Parliament decides.

Susan Deacon: Through what means?

The Convener: The mechanism is a report from the committee recommending a change to standing orders. Therefore, if the committee agreed to act on any of the suggestions that involved changing the shape of the parliamentary week, changes would have to be made to standing orders to achieve that. We would issue and lodge a report. I would lodge a motion approving the report, and the Parliamentary Bureau would need to agree to accept the motion and, in the circumstances, timetable a debate. Finding the time for a debate might be a difficulty, so the issue might not proceed.

The fallback position is that we leave what everyone else is calling a legacy paper. We leave suggestions from the committee that the successor committee may choose to pursue with the bureau and the Parliament in the next session.

Susan Deacon: In light of that full and helpful answer to my first question, may I ask a second?

The Convener: Yes. See, I was never a minister.

Susan Deacon: I am saying nothing.

Which of the issues addressed in the documents, in particular in the letter, would require changes to standing orders? Some of the points relate only to changes of practice in the chamber.

The Convener: The proposal to expand First Minister's question time to 30 minutes would require a standing orders change. If, for ministerial questions, we were to take an entirely different approach, change time slots and allow questions to individual ministers, it would require changes to standing orders. All the issues to do with timing and the grouping of questions, whether by ministers or by the Presiding Officer, would require changes to standing orders. The selection of open questions and answers would also require changes to standing orders. There may be some things in the paper that do not require changes to standing orders, but not very many.

The Presiding Officer says in the concluding substantive paragraph of his letter that he believes that there is a degree of agreement about some of the changes, and that the bureau would be flexible about providing the necessary parliamentary time. I am not convinced from the responses from committee members, or from our brief discussion last time, that such a degree of agreement exists.

The survey of members suggested that there might be quite a broad array of opinions in the Parliament. It might be difficult to proceed very far on those suggestions without conducting some fairly full consultation. On the other hand, the Presiding Officer says in that paragraph that it is

"important that the current Parliament uses its experience to bequeath to the new session proposals for an improved Question Time and First Minister's Question Time."

The language of death and inheritance is striking, is it not? He suggests that that may well be a matter for the new Procedures Committee.

I think that the Presiding Officer believes that some of those changes command support and should be introduced. If that is not the case, at least the experience that we have should be distilled and the words of wisdom should be handed down to our successors in office. I suspect that the second of those alternatives reflects his opinions, and I think that that is a worthwhile exercise for us to do.

Before we get into the substantive issues, Susan, are you happy with that, or do you have other questions?

Susan Deacon: No. I am grateful for the clarification. Thank you.

Mr Macintosh: I think that it is good that the Presiding Officer is addressing these issues, but I think that he has completely missed the mark with the proposal to extend First Minister's question time to 30 minutes. The clear response from our survey of members is exactly the opposite. He is saying that there is already widespread support for extending it, but there is actually widespread support for the view that question time is currently the right length. In fact, that was one of the few clear responses that we got.

It is difficult for us to agree on how to improve those matters. Perhaps we could agree on what we feel is wrong with the current question time set-up, so that we can focus on the outcomes. What are we trying to achieve when we look at the situation? I suspect that we will find ourselves in a similar situation to that in which we found ourselves when we considered the time allocated for back-bench speeches. I do not think that there is a person on the committee who thinks that four minutes is sufficient time for back benchers. However, when we were faced with the options, we were not sure that we could cut the opening or closing speeches or that we could increase the length of the parliamentary day, so we ended up with four minutes again, having gone round in a circle.

Perhaps it would be helpful to do some further work on question time and questions in general. If we can come to some agreement on why we think question time is not working quite as we would like it to, we can explore other options than simply extending it. I am not sure why 30 minutes would improve matters. In my opinion, it would not. I am open to persuasion, but I cannot see why it would.

The Convener: The most commonly expressed view of the deficiency of question time is that there is not enough time to allow a larger number of people in on a wider range of points and we do not always finish all the questions. I agree with what you say about the survey. Maybe there is a deficiency in the survey, but I wonder whether members answering that question were thinking of 30 minutes as opposed to 20 within existing parameters, or of 30 minutes as opposed to 20 within the parameters of slightly more time.

As the last page of the summary shows, we got a clear indication when we broke down the options given in question 7, and members were quite decisively receptive to a later finish on a Wednesday. I wonder whether we could turn the whole thing round and say, "We suggest that Wednesdays should finish at 7 o'clock," for the sake of argument. Within that time, we would propose that the current short debates should be slightly longer and that opening times for speeches would not change but that back benchers' speeches would be six minutes long. As we would be going on until—let us say—7 o'clock, we could have 40 minutes for open questions on a Wednesday afternoon. We could break it into two

ministries and rotate the ministries in response to the volume of questions.

On a Thursday afternoon, we would not go on any later than we do at the moment. We would have a half-hour question session with the First Minister, broadly as it is at the moment but with more time. That would take us into the middle debate in the afternoon slightly earlier, so we could have longer back bench speeches then as well. Instead of disaggregating it, if we put a whole package together about the shape of the week, based on what we thought might command overall support, we might get the basis of something that would work. People might look at that and say, "There are six points there. I like four of them, I don't like two of them, but the package I can buy into." We may need to go back for more survey work based on what we tried to work out ourselves, but we need a model to put to people.

Fiona Hyslop: Well said.

Paul Martin: Are we dealing with Sir David's letter as it is?

The Convener: Yes, but we are using it as the springboard to a wider discussion about how we allocate plenary time.

11:15

Paul Martin: I agree with that. The difficulty has been that we are looking at defined surveys rather than putting recommendations to the parties. The working week idea is the most effective way of putting proposals to members.

I raised this matter before, and Gil Paterson and I previously discussed the four-minute time allocation for speeches. Members will have to give and take. If they want six minutes, they will have to give something somewhere else, which may mean additional time in plenary. We will have to be clear about that when discussing the working week.

Sir David Steel's letter of 9 January deals with question time. I have some difficulty with his approach. Question time does not attract a lot of media attention. I mean no disrespect to the media, but we do not set it up as a media event. I do not think that the media want an orchestrated event.

Question time is an opportunity to hold the Executive to account. The current system allows for that; a scatter-gun approach means that I, for example, can ask about the health board in Springburn and another member can inquire about the incidence of domestic violence in his area. The opportunity to discuss various issues at that time is welcome. There is nothing wrong with that.

Members are right to raise some issues, but sometimes they are not able to interrogate the minister or extract the points that they would like to. Accountability is an issue. Perhaps there could be further supplementaries; I know that Sir David occasionally allows members to ask another question on a matter. That is a more robust approach. There would be extreme difficulties if members were advised that their questions would be restricted in two 15-minute sessions, for example, on agriculture and another subject. They might then ask why the system was changed and request that something else be put in its place.

I welcome the approach that Sir David suggests of having the Presiding Officer select the first three questions of a session and then allowing other questions to be asked. That offers an excellent opportunity for the Parliament to deal with issues of current importance. I have difficulty with the idea that we are there to provide a media event. Even if we provided that in some format, I am unsure whether it would get the same attention as First Minister's question time. I am being realistic about that. Such a session might attract the same attention as First Minister's question time if a minister were about to resign or there were a scandal in a council somewhere. Sir David should be more realistic about the attention that those sessions would attract.

The Convener: Sir David's suggestion was not driven by the idea that that session should be a media event; he simply felt that if a minister faced sustained questioning on a ministerial brief that in itself would appear to be more important and possibly more newsworthy. It would be more akin to the coverage of our ministerial statements. However, statements are always predicated on news or announcements, so that may not be a precise analogy.

We are talking about a sense that there is not always a sustained focus in questioning. Paul Martin made the point that, if more time was given over to question time, we could get in more supplementaries. I suspect that if we had more time for open questions, we would get through more questions rather than allow for more supplementaries.

The Presiding Officers try to anticipate whether there is a lot of interest in a question, particularly if it is on a narrow subject. If a question is about health services in Springburn, we know that Paul Martin and perhaps one other member will want to be involved. If, however, the question is about compensation for the fishing industry, we will try to take a member from all the parties in recognition of the fact that the question is on an issue that is more geographically diverse. If we had more time for questions, members might not be able to go deeper but they might be able to go further into the subject.

Paul Martin: My commitment is to attracting more attention from the public, as well as from the media. As far as I am concerned, given the need for accountability, our focus has to be on the public interest. It is also not good for the media if we set in place a question time that is more of a showboat media event. Sir David makes clear in his correspondence that question time does not attract the attention of the media.

The Convener: That is true as a matter of observation and fact.

Mr Paterson: The point at issue is that the media do not turn up until First Minister's question time. That spells out to the public that question time is not to be taken seriously. The problem is the structure of the session: at the moment, a member asks a question after which a second and perhaps third question is called. If question time were to be portfolio driven, the media would be more interested. In a sense, the impact of that change would be a feeling that the minister was being questioned by the Parliament on a much more wide-ranging basis.

The change would mean that members could see whether the minister had a grasp of their portfolio. It would also mean that members could press their request-to-speak buttons knowing that not only the usual suspects would be called to speak on issues such as the problems at the Scottish Qualifications Authority. It is more meaningful and better for constituents if we put ministers on the spot. Ministers should be put on the spot: they need to tell the Parliament what they are doing as well as to give us answers, but the aim of question time is not only for members to catch ministers out.

The SNP might be running the Administration in the next session. A few of the members are smiling at that, but I am not. Perhaps I should have recorded this session so that I could have sent it to the doubters in a couple of months' time. We are talking about more than exposing the minister.

We cannot look at the issue in isolation. The change would have an impact on timetabling of parliamentary business. If 10 minutes is to be added to question time, the last people we want to give that additional time to are the usual suspects who get to ask the questions during First Minister's question time. I would rather that the expanded time was given to question time and used to bring in other members, as that would make it a more meaningful session.

We seldom reach question 5—and, rarer still, question 6—in First Minister's question time. However, questions 3 and 4 give back benchers the opportunity to question the First Minister, which is a good thing.

To be quite honest, I am reluctant to give the Presiding Officer the gift of picking what he thinks is a meaningful question. I support Paul Martin's suggestion that what is important to him and Springburn—or to any other MSP—might not be quite as important to the Presiding Officer, because the issue might not be sexy or play to the gallery. We should not take something away from ordinary members and give it back to the Presiding Officer. I think that he has a lot of say at the moment as it is. I would retain what we have at the moment. I might come back on other points later.

Donald Gorrie: It is a very rare event in this committee, but I think that I disagree with every single thing that Paul Martin said. We usually have a degree of consensus on matters. However, he has not really thought through the issue of questions.

A scatter-gun approach might mean that for months on end some members might not get drawn in the lottery to ask an oral question. If a particular department has 15, 20 or 30 minutes for questions, members could use some ingenuity and bring in other reasonably related supplementaries to that department on the back of the original question. That means that members would have more chance of getting in a topical question.

Lengthening the time for ordinary questions from 40 to 60 minutes in the week and having two 30-minute sessions would allow enough time for members to quiz departments once a month or once a fortnight, depending on how much time each department received. As a result, the questioning would be better focused, which would be beneficial to members and ministers, as well as the media. I agree that we are not here for the media's benefit; however, we are here to question ministers seriously. As members must be aware, many MSPs are very unhappy with the present form of question time and feel that it is not effective.

The Presiding Officer's proposal to brigade questions is a good one; indeed, it is one of the few things that work quite well at Westminster. I support the proposal that the First Minister should have 30 minutes instead of 20, although that is a separate issue. Moreover, we should have more time for ordinary questions, perhaps with two sessions a week. As for the grouping of questions, I feel that the minister should be allowed to answer several similar questions. On the question of timing, the questions could be divided over two days.

I certainly do not want to allow the Presiding Officer to select open questions. I am sure that succeeding Presiding Officers will be excellent people, but that is not what the issue is about. On

the other hand, we should give the Presiding Officer some authority to reduce the time of both questions and answers. After all, some questions and answers go on for ever. Although such a system would be difficult to implement, it seems to work quite well in New Zealand. As the New Zealanders are very like us, it should work here.

Susan Deacon: There are several reasons why many of us were sitting smiling at the suggestion that the SNP would be in government, one of which is that we do not think that it is a credible option. However, were that ever to happen—God forbid—it would be so much fun airing all the old complaints about the way in which the Executive operates and seeing how many of those comments would apply no matter which party was in power.

That brings me full circle to the issues that we are trying to address. Some of the concerns that people have expressed—including Donald Gorrie's perennial ones—about the flow of questions and whether or not questions have been answered are a symptom of functions and structures rather than a deliberate desire of any political party or individual minister to obstruct or obfuscate things. Anyway, that is my humble opinion.

It would be valuable to consider the area further. I support the convener's suggestion of producing a big-picture paper that examines all the issues drawn together. One problem is that the committee has considered issues in isolation and that the questions that we have asked members have often been in isolation.

11:30

I recall discussing in some detail with the clerk my concerns about the questionnaire on the length of time for debates in the chamber. By necessity, such questionnaires often concentrate on quantitative rather than qualitative aspects but, in my opinion, it is difficult to answer the question, "What is the right length for a debate?" As Gil Paterson has said, on certain subjects, a high-quality debate could be sustained for hours, but plenty of members would be happy for other debates to be over in half an hour because they add little to the sum of human knowledge and are generally an unedifying spectacle.

I support the idea of drawing together all the dimensions in one paper. We should give members models to respond to, which is better than asking open-ended questions. In drawing together such a paper—if that is what we decide to do—there should be a three-pronged input. First, input should come from the evidence and views that the committee has gathered. Secondly, it should come from the Presiding Officer, who clearly has gained a vantage point on the issue during the past four years. It would be a pity if we were to lose that knowledge and expertise when we start over again in the new session with a new Presiding Officer. The third dimension would be to get ministers, perhaps—dare I say it—both past and present, to express their views. As the Presiding Officer has said in relation to answering questions, ministers have views and insights on such issues that could help to improve the process. It is important that we get the Executive's input in some form.

I responded in writing on some of the specific issues, but I will make a couple of points for the record. Even our relatively brief discussion illustrates the range of views on the issue. I share some of Paul Martin's concerns about the problems, but I have reached a completely different conclusion about the solution. The present system of ministerial questions is staccato and perfunctory and it is not a particularly meaningful experience for anybody. I accept that members want to hear the relevant minister say something about topical issues in their constituency and that, to the extent that members receive responses on such issues, which can be put into the public domain locally, the system serves a purpose. However, the system does not allow members to drill down into the issues or hold ministers to account.

I am attracted to the idea of dedicated subject-specific ministerial question times or cross-cutting sessions involving two or three ministers on, for example, poverty or the economy. We should at least test out that idea, even if it is done explicitly on a trial basis for a few months in the next session. None of us, whichever side of the divide we are on, will know for certain what works or does not work unless new systems are tried in practice. There is room for improvement.

Paul Martin said that we should be concerned about what the public think and not what the media think. That is a false dichotomy because, with the exception of the couple of hundred people who sit in the public gallery on a Thursday afternoon, the public view us through the prism of the media. Therefore we have to be concerned with how the media view us.

There are particular issues in relation to the broadcast media. My mind is on this subject because yesterday Fiona Hyslop and I were party to a session with the House of Commons select committee responsible for broadcasting. Broadcasters in Scotland have had a fairly constructive on-going dialogue with the Parliament since its inception. Scottish Television and the BBC took part in the session yesterday. I am sure that they would be amenable to a dialogue about how the process could be developed and

improved. I agree with Paul Martin that we should not be going to the other extreme of simply playing to the gallery or the press. We have to protect the integrity and objectives of the parliamentary process.

Equally, it would be possible to involve the media in a dialogue. It is all well and good for us to develop our practices or give out information in the chamber. However, we must be able to communicate that to the wider public consciousness, whether we are talking about a health issue in Springburn or an environmental issue in Portobello. It matters to us that we get wider coverage for our activities and there is nothing wrong with acknowledging that.

In conclusion, I agree absolutely with the suggestion about a big-picture model to which people can respond and which draws in all the different strands. However, it should address the qualitative and not just the mechanical and quantitative dimensions of how our week works. There are different people and different parts of the process that could contribute to putting that together.

Fiona Hyslop: The problem with the questionnaire is that we cannot please all the people all the time, especially if they are our colleagues. We all know that people want change but, if you look at the questionnaire—and the answers—in isolation, most of it is just about the status quo.

I strongly agree with the convener's suggestion that we should put together a model. It was interesting that there were nods from everyone around the committee table when he suggested that. We also need to go back to Paul Martin's point about getting something for nothing. There will have to be compromises, and that is why we will have to find out what the consensus is.

We are about to go into holding full-day sessions on Wednesdays, so members might get a feel for having a longer working day on Wednesday. From the business planning point of view—and I say this with my business management hat on—Wednesday afternoon is a difficult slot because it is not long enough for some things, but it is almost too long for others.

Although my instinct is against late sessions, the only way we can deal with the problem is to get committees to finish by 12 noon on a Wednesday, to have the plenary session start earlier and to finish later than 5 o'clock. Those suggestions should form part of the model that we put together.

Susan Deacon is absolutely right. There might be practical issues that the Executive might be concerned about that we do not know about. It might be useful to find out about those.

On question time, I agreed with that we did in Aberdeen—extending First Minister's questions from 20 minutes to half an hour. The extra 10 minutes would be for back benchers' questions 4, 5 and 6.

I also think that the free-flowing sessions we have during question time are by far the best. If all we have is members reading out written questions and having a written answer read out to them, then a supplementary question being read out that is no different from the original question, and the minister reading out the same answer as they gave to the original question, that could have been done through correspondence. Oral questions and answers should be a bit more free flowing.

The best sessions we have are when the Presiding Officers take a number of questions on one subject. The original question kick-starts the subject, but four or five members are then brought in to ask questions on the same topic. We get more from that approach; it is probably better for ministers, because they have more opportunity to respond and to give information; and it is far better for the people watching and for the participants.

We have three models to consider. There is a consensus that any extension of the time for First Minister's questions should be for questions 4 to 6 or for supplementaries from members other than the usual suspects. For a subject-based question time, we would want free-flowing questions on specific topics. We need to identify how to do that. The third model is to have a time when members can ask anything about constituency matters or topical matters of the past week. Paul Martin wants to retain that. It would be needed for topicality.

If we can cover those three bases in a question time that is spread over two days, we will start to reach a proposal that would be agreed. We should suggest the model that the convener has proposed. Instead of having a no-change agenda, we should start to address the fact that everybody knows that everybody wants change. The model that the convener has proposed would get a lot of support.

Paul Martin: I usually agree with Donald Gorrie—the Labour business managers have not asked me to disagree with him—but Susan Deacon and Fiona Hyslop suggested covering several portfolios when considering specific subjects, which might be helpful. However, I count eight ministerial departments. If we were going to have a rotational system, that would mean that one week we would discuss agriculture and transport, for example, and members would have to wait for the rotation to come round to social inclusion and housing if they had questions on those areas.

I am not opposed to free-flowing questioning and I am not opposed to open debate, but I keep going on about the real world and asking how the suggestion will play out. My concern is that members would say, "The tourism and agriculture debates this week are interesting, but I have some other pressing issues to discuss." Perhaps I say that because I am first at question time this week, but the ability to submit questions and be part of the ballot process is an issue. Under the proposal, members would not be part of a ballot process. They would have to depend on the week's topic covering the pressing issue on which they want to interrogate a minister.

The Convener: Are you telling me that, if the topic were transport, there would be no Springburn-related question that you could ask?

Paul Martin: I appreciate that point, but some members would create questions because a particular portfolio was being discussed. I do not know that it would add to the quality of debate if I decided just to throw in a question about Springburn. There would also be potential for abuse of the system if people created questions that did not fit in with the portfolio. As the committee knows, that happens already with supplementaries. Members create questions that are not necessarily to do with the subject of the main question.

The Convener: I have ruled one or two of those out of order.

Paul Martin: We have all been guilty of asking such questions at some point.

We can sit here and talk about the romantic notion of having a free-flowing session. That sounds ever so friendly—although, in some of the cases that Gil Paterson mentioned, it would not be friendly, because he would nail the ministers—but would it achieve what we want? I do not necessarily think that it would.

The point that Fiona Hyslop made about having four or five supplementaries on a particular subject is correct. That happens when there is an issue of the day. Recently, Richard Lochhead raised fishing quotas in Aberdeen, and a number of members wanted to ask supplementaries. However, if the week's subject was transport, some members would have aspirations to submit questions that were not necessarily related to the subject.

There might be a way in which we can accommodate both. We could keep a debate for the scatter-gun approach, as the Presiding Officer called it, but have a mix of both styles of debate. It would be difficult because there would be the rotational system. Susan Deacon touched on the matter. Members might ask why the Minister for Finance and Public Services is coming in front of us this week, and we would be told that that is the way it is—he comes in every fourth Thursday of the month. We could end up being caught up in a system where ministers appear before Parliament because that is the way it is.

I am not opposed to free-flowing questioning. Every member in the Parliament wants to raise questions. A great deal of thought must be given to the matter. Members can be parochial and will raise questions about their local constituencies as well as about issues that affect the whole of Scotland. We must be clear about how any system will play out.

11:45

Mr Macintosh: I started off with question time, but I want to air several issues. Comments have been made about focusing on ministerial portfolios and the recommendations made by the Presiding Officer for reforming question time. Some of the comments that Gil Paterson made heightened my anxiety. The wrong approach would promote personality politics. The whole emphasis would be on the minister's performance rather than on outcomes or the impact of his or her decisions or actions. That is exactly what is wrong with both First Minister's questions and question time. They emphasise all the wrong things in politics.

Having said that, I think that we have begun to come round to a more constructive idea. We need to examine seriously question time and First Minister's questions. We copied them totally from Westminster and they have never worked; they are a pale imitation of the Westminster system and do not work. They do not suit any purpose in the Parliament. There is some mileage in Susan Deacon's suggestion—which was echoed a couple of times—that we could focus on issues and group the questions that way. In order to ensure that Paul Martin does not feel isolated, I say that I endorse almost every comment that he has made today, including his comments about playing to the media gallery. There is a consensus in one corner.

Fiona Hyslop: There is a Glasgow conspiracy.

Mr Macintosh: Exactly. Paul Martin's points are true. We should not design a system that plays to the media. Ministers are already scrutinised by committees; that will continue to happen. Their work will be scrutinised in-depth by members who are examining the whole brief. I welcome the opportunity that question time gives for all MSPs to raise issues. I think that to limit that—all the suggestions that have been made would do so—would limit the opportunity to raise questions, in particular topical questions. It would encourage members to put in questions on subjects that they do not particularly want to raise that week—as the

topic for the week is finance they will put in a question about finance when they would rather ask a question about schools or hospitals. We must be careful. There is room for issue-based questions.

We can also agree that when we consider the issue and make proposals, we should examine the whole working week rather than individual items in isolation.

I will address some of the other issues that have been raised in the Presiding Officer's letter and in the survey. I am not opposed to the idea of questions being grouped; I am not sure that it is a pressing concern, but I am not against it. I am certainly sympathetic to the idea of selecting more topical questions. Members might know the old Soviet joke about the workers: "We'll stop pretending to work if you stop pretending to pay us." That is a bit like our current approach to question time. Perhaps ministers would stop pretending to answer questions if members lodged genuine questions rather than fake ones. We must try to remove the theatrical element of question time.

I am totally against asking the Presiding Officer to rule on ministerial answers. That would put the Presiding Officer in an invidious position. All Presiding Officers from all parties have been neutral and I do not agree that we should ask them to arbitrate and rule ministers out of order. Other methods might be used to obtain more substantial answers. One of the best suggestions—I do not remember who made it—was that the original questioner should have a second supplementary question after the answer to their first supplementary question to their boring or static question. That is a good idea. It would encourage a free flow and would get away from the practice of all of us having written questions and written notes, which Fiona Hyslop talked about.

I did not mention initially the fact that, although opinion in the survey was evenly divided on some issues, some questions received clear-cut answers, including the question on Wednesday evenings, as Fiona Hyslop said. That proposal offers opportunity for expansion, if needed, but work expands to fill the time that is available, and work should always be disciplined—he says, as he goes on at length. I urge caution about automatically jumping to move Wednesday's decision time to 7 o'clock. That option should be available when needed, but we should not automatically expand the working day.

I still think that the solution to the back-bencher speeches issue lies in the Parliamentary Bureau's finding better methods of responding and being sensitive to the political issues that matter to MSPs. Members want to speak on some issues on which they cannot speak and are asked to speak on issues that are not necessarily their priorities. A balance can be struck, because we still have debates whose length could be reduced.

I endorse the final suggestion in the questionnaire that the Procedures Committee—that is us—should undertake further work.

The Convener: What we had heard, and the electronic responses that we had received, did not suggest unanimity on many issues. By talking, we have discovered more common ground, at least on the approach to the next phase. The questions in the questionnaire were a bit scatter-gun; they were fishing expeditions. We have got enough from the responses to them and from our discussion to allow us to work up a model; the model will have options, because we need to test members' views.

We are all considering the matter from our own standpoint, or from the standpoint of discussions that we have had, but we do not know what the whole Parliament thinks or what ministers think, which is a significant deficiency. Susan Deacon talked about prisms. We know the Executive's view only through the prism of the bureau, the Minister for Parliamentary Business or whoever is involved in the process. I do not know how we can get at what ministers think. An interesting idea is that ministers and former ministers have a perspective of which we should be conscious.

The paper that we produce must highlight the fors and againsts. Perfectly valid points are made for and against all the arguments. It is unrealistic to imagine that we will finish the work in the time available and that we will produce a set of concrete proposals. However, we have identified matters on which we can go away and do a wee bit of work, and that will allow us to produce the legacy paper by the end of the parliamentary session, so that the people who follow us can consider our suggestions and how they might develop them, and decide when they might bite on the decisions that will have to be taken. We have run out of time to propose changes to standing orders and to expect plenary time in which to debate and put in place such changes. However, we can gather the experience and knowledge that the Parliament collectively possesses and pass that on constructively.

Paul Martin: I want to make a further point on the issue of the Presiding Officer selecting questions. Sometimes, it would be helpful for the Presiding Officer to have the opportunity to select questions for question time. Recently, the first person to die in a fire in Scotland during the firefighters' strike died in my constituency. I was thankful that a question had already been lodged on the firefighters' dispute, but if that question had not been lodged, I might not have had the

opportunity to submit a question that would be selected. The Presiding Officer should be able to select some members' questions for question time, as he does for First Minister's question time.

I do not necessarily mean that the Presiding Officer should be given that power—I know members were concerned about that—but members can sometimes make a special request for a question to be selected, because of a constituency interest. I know that everyone has specific constituency interests, but there are times when it is helpful to have that opportunity. That is the only reason for my raising that point.

Mr Paterson: That is relevant to First Minister's question time. The last thing that I would want the Parliament to do would be to prevent a member from expressing a view on such a matter. It would be in the gift of the Presiding Officer at First Minister's question time. We could send the Presiding Officer a note asking whether we could tack on to a certain question because what has happened is important to our constituents.

I can see the limitations of what Paul Martin suggests. I do not want to face two ways at one time. If question time is structured by portfolio or driven by subject—I am attracted by that idea—there might not be an opportunity for members to get in. We would need to leave it to the Presiding Officer to decide and say, "Since we can't get Paul Martin in on that area, because it is not on the agenda, I will need to give him some time elsewhere."

Are we rolling the two final items into the one slot? Are we going to talk about the questionnaire?

The Convener: We used the questionnaire to inform the other discussion.

Mr Paterson: From the paper, it is obvious that, almost across the board, members are saying that there is not enough time in debates and they go on to say that four minutes is far too short a time for speeches. They are talking mainly about back benchers speaking, but I suspect that everybody is in the same boat. The two points are compatible.

The one thing that is not necessary is extending the time of plenary meetings on a Wednesday. We could get round that by making the debates more meaningful and we could have a rollover period. If we are to ask more questions, I wonder whether members would be amenable to rolling over the debate from one day to the next. That would also entail the bureau's looking much further ahead than it does at present. The people who are involved in the architecture of the debates and the allocating of time would have time to assess debates and more timetabling could be involved. They could consider whether a given debate was interesting.

We always have the same members speaking in the big debates. Just recently—I think it was about 10 days ago—the Presiding Officer said that he was going to allow back benchers in and that he would give them three minutes, because it was a big debate. That is not on. Back benchers should have the right to get into a debate and to speak for at least four minutes. They should not always be subject to the Presiding Officer's saying, "This is a big favour; you can get in, boys and girls." We need to find a way around that. Rather than eating into time, we could extend debates in the future.

Susan Deacon: I indicated earlier that I thought that it was important that we did not just consider mechanical issues and that we alluded to qualitative issues. I want to record almost a philosophical view that flows to some extent from what Gil Paterson has just said. I am referring to the business of the role of individuals and—dare I say it—even personalities in politics.

We were talking about the chamber. We have to be quite sensitive to the need to allow members, be they ministers or back benchers, the opportunity to express themselves and for their—dare I say it—character and personality to some extent to come through. I take issue with something that Ken Macintosh said earlier. He said that what he did not like about question time was that the focus was on personalities rather than on substance, and that that was what was wrong with politics. I agree, and I feel strongly that too much attention in the Scottish Parliament has been paid to the who-said-what-to-whom type of personality politics, but that is different from us saying that there can be and should be a human face to what we do.

12:00

Fiona Hyslop's point was pertinent. If the whole process in Parliament, whether it be questions or debates, was simply somebody reading out by rote their party's or Government's position or whatever, and somebody else reading out something else, what would be the purpose of that? Okay, members would get some words recorded in the *Official Report*—which is not insignificant in itself—but there has to be something more to it. I would like us to recognise that in any proposals that we make.

Four-minute speeches are a constraint on members, and prevent them from relaxing and being themselves in debates. Members often say that, because they are desperate to record two or three points, they use a written script, when otherwise they would choose not to. They are so worried about getting cut off because they have had their three or four minutes that they have to stick to their text. That is one thing that has really reduced the quality of debate in the Parliament.

As I say, I disagree with Ken Macintosh's comments on question time. It is one of the times when people have a right to see a wee bit of the personality and—dare I say it—oratorical skills of ministers, because they can get all the rest of it through the written process. In taking this forward, we ought to be explicit on that point.

We may not have touched explicitly on enough of those issues, although we know from private discussions and from some of the more crude and simplistic and critical press commentary around these issues that they are real. If we were to bring them to the surface as part of this debate, we would be doing something to develop the Parliament and its practices.

Donald Gorrie: The idea that we produce composite proposals is good. Options are needed. There is a way forward. If we increase the amount of time available to Parliament, some of it can be given to questions and some of it to debates. That would allow people to speak for a wee bit longer.

The Convener: Okay. I think that we see the way forward. We will have a further discussion when we have a paper that we can use as the basis for wider consultation.

I thank members for their contributions this morning.

Meeting closed at 12:02.

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