

PROCEDURES COMMITTEE

Tuesday 25 February 2003
(*Morning*)

Session 1

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2003.

Applications for reproduction should be made in writing to the Licensing Division,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The
Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now
trading as The Stationery Office Ltd, which is responsible for printing and publishing
Scottish Parliamentary Corporate Body publications.

CONTENTS

Tuesday 25 February 2003

	Col.
CONSULTATIVE STEERING GROUP INQUIRY	2349

PROCEDURES COMMITTEE

6th 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

CLERK TO THE COMMITTEE

John Patterson

SENIOR ASSISTANT CLERK

Anne Peat

ASSISTANT CLERK

Lewis McNaughton

LOCATION

Committee Room 4

Scottish Parliament

Procedures Committee

Tuesday 25 February 2003

(Morning)

[THE CONVENER *opened the meeting at 09:33*]

Consultative Steering Group Inquiry

The Convener (Mr Murray Tosh): Good morning and welcome to the Procedures Committee's sixth meeting in 2003. We have received no apologies, so I do not doubt that the two committee members who are not here will arrive shortly.

Members will be aware that Susan Deacon has submitted comments on the text that we approved at our previous meeting. We do not have the papers in front of us to deal with that, so I suggest that, if the committee is happy, Susan Deacon, John Patterson and I consider the suggestions, which appear largely to be textual points of nuance and in keeping with what was agreed. We would not agree to anything that was substantively different. I think that that is the only way in which we can handle those comments at this stage.

Fiona Hyslop (Lothians) (SNP): I am happy to take the convener's guidance, but I was unaware of the additional comments. If I could have a copy of the document, I would be happy to look at it.

The Convener: The comments were e-mailed yesterday afternoon.

Fiona Hyslop: I was in the office until 8 o'clock last night.

The Convener: You are more than welcome to be part of the discussion, if you want. However, we do not have time for another formal committee meeting. I do not want to sweep the points aside, because much work has been done on them. I would like to find a way of agreeing to the proposals, as far as possible, but that can be done only under a delegated authority to negotiate.

Susan Deacon (Edinburgh East and Musselburgh) (Lab): I apologise for the late submission of the points, which was my fault. They were the result of reading the report in the round. I felt the urge to suggest some textual points of nuance, as the convener said. I hope that I have not raised substantive issues about what the committee agreed to. If I had such a point, I would not press to include it at this stage.

The Convener: Do we agree to the course of action that I proposed?

Members indicated agreement.

The Convener: I will begin where we left off—at paragraph 496 of the consultative steering group report. We will round that off, although we must go back a step afterwards.

In our previous discussion, we gave considerable scope to the debate on two options for paragraph 496 that would allow for alternative means of choosing motions for members' business. One option was to have a panel of back benchers and the other was to have a system of balloting.

Ultimately, we agreed that we wanted a system of balloting, without agreeing how that would be done. Today's papers suggest new text for paragraph 496 and a new recommendation in paragraph 497, which attempt to bring together all the strands. The paragraphs reject the back-bench panel and flag up ideas about the form of ballot, without being over-rigid about it. Are we happy with that?

Fiona Hyslop: I am happy with the consensus in paragraph 496. However, as I have said to the convener, I would like us to add a reference to providing scope for urgent constituency matters to be raised to the paragraph's penultimate sentence, which concerns reserving time to commemorate anniversaries or significant events. If a ballot system were adopted, that might mean that a member would have to wait for ever to have a members' business debate on an urgent constituency issue. We need to provide a way to push that up the agenda.

The Convener: That is a reasonable note to enter. Ultimately, the Parliamentary Bureau has the power to fix appropriate business, but it would be better to recognise that need, if the committee felt that the point was appropriate. I do not see anybody objecting, so I assume that, subject to that addition, we are happy to agree to paragraphs 496 and 497.

Members indicated agreement.

The Convener: I say good morning to the members who have just arrived. Can we go back to—[*Interruption.*] There is nothing that can be said about that mobile phone ringtone. Enter Kenneth Macintosh, sprinkling stardust. Walt Disney could not have done it better.

Mr Kenneth Macintosh (Eastwood) (Lab): I like to make an entrance.

The Convener: While you get yourselves geared up and switch off your various pieces of equipment, I draw members' attention to paragraphs 466 to 469. They were in the previous

meeting's papers, but for some unaccountable reason—probably because of being brain-dead at the end of six months of all this stuff—I skipped a page and did not highlight those paragraphs. They have not been discussed or agreed, so I have brought them back.

Paragraphs 466 to 469 relate to the letter that we received from the Presiding Officer about fine tuning standing orders to make the guidance that covers questions equally applicable to answers. The text is self-explanatory. The issue requires a considerable amount of judgment, as many aspects of chairing do. The text responds to the Presiding Officer's request and I open it for discussion.

Donald Gorrie (Central Scotland) (LD): To be fair to ministers—which I always seek to be—and to create a level playing field, perhaps the last sentence in paragraph 469 could mention members whose supplementary questions dribble on. I do not know whether we need to alter standing orders to cover them, but if the Presiding Officer is to be tough with ministers, he should be tough with members, too.

The Convener: I think that the authority to do that exists, but if it does not and if the standing orders are in any way ambiguous, I would agree with that suggestion. It is extremely irritating when people ramble on and on with questions. I do not know what it is about the word "question" that some members do not understand. It means a sentence with a question mark at the end that makes a point and seeks information. We have some verbose questions. We will double check the position and, if we need to include a reference to it, I am happy to do so to strengthen that paragraph because that is part of sharpening up business.

Mr Macintosh: I thought we had discussed the issue, although that might not have been as part of the CSG inquiry. I am concerned that we are asking the Presiding Officer to take a rather contentious role. We do not want to encourage the Presiding Officer to pull ministers up any more than is necessary.

Although there are a lot of concerns about parliamentary questions, I am surprised that we are making such recommendations at the moment. I thought that we were going to address all the issues in our inquiry into parliamentary questions and that this was a key area of that work.

There is definitely a concern about how to balance questions and answers. However, given that we are going to conduct a long and detailed inquiry into parliamentary questions, it seems odd to pluck out an issue and make a recommendation without taking much evidence.

The Convener: I thought that it was a pretty simple issue to deal with, because it has nothing to do with how information is made available. It is a matter of managing parliamentary business and is therefore a short, sharp and reasonably discrete exercise that we are capable of addressing.

The Presiding Officer might be asked to make rulings on such questions but, at the moment, people get up and make spurious complaints. The paragraph would clarify the level of expectation. The speaker at Westminster appears to have a similar power because he has recently issued guidance instructing ministers to give short answers and members to ask short questions. I do not believe that there is anything particularly sensational about the recommendation.

Mr Gil Paterson (Central Scotland) (SNP): I fall in line with Donald Gorrie's comments. I would be surprised to find out that members are already required to buck up and get on with their questions but, if they are, it is only fair and reasonable that ministers should work under the same constraints. As the convener implied, we do not have to be rocket scientists to bring about the change, which seems fair and reasonable.

I take Kenny Macintosh's point about the deeper inquiry but we have tried to use other parts of the report to fix things now if they are not too complicated. We have to recognise that, throughout the parliamentary session, people have been questioning the way in which some ministers answer questions. It is up to the Presiding Officer to be the judge and jury and the recommendation is for a straightforward change that I support.

Mr Macintosh: I was agreeing with Gil Patterson up until his last point about the Presiding Officer being the judge and jury. That is what concerns me.

We are making a specific recommendation and we have not really discussed it or taken evidence from either side about the balance in question time between politically motivated questions and politically inspired answers. We are trying to get the Parliament back to being more about accountability and scrutiny.

The Convener: That is the judgment that the Presiding Officer would make. If the question is disputatious and point scoring, we would expect the answer to fall within the same parameters. I do not think that it is a major problem; at least, it has not been a major problem since Susan Deacon stopped answering questions.

Susan Deacon: Oh!

The Convener: We are simply trying to clarify the rules. It is not an issue that needs an awful lot of evidence. It strikes me as a point of common sense, to which evidence would not add anything.

Mr Macintosh: I ask only because I want to know who is pushing for the change. Where does the concern come from?

The Convener: The Presiding Officer.

09:45

Mr Macintosh: We have not asked ministers what they think about the issue. I am not totally against the recommendation because, on the face of it, it is a matter of common sense. At the same time, the recommendation is for a specific change. The Presiding Officer can be in a tricky position and can be asked to rule on a point that contains nothing whatsoever and which someone has raised as an excuse to raise a political point. I do not want to encourage that practice.

We ought to be trying to reduce the confrontational nature of question time and to make it focus more on the answers. The recommendation mentions "relevant and concise answers", which is not bad. Relevance is an important point. I am simply concerned about the Presiding Officer's role and how he would rule on such points. Could we amend the recommendation to say something like, "The issue will be reviewed in the inquiry into parliamentary questions"?

The Convener: The only other possibility is that we would have to admit irrelevant and overly long answers. We cannot go there. If we are going to say anything explicit, it has to be along the lines of what has already been suggested.

Susan Deacon: The general principle of the recommendation is fine because we are trying to create a level playing field between questions and answers. I am happy for there to be some symmetry of approach.

If I have a concern, it is that we have to be careful that we do not suggest that brevity is the most important thing in the world.

The Convener: No, it depends on the context.

Susan Deacon: I agree. There is a difference between froth or obfuscation and a lengthy and informative answer about an important issue of the day. I am slightly concerned about the way that the recommendation is constructed and the use of "concise". I know that being concise and being brief are not the same, but there is something about the nuances behind "concise" that I do not like.

The Convener: How about inserting "appropriate"?

Susan Deacon: The word "relevant" is appropriate.

The Convener: If we were to say "relevant and appropriate", that would mean that the answer could take as much time as was needed.

I feel that if a minister were answering the point and giving information, that would justify the time taken. We get a bit impatient if an answer is simply knockabout and goes on too long.

Mr Paterson: Or if it is just waffle.

The Convener: It might be waffle, but that might happen with a response to a question that was asked in a similar vein.

Susan Deacon: Kenny Macintosh has a point about how we go on from here. I do not have an alternative phraseology to hand, which is why I give the convener papers containing my delayed reactions ages after our meetings. We have not jumped on other issues and recommended that standing orders should be changed to do something, so I wonder if the convener could change the recommendation to say something like "We therefore recommend that the standing orders are revised to allow the Presiding Officer to make appropriate changes." You see what I mean—I cannot think of something off the top of my head. However, the last line of the recommendation could be phrased slightly differently to address Kenny Macintosh's concerns.

The Convener: We could say, "We therefore recommend that the Parliamentary Bureau should initiate discussion to revise standing orders." That would make it a matter for the bureau, and it would have to be negotiated by the business managers anyway. It would also allow the Executive and the Opposition parties to have their say. We are not promoting a specific change to standing orders and the issue will inevitably come back for further discussion. We would not make the change without that.

Paul Martin (Glasgow Springburn) (Lab): I guess that the Executive might come back with the point that there is sometimes a lack of detail in questions. We have discussed that before. A member might ask a question but be leading on to something else. Thereafter, the Executive's response might not be helpful to the member because the answer did not address the point that the question was leading to.

The Convener: We are talking about oral questions rather than written ones.

Paul Martin: My comment is related to oral questions. A member might ask when the minister last visited Kenny Macintosh's constituency of Eastwood—I do not want to mention Springburn again—but the question might lead on to something else. That is probably not the best example but we have to get back to the real world, and sometimes a question lacks detail.

We have all asked questions to which a civil servant's response has been given. There is an issue about civil servants effectively advising

ministers on their responses and about their understanding of exactly what members are trying to extract from the minister. Although ministers are not trying to be unhelpful, it sometimes appears that a minister has been unhelpful in the light of their response.

The Convener: Sometimes, ambush questions are asked. Someone might ask when a minister last visited Eastwood, with a supplementary question that the minister simply could not have predicted from the lead question. The minister frequently replies to such questions by saying that they will write to the member on the subject concerned. I think that we should accept that that is what ministers do, so that members have no incentive to ask such questions.

I know that the leaders of the Scottish National Party and the Conservatives ask questions in that way at First Minister's question time, but they do so as a bridge to get to the issue of the day. The First Minister—virtually always—has anticipated those issues well, which is fair. It is really quite outrageous if one thinks of the range of supplementary questions that a member could ask on the back of such questions as, "When did the minister last meet Fife Council?" Although such questions are not inadmissible, ministers and members should not be trying to play that game.

Mr Macintosh: I do not want to water down the emphasis on the need for answers to be relevant. I assume that the point of recommendation 56 is to ensure that ministers do not use the opportunity of answering a question to go off on a spurious attack on the Opposition on unrelated matters.

The Convener: You are right.

Mr Macintosh: We could underscore our feeling that ministers should keep their answers relevant. It is a question of whether we actually recommend a change to standing orders. The suggested wording on asking the bureau to consider the matter was good.

Mr Paterson: I am not happy with this. People have been asking ministers to keep their answers concise and to answer the question. That is what we are talking about.

The Convener: We are not losing that in our recommendation.

Mr Paterson: I know that, but I am referring to what Ken Macintosh said. I think that a change to standing orders is required; that is better than not calling for one. If our proposal is to be meaningful, it requires a change to be made, although I am not concerned whether such a change would come about through the Parliamentary Bureau, the Procedures Committee or another mechanism. A problem has been recognised and we need to tackle it.

Members might get a good minister to answer their question—in fact, there are some good, concise ministers out there.

Mr Macintosh: You sound surprised.

Mr Paterson: No, I am not surprised—it is just the way things are. Every party is the same in that regard. We should bring the bad ministers into line, and the only way to do so is through a change to standing orders.

The Convener: The point is to kick the subject onto the agenda for creating standing orders, which have to be discussed and broadly agreed before they get through the Parliament. The wording could be something like, "We therefore recommend that the Parliamentary authorities consult on, and bring forward, proposed standing orders to allow the Presiding Officer to require ministers to offer relevant and appropriate answers to oral questions."

Mr Paterson: That is fine. I would go for that.

The Convener: Peace is brokered.

Donald Gorrie: Send him to Iraq.

The Convener: There are limits—I am not willing to be a human shield.

My next change is to paragraph 503. It is by way of being a piece of narrative, which explains what we have done.

I have so many bits of paper in front of me that I am struggling to find the right one. I do not think that anything in paragraph 503 caused a problem, however. My next change applies to page 82. [*Interruption.*] I apologise—I am working from last week's papers. The relevant paragraph is paragraph 525.

Mr Macintosh: Before that, I would like to make a point about paragraph 506. It struck me that we might want to expand it. We have stated:

"We recommend that our successors in the next Parliament should consider taking forward such proposals for changes to the Parliamentary week as appear to command significant support from Members."

Sorry—are you working on a different draft from mine, convener?

The Convener: Yes. That is paragraph 505 on my copy. That is because I put in an extra paragraph 497.

Mr Macintosh: It struck me that recommendation 64, which is contained in paragraph 505, or 506, depending on which copy we are referring to, is written in a slightly obscure way. People will not necessarily see the recommendation in context. Did we mean to link that recommendation to our survey, which showed that if we had to expand parliamentary time, Wednesday evenings were the favoured option?

The Convener: Yes. The reworded paragraph 503 refers to “further work on proposals”.

Mr Macintosh: I am obviously working from the wrong copy of the report.

The Convener: No, that was paragraph 503 in last week’s papers, which should now appear as paragraph 504. The underlining has disappeared.

Paul Martin: Can I check what papers we are meant to have here?

Donald Gorrie: We have two versions of the draft report.

The Convener: I am confusing everyone.

Mr Macintosh: I threw one out, because—

The Convener: I am confusing everybody. I will use the updated report. I had written things on last week’s copy, but it is better if I do the same as other members, as we will be one paragraph out otherwise.

Paragraph 504 contains new text, which should be underlined. It is not underlined because we circulated stuff.

John Patterson (Clerk): Yes—we circulated what was paragraph 503, and the underlining is now different.

The Convener: Paragraph 504, as it is now, refers to

“further work on proposals for changing the shape of the Parliamentary week”.

In the papers that you have now, the paragraphs that are underlined are those that we did not ask you to clear by e-mail. Last week, we put out an e-mail asking you to clear a whole load of minor textual stuff. We said that we would take a non-response as an indication of assent. Paragraph 503 was cleared, and the underlining has gone. Paragraph 503—now paragraph 504—refers to “further work on proposals”, and the reference to “such proposals” in paragraph 506 refers back to paragraph 504.

Susan Deacon: I have some comments to make on the substance of underlined paragraph 503 as was, or paragraph 504 as is. I am quite happy with the way in which that paragraph is written, but I suspect that I am not alone in having issues to probe and questions to ask before some other points in this section of the report are signed off. Although I appreciate the mechanism that was used for circulating the text and asking for assent, with silence being assent, I suspect that there are still some burning issues that need to be raised.

Despite the fact that I do not have an issue with paragraph 504, I had noted something from previous drafts of the report, and I wanted to raise this at the committee and take a sounding from

colleagues. It relates to the construction of paragraph 505, which refers to “family friendly’ hours”. I wanted to share a few thoughts on this.

As members might imagine, I support the concept and practice of family-friendly hours and practices in the Parliament. I could certainly benefit from them, not only because I have young children, but because I live close enough to the Parliament to benefit from going home at night.

I have a real concern about the way in which we have described and dealt with the family-friendly issue for two reasons. First, we have started to imply that having nine-to-five hours is somehow the same as having a family-friendly Parliament, which is just nonsense. Secondly, we have created a rod to beat ourselves with, in that we have been talking up the nine-to-five hours that the Parliament works. That has led to a misunderstanding of the nature and role of our work. It has also led to a wee bit of a backlash on some of the thinking around family-friendly practices.

Some of the thinking around the Parliament having nine-to-five-type meetings is not about family-friendly practice; rather, it is just about having a modern Parliament, and not maintaining some of the anachronistic practices that exist at Westminster, such as starting business at 2 pm so that business owners or farmers can do their business in the morning and then come and sit through until the middle of the night.

In raising that, I do not intend to open up what is obviously a huge, broader issue. I float those thoughts to get them off my chest and because I wonder whether we could modify the report so that, when we talk about business hours, we do not do so only in terms of their being family friendly. Having said that, we should keep in our report the substantive point about family-friendly practices in the broader sense. My apologies for opening up what is quite a wide range of issues, but I have noted the point in relation to much of the draft, although I was waiting for that paragraph so that I could make those points. Thank you for letting me do so.

10:00

The Convener: Subject to that, do we agree the section on time in the chamber?

Donald Gorrie: Could we not just replace “hours” with “practices” in paragraph 505? If I understood Susan Deacon correctly, that would make her point.

The Convener: I am happy to do that if that is what the committee wants.

Members indicated agreement.

The Convener: Are there any queries on the next section, which is on the civil service and runs from paragraph 507 to paragraph 513?

Fiona Hyslop: I have a note on paragraph 513. The first sentence of that paragraph says:

“Nevertheless, civil servants do interact directly with the Parliament.”

At our meeting in Ullapool, the point was made to us that civil servants also interact with the public and are often regarded as the public face of the Government. I suggest that we add to the end of the first sentence in paragraph 513: “and the public and are often perceived as the public face of Government for those who deal with them”.

The Convener: I am happy to add that. It is a matter of fact.

Fiona Hyslop: We would want to add cross-references to the Ullapool meeting, as that statement came out of it.

The Convener: Is everybody happy with that?

Members *indicated agreement.*

The Convener: If there are no issues with the section on evidence, which is paragraphs 514 to 518, we will move on to the section headed “Discussion”. Donald Gorrie has a point to make about paragraph 519.

Donald Gorrie: The quotation from Sir Edward Bridges is perfectly correct and well known, but there is an implication that we agree with him, which an examination of paragraphs 528 and 529 shows that we clearly do not. I suggest that we add a note after the quotation, which is in heavy type, to say, “This definition should be compared with paragraphs 528 and 529.” The point may be pedantic. I personally think that Bridges is talking rubbish. We need not say that. We could say it more politely.

The Convener: The quotation is in paragraph 519 to state an opinion. I have noted the committee’s discomfort with opinions with which it does not agree. I am happy to add a piece of text after the quotation to refer to the current practice, which is discussed in paragraphs 528, 529 and 530. We can sort out the paragraphs later.

Susan Deacon: I, too, have concerns about the Bridges quotation and would challenge it. A bigger discussion about the nature of power needs to be had. We are not in a position to have that discussion. If we accept, as I do, that knowledge is power, there are all sorts of issues about the way in which knowledge and information are shared and used.

I would also like to insert a point in paragraph 523 or 524—that is where I jotted it down, but I am open minded on that—to note the significant

responsibilities that civil servants have for the implementation of policy and a wide range of operational matters. We have discussed the matter, so I do not want to revisit the discussion, but we understate civil servants’ role and powers throughout the section. Given the emphasis of many of the devolved policy areas—for example, the operation of public services—the civil service’s skills, practices and culture all impact directly on policy delivery.

I have noted that down. If I have another burst of enthusiasm, the convener might get another paragraph or two on the issue winging its way across the ether. My general points are that I agree with Donald Gorrie and that I would like to build in a broader and more accurate expression of the civil service’s role.

The Convener: If we say something about the civil service’s responsibility for interpreting and implementing policy, would that cover your concerns?

Susan Deacon: Yes, I think so.

The Convener: We will include something round about paragraph 523 or 524.

Are there any other comments on the section, which runs up to paragraph 542?

Donald Gorrie: I have a point on paragraph 540 about the departmental committee liaison officers. I regard them as two-way gateways, if that is the right expression, so, after saying that the system is “an explicit ‘gateway’ for committees to obtain briefing and guidance from the policy sections of the Departments of the Scottish Administration”,

we should add, “and for departments to be kept in touch with committee inquiries and other activities.”

The Convener: I think that the reason that that is not included is that it is the practice. However, for that reason, it might be appropriate to include it. The DCLOs’ job is to monitor what committees do, but it would not do any harm to add that process.

Donald Gorrie: I may be ignorant, but I have never met a DCLO. They exist, do they? They are not mythical.

The Convener: Our DCLO has attended committee meetings, has spoken to the committee and is regularly in touch with the clerk. You would probably know him if you saw him, but we are not allowed to name civil servants in the committee. Although we would be doing so in an uncritical and non-aggressive way, I am sure that he would be grateful not to have his identity revealed.

Donald Gorrie: So they do exist, but I do not relate the person to the title. Mea culpa in that case.

The Convener: It is not tua culpa—that is the point.

Paul Martin: Use a code name.

The Convener: M would probably do.

Fiona Hyslop: Donald Gorrie makes an important point. It proves the point that we are trying to get across.

The Convener: I did not know who the DCLO was for the Transport and the Environment Committee when I was a member of that committee, but I know who this committee's DCLO is because I asked the clerk. Now that I know who the DCLO is, I am in the loop and I know the carefully guarded secret. That is absurd, as the DCLO ought to be known to us all. We ought to be able to have a proper, open relationship with whoever that person is. Apparently, there is a squad of such people throughout the civil service. They do a useful job, no doubt, but it tends to be a one-way street. Paragraph 540 tries to make it work in both directions. I am sure that the DCLOs will find that professionally enhancing.

Fiona Hyslop: I have a number of points on paragraphs 536 to 539. I ask colleagues to give me an early indication if they do not agree with me, in case I am on my own.

I am not necessarily one to stick up for civil servants but, although I agree with a great deal of paragraphs 536 to 539, I have question marks over some of their content. They are perhaps a wee bit prescriptive and jump the gun a bit. In paragraph 542, we recommend that a steering group work out how the relationships can work and how we can ensure a better relationship in future. I am not sure whether prescribing that relationship in paragraphs 536 to 539 is the best way forward, but I am happy to keep that in if colleagues think that it is important to flesh out the relationship.

The Convener: Paragraphs 536 to 539 were added because members wanted a lot of the points in those paragraphs to be added. Paragraph 539 was an explicit response to the request that civil servants should help members to draft amendments. The idea of putting the DCLOs in the report came from a specific request that we identify a contact point for committees.

Fiona Hyslop: That is fine. I have problems only with paragraphs 536 to 539. Paragraphs 540 to 542 are fine and the bulk of the content of paragraphs 536 to 539 is fine, but I wondered whether we were being a bit premature.

The Convener: Paragraph 537 does not prescribe anything; it is observational. Paragraph 536 is pretty general and is the basis on which paragraphs 539 and 540, which are about more collaborative work, are written. Paragraph 538 is

more specific. If members do not want to include paragraph 538, I am relaxed about that.

Susan Deacon: At the risk of sounding as though I am facing all ways at once, I will make a comment. The specifics that are proposed in paragraphs 536 to 539 are fine—I do not balk at any specific suggestion. However, the approach that we have adopted elsewhere in the report has been to be clear that a job needs to be done and to make some specific suggestions that we think ought to be implemented but to leave space for those who get round the table to think about the best way of doing it.

If I have a concern about the way that the section is worded at the moment, it is that it could let senior managers off the hook. It might just mean generating a whole load of additional work for lots of middle-ranking people in the civil service—who are already under inordinate pressure, given the volume of work that has flowed from devolution—without requiring the people at the top of the civil service and the Parliament to consider how systems, practice and culture need to be developed to ensure that constructive relations are in place, as well as the support and the systems to facilitate communications. I would like to move towards what Fiona Hyslop said about suggesting some of these things rather than being prescriptive about them. I would like to strengthen paragraph 542. I want to make it explicit that we expect any steering group to comprise senior representatives of the Executive, the civil service and the Parliament.

The Convener: Do you want to add senior parliamentary officials to that paragraph?

Fiona Hyslop: And senior Executive people.

Susan Deacon: I am being quite explicit about this: let us be absolutely honest about it. We are in the process of appointing a new permanent secretary for the civil service of Scotland. I am not sure when that person will be coming into post, but it will probably be at a key stage in the second session of the Parliament. It is important that the new permanent secretary takes direct responsibility for crafting and shaping precisely the kind of relationships we are discussing. We should not regard the suggestions as concerning wee day-to-day operational changes.

Paul Martin: I am happy with being explicit and I do not want to be difficult here, but in previous discussions, we have already asked for the things that Susan Deacon mentioned. We asked for a standard to be set at the very least.

During exchanges with civil servants, they have asked for my internal telephone number because they do not believe that MSPs have constituency offices. They do not understand that process.

Senior managers of public limited companies exchange working practices to understand what their business is about and I do not know why civil servants should be any different. They should understand the role of MSPs and of public organisations. If I asked civil servants about the work of community councils, tenants associations or charitable organisations in our constituencies, I think that most of them would have a parochial civil service view—they have not come out of their parish, so to speak. We must find a way of getting the senior management to understand the role of MSPs and the purpose of the Parliament.

Civil servants talk about tackling social exclusion, but I wonder how many of them have visited some of the projects that tackle social exclusion. That is why I welcome the suggestion in paragraph 538 about

“exchanges, work-shadowing and the development in general of personal, and face-to-face, contacts”.

People have been critical of local government. The locality of local government makes contact much easier. There is more face-to-face contact with local government than there will ever be at national level if we do not change that.

We asked for those changes. I recall that we wanted to set a standard. I appreciate Susan Deacon's point about the need to develop the situation, but we need to say to civil servants, “Get out there. Don't just talk a good game, but get out there and walk the walk as well.” It is not just up to MSPs to be out there—civil servants must understand that role. We must ensure that we help them to do that. The way to help them is to set out the principles of what we seek—that they get out there and do not locate themselves permanently at St Andrew's House, or wherever.

Fiona Hyslop: Having raised the issue, I am conscious that we must press on or we will not be able to complete our consideration of the inquiry. I am happy to keep everything in the paper, bearing in mind the comments that have been made. Susan Deacon's points help me because they indicate that we are not closing down and restricting what we are looking at. We want it be broader and deeper.

10:15

The Convener: Okay, do we agree on Susan Deacon's addition?

Mr Macintosh: Sorry, convener, I have been trying to comment on the matter too, although my point is slightly different.

I am comfortable with the direction of the suggestions and the specific wording. I am slightly concerned that we come across as naive, although perhaps that is the wrong word. As much as I want a better relationship between the civil

service and the Parliament, there is a tension between the Executive—including the civil service as an arm of the Executive—and the Parliament.

Paragraph 541 begins with the words, “We see no reason”. Paragraph 539 talks about “considerable scope” and I totally agree with what other members have said. I do not want to make this the wording necessarily, but I think we should add something like, “We recognise the difficulty of making progress in establishing this new relationship in the face of either oppositional or confrontational politics.”

In other words, as much as we try to encourage a consensual way of working, the reality of the current situation is that we often have confrontational or oppositional politics. Therefore, civil servants need to establish a relationship of trust with the Parliament. Paragraph 541 says:

“We see no reason why the establishment of such a practical relationship between the civil service and the Parliament should disturb the constitutional position”.

I imagine that civil servants would not see it like that. When we first came to Parliament, the civil servants told us about their fears about how much they can open themselves up. They are answerable to ministers and therefore have to consider how they open themselves up to working with the Parliament in a more consensual manner. I wanted to add something that echoes those feelings and not just leave it as if there were no hurdles to overcome.

Paragraph 534 talks about the civil service as being “disappointingly static”. I thought that there had been movement. We should not be too condemnatory. Paragraph 513 is a good example of where civil servants are making contact with committees. Through their own will and through contact with the Parliament, civil servants are beginning to open up. The relationship is largely not as it is in Westminster. I do not agree with that point in paragraph 534, although there is a lot of work to do.

The Convener: The fact that six of you do not know who our DCLO is—and most of you will not know who the DCLO is in your other committees, such as the Standards Committee—is disappointingly static.

Mr Macintosh: It is disappointing, but there is also movement. I am just making my point.

The Convener: I do not agree with that last point, but I agree with your first point, which was that we should include some wording to reflect the civil service concern about being sucked into political or partisan issues, as opposed to providing information, guidance and expertise. That is a perfectly fair point to include.

Donald Gorrie: I will try to meet some of the points made by various people. Would it create a constitutional disaster to say in paragraph 542 that the steering group should be made up of MSPs, ministers, senior civil servants and parliamentary officials?

The Convener: That is what we agreed.

Donald Gorrie: There is a considerable difference between that and the current suggestion that the civil servants should take a supportive role in the group. I believe that the civil servants should be there to fight their corner rather than going away in a cabal afterwards.

To satisfy the point that the inquiry should be far reaching and should not just deal with some of the suggestions, as Susan Deacon said, instead of saying "along these lines" at the end of paragraph 542, we could say "including consideration of the points made above." In other words, the recommendation could be more fundamental.

The Convener: I think that we should take out "along these lines" and include simply "a new relationship between the civil service and Parliament." That gives the group complete scope.

We move on to arm's-length bodies, which are covered in paragraphs 543 to 551. Does anybody have points to make?

Donald Gorrie: Paragraph 551 says that there will be a proper consultation, but we should add that, in the meantime, we recommend that committees should scrutinise non-departmental public bodies annually.

The Convener: Do you mean that every committee must do an investigation of the cognate NDPBs every year or simply that they should consider the annual report? The NDPBs will lodge an annual report with the Parliament and committees will have the opportunity to read and take evidence on them. We could bog committees down substantially if we required them to scrutinise everything that comes within their purview every year.

Donald Gorrie: The committees could quiz the NDPBs on their reports annually and if they did not like what they heard they could undertake more serious investigation.

Mr Macintosh: I have an example from the Enterprise and Lifelong Learning Committee of what I hope is good practice on major NDPBs. Scottish Enterprise and Highlands and Islands Enterprise dominate the scene in the Enterprise and Lifelong Learning Committee, but there are many other organisations, such as VisitScotland, that that committee must consider. The Enterprise and Lifelong Learning Committee took the view that it could not review everybody's annual report, and decided this year, as part of the budget process, to focus on Scottish Enterprise.

The Convener: Paragraph 551 asks our successors to come up with a framework for scrutiny. The point that has been raised is something for the successor committee to consider in determining the framework. I think that Donald Gorrie is jumping to the end of the process and trying to prescribe a conclusion that might be inappropriate given the work load of some committees and the number of bodies with which they are involved.

We come to paragraphs 552 to 661 on modernisation of government.

Susan Deacon: I am afraid that I continue to have concerns about this section. I apologise that I have not consigned alternative text to writing, but I am willing to do that at the 11th hour. I do not disagree with anything in the section, but I think that it is mealy-mouthed. It is not the remit of the inquiry to get into a comprehensive exercise on the modernisation of government.

If members are broadly sympathetic to the point that I am making, I would like us to sharpen up the wording of key paragraphs, notably 561. We could say that there needs to be an acceleration of the process of modernising government and of creating greater openness in its operation. I note that the phrases "modernisation" and "opening up" are used almost synonymously. I do not think that that is accurate, but that is a separate point. I would certainly like us to strengthen an exhortation for the process of modernising government, developing an effective, 21st century, post-devolution government operation. We should indicate that the Parliament has a role in driving forward that process, both in contributing to shaping it and in scrutinising its development.

Mr Macintosh: Paragraph 556 struck me as rather odd. I am not quite sure why it is in the report.

The Convener: I am not quite sure why the section is in the report, but never mind.

Mr Macintosh: We say on one hand that we welcome the Executive's work on modernising government and we talk about the consultation process. We then say:

"We wondered where the strategy was for involving the Parliament and the people directly".

The Executive told us where the strategy was and talked about it.

The Convener: Consultation is not the same as developing. Do you want paragraph 556 to be taken out?

Mr Macintosh: Yes.

The Convener: We could take it out and start with paragraph 557. If Susan Deacon wants to propose ways of fine tuning the section, we could

agree to try to negotiate a form of wording separately later. You have obviously done some thinking about that, but I do not think that you are clear about precisely what you want to do.

Susan Deacon: I am clear about what I want to do, but I readily confess that I have not given you a specific wording. In response to your throwaway line about why the section is in the report, I think that it is relevant to have a section on modernising government.

The Convener: I am just upset about the time.

Susan Deacon: That is fair enough, but we have spent a year and a half on this, so it is worth trying to get some of those points right.

The Convener: I think that everyone is happy for us to go over that section subsequently. There are no problems with paragraphs 562 to 566, on parliamentary consideration of constitutional and governance matters, or with paragraphs 567 to 577, on power sharing. We come to parliamentary committees' operations, in paragraphs 578 to 582. There are no points on that, so we move on to the section on concerns expressed, in paragraphs 583 to 584—a nice short section.

Susan Deacon: I picked up on a point of substance in paragraph 579. We have not discussed—nor should we have because it is not part of our remit—the hybrid nature of parliamentary committees, which is a fundamental aspect of the way in which the Parliament operates. At the absolute least, there ought to be a stock taking on that point over time. I fear that worked into the report is the implicit endorsement that we think that that is a jolly good thing and that it is all working well. The last thing that I am suggesting is that we open up discussion of the report in that regard just now. However, I do not think that we should allow a view to creep in almost by accident on something as substantive as that.

The Convener: I take that point entirely. Let us agree that we will put in a new paragraph that notes that committees' dual role has not been part of the investigation, but the Parliament should audit it and consider it at a future date. Our successor committee might want to work on that in conjunction with the Conveners Group.

There are no points on paragraphs 583 and 584, headed "Concerns expressed". The next section is headed, "Third Parties on Committees of the Parliament". We have drawn the teeth from that.

Paragraphs 590 to 602 are on meeting in private, which again we have discussed extensively.

Susan Deacon: I am sorry. I go back to paragraph 589, on co-option. My understanding is that we are certainly not making a

recommendation for co-option, albeit that we are pointing out the view that was expressed. Are we making that clear enough in the report? The paragraph reads:

"We did conclude that co-option itself was only part of the substantive issue".

That kind of sounds like—

The Convener: We have said that the key question is entirely different. We have not recommended that there should be co-option.

Susan Deacon: If other members think that that is good enough, I do not want to labour the point.

The Convener: At our previous meeting, Ken Macintosh asked us to leave out the phrase about that being an example of the procedural changes that might be possible if control of procedures were fully repatriated. We put in the phrase about the Deputy Presiding Officer instead. We are struggling a wee bit to think of a third point.

There was a clear view that co-option should not happen, although there was support for it in the committee. We did not want to get bogged down in the issue, and the record shows that explicitly.

We come to paragraphs 590 to 602.

Susan Deacon: I have a brief point on paragraph 596. I feel that a view has crept in to which we have not agreed. Please correct me if that happened at a meeting that I missed.

Paragraph 596 reads:

"We do not consider that there should be public discussion of such appointments, which require consideration of candidates' personal details, and of the relative suitability of candidates for particular posts."

The comment relates to the appointment of committee advisers.

Was there an explicit decision on that? I am of the view that that is one area where greater transparency should apply. Questions have been asked about committee advisers' interests, which have not necessarily been made open at the time of their appointment.

The Convener: We discussed whether there should be guidance and whether it should be public, and we agreed that we did not think that there should be public discussion of the individuals.

10:30

Susan Deacon: I do not want to revisit a committee decision; I was just not aware of actively agreeing to one.

Fiona Hyslop: Our agreement was implicit in our discussions and in the evidence that we heard. I am not sure whether Susan has been involved in

appointing committee advisers on subject committees, but I find the idea of going through the personal details and candidates' merits or demerits in a public session difficult.

Mr Macintosh: Perhaps we could comment on the transparency of the process, which seems to be Susan's concern.

Susan Deacon: I do not want to press the matter if there is no consensus.

The Convener: We will move on to the next section, beginning at paragraph 603, on draft reports on committee inquiries. I have suggested text for paragraphs 616 and 617, which I draw to members' attention. Does anyone have anything to say about the paragraphs prior to paragraph 616?

Members: No.

The Convener: Paragraphs 616 and 617 cover the vexed issues of whipping and freedom to vote. I have disaggregated what was originally included by leaving in some detail about committee business, and including details on the role of back-bench and non-ministerial MSPs in a new paragraph. We do not need a huge discussion on whipping, but it cropped up in the course of discussing committee reports. The purpose of paragraphs 616 and 617 is to say that the committee does not see whipping as particularly significant, and that political pressures should not be important.

Mr Macintosh: I am happy with the wording. My point is separate, and is about discussing proposals in public.

The section does not refer to the role of the media. We hope that draft reports will be formulated in a way that recounts evidence. We all have many experiences of working on committees, and know that, if the first time the text of a draft report is seen is during an open session of a committee, the media will report what is new. Each new development in the report's formulation will be reported, but not the committee's conclusions. Obviously, the way in which the report is reported reduces the impact of its conclusions and concentrates on the process of negotiation. I have particular concerns about first drafts, because they often include comments at which members throw their hands up in horror. However, by the time the process of developing the report is finished, we are happy with what we have achieved. If the whole committee has been taken in public, the media will not have reported the final conclusions, just the stages in between.

That reality is not reflected in this section. Somewhere in the report we state that we understand that there is not general support for an immediate, overnight move to full public meetings

to consider draft reports. I think that I have suggested one of the reasons why that might be the case. Is there space in the section to add my comment?

The Convener: Is your comment that the media can distort and misreport the process by concentrating on interim positions rather than final conclusions?

Mr Macintosh: The media will not misreport, but will report what was discussed. They will say, "A draft report of Parliament suggested so and so," but the fact that it was a draft report will be missed. The general public receive most information through the media, and they will not see the word "draft".

The Convener: The media usually say what they are commenting on. There was some coverage of this committee in *The Herald* and *The Scotsman*, and both made it clear that our report was a draft.

Mr Macintosh: With respect, convener, our report is probably not the most controversial or politically sensitive.

The Convener: Indeed.

Donald Gorrie: Ken has a point. Perhaps we could include a sentence that says that a more open system would place a greater obligation on committee conveners to ensure that the public relations aspect of making everything clear is dealt with.

The Convener: There is scope to include such a comment, perhaps after paragraph 622, which refers to the public coming to understand the process. As Donald says, including Ken's comment would put the responsibility on conveners, on our public relations people and on the press to report drafts as drafts.

Paul Martin: I have difficulties with this section for several reasons. We are talking about the consideration of first reports. Let us face it: despite the magnificent efforts of clerks, serious clerical errors can occur in what is included in the draft report. That puts additional pressure on staff in preparation of the report. A draft report is then introduced to the public domain. The media have to make a living, and if the report includes something that can set a couple of hares running—for example, during the Criminal Justice (Scotland) Bill, the committee considered recommendations for a ban on smacking—errors could make the situation worse.

The Convener: Yes. Errors could be heavily publicised.

Paul Martin: This section should relate to the concerns that have been raised by all committees about the relationship between committees and

the media prior to publication of a draft report. The Justice 1 Committee has referred public leaks of draft reports to the Standards Committee.

We might think that draft reports would not be leaked if they were made public, but people would look for what was in the draft report before it came before the committee. The media will always look for an exclusive, and I understand that—we must deal with it. Making the draft report public will not prevent someone from trying to leak the document before it is published, or from speculating about what it might include. We must face the fact that there will always be speculation, and that hares will be set running. I think that committees are entitled to private time to consider draft reports, and I do not see anything wrong with that.

The Convener: We have had this discussion—this is the third time that we have had it. What do you want to do?

Paul Martin: I shall move against it. I think that I reflect the opinion of most members when I say that draft reports should be considered in private.

The Convener: What specifically are you moving against?

Paul Martin: Paragraph 622 states that we considered the argument for confusion if draft reports were released, but

“concluded that the public would be likely to come to understand this process very quickly.”

I cannot see how the public will come to understand the process, and I do not think that people will be queueing up to view the committee proceedings.

The Convener: I am not asking you to redebate the issue, but I want to be clear that you are moving to delete paragraph 622.

Paul Martin: There are several elements of the section—

The Convener: If you want to move something, you need to say what it is.

Fiona Hyslop: I would like to clarify something about the process. As I understand it—I think that Donald Gorrie understands it in the same way—if we want to change the report, we must submit suggestions formally in writing.

The Convener: Yes, but we are going through the report and deciding whether to approve it. I do not think that Paul is suggesting alternative text; he disagrees fundamentally with something and wants to remove it. The committee is entitled to do that.

Fiona Hyslop: It sounds as if Paul is referring to the whole section.

The Convener: That is what I am trying to establish.

Mr Paterson: Before we go to the vote—

The Convener: We have not got anything to vote on yet.

Mr Paterson: Well, this is a point of clarification then. Recommendation 70 does not preclude committees meeting in private.

The Convener: Of course it does not.

Mr Paterson: It suggests—and I happen to agree—that too many committees automatically meet in private. I would be the last person to suggest that reports should automatically be taken in public, because sometimes sensitive issues are involved that might not reach the final report. It is horses for courses. There must be flexibility, but the committee received a great deal of evidence from many parties that suggested that we do our committee work in seclusion automatically. Too many parts of our committee work are taken in private automatically. I do not think that there is a need to exclude any of the proposed text.

The Convener: Nor do I. We are debating the issue yet again—this is our third substantive debate on the issue. We need to come to a decision. Paul Martin has indicated that he wants to take out some text. While he thinks about which text he wants to take out, Ken Macintosh will make a constructive suggestion.

Mr Macintosh: I would like to add what I said earlier about the role of the media, which the convener accepted could be included in paragraph 622. Most members have a genuine fear that their actions will be misinterpreted, that draft reports will be misinterpreted and that the process will become the focus of attention, rather than members' conclusions. We should include a reference to that genuine fear. It is not just a fear; it is a problem that will have to be overcome.

In the final sentence of paragraph 622, I also suggest that we change “concluded” to “hoped”. I do not think that we can conclude that the public will understand the process quickly, although I hope that they will. We should move to a more open system. Rather than having an automatic presumption that we should meet in private, we should assume that we will meet in public, where possible.

We should boost the emphasis on those two aspects. We should state that members have a genuine fear that the Parliament's work will not be interpreted fairly and that we hope to overcome that difficulty. I am fairly comfortable with recommendations 70 and 71, although the use of the phrase “normal practice” in recommendation 71 could perhaps be modified.

We should weight the process heavily towards meeting in public. In our report, we are strongly in favour of that—indeed, the drafting goes further

than I would have been willing to go. However, I am willing to agree with what is proposed, because the point is important. If we can reflect the fact that there are genuine concerns, we might just get there.

The Convener: I am perfectly happy with your suggestion for additional material for a new paragraph after paragraph 622. We could express fears of misinterpretation and anxiety about the process looming larger than the outcomes in reporting. Those are pertinent points to make.

Paul Martin: I take that on board. In the light of the helpful contributions of Ken Macintosh and Gil Paterson, I withdraw my proposal for paragraph 622.

Paragraph 634 states:

"It is hard to see how meeting in private to discuss lines of questioning could be compatible with some of the ideas we have considered for less formal ways in which to gather evidence."

I do not think that meeting in private in such cases causes any difficulties. For example, as a member of the Audit Committee, I found it very helpful to discuss in private with the Auditor General for Scotland how I proposed to question Sir Muir Russell on issues relating to the new Scottish Parliament building project, as Sir Muir Russell was not aware of the questions that I would ask him. We are talking about the real world. It is helpful to meet in private to discuss how we will question witnesses.

The Convener: Paragraph 636 deliberately provides for that. It recognises that, with many witnesses, we engage in a more interrogative process. Some witnesses are hostile. I am not suggesting that civil servants would fall into that category. Paragraph 636 acknowledges that there are cases in which a committee might decide that it wanted to take such an approach. There is no reason why it should not do so.

Paul Martin: Paragraph 634 states:

"It may appear threatening to many potential committee witnesses for committees to discuss their lines of questioning in private."

Discussing lines of questioning in private is not threatening in any way and I have no difficulties with it. Committees are entitled to private time to discuss questioning.

I am sure that witnesses meet in private before they come to committee meetings. Sometimes they meet the civil servants privately before they meet us. I do not find that threatening. Witnesses are entitled to spend their time being briefed on how they propose to answer any questions that we might put to them. Sometimes committees are helpful in providing witnesses with information on the questions that they might be asked. I feel

strongly that committees should have an opportunity to meet in private to discuss lines of questioning.

Fiona Hyslop: Paragraph 636 covers Paul Martin's concerns.

Donald Gorrie: So does paragraph 637.

10:45

Fiona Hyslop: There is a range of witnesses. There is a difference between Muir Russell and some of the witnesses from community organisations that the Social Justice Committee has questioned. It is horses for courses. The relevant paragraphs cover the issue adequately. Paragraph 636 takes account of Paul Martin's concerns. Committees will still be able to meet in private to discuss the questioning of witnesses. There is no problem.

Susan Deacon: Broadly speaking, I am content with this section of the report, but I have a specific point to raise. I had to nip out of the room, so I apologise if the committee has already dealt with it. Do we say at some point that there should be a framework within which committees should operate? For example, on a previous occasion, I mentioned local government practice. John Patterson circulated a helpful note on that. Local government has established practices for prior publication of what will be considered in public and what will be in private. Paragraph 600 gives a general exhortation to publish such proposals in advance, but I wonder whether there is a paragraph that says specifically that a more formal guideline ought to be produced.

Mr Macintosh: In paragraph 634, there might be room to emphasise the fact that we want to establish the principle that the Parliament's business is conducted openly, so that everyone can follow it. We do not want to put obstacles in the way of good practice or the efficient working of members. We could recommend further work, as Susan Deacon suggested. Such work could be along the lines of practice in other areas of government or it could build on the work that committees already do.

The Convener: The directorate of clerking and reporting produces guidance for committee conveners. That guidance is being considered and the comments that have been made would fit into that process. In effect, the Conveners Group is being challenged to review the guidance under which it operates. The crux of the report is directed at the Conveners Group, the Parliamentary Bureau and the Scottish Parliamentary Corporate Body. Where appropriate, we want those bodies to respond to the issues that we have raised.

Fiona Hyslop: I suggest that we do not get too bogged down in the issue. The Conveners Group is reviewing how well things have gone in the past. That will be a legacy for future committees, after the elections. I would not want to be too prescriptive. We have flagged up our concerns about meeting in private. Although we encourage committees to meet more in public, we reserve their right to meet in private. That addresses Paul Martin's concerns. The Conveners Group is working on the area that has been mentioned. The convener is right—we should bounce back our thoughts to the Conveners Group, so that something will be included in the guidance that goes to the new committees after 1 May.

Paul Martin: If there are grey areas, we could find that committees start to spend time on whether matters should have been discussed in private. That happens already. There will be debates on whether lines of questioning should have been considered in private or in public. Such debates will take up committee time. Although I appreciate that we expect members to act maturely and to enter into discussions in the right spirit, some members will raise concerns. They will say that the CSG report said that almost every item should be considered in public. There might be grey areas. It will be difficult to be prescriptive.

The Convener: I am sure that it will. However, we should be pleased if our recommendation causes committees to reflect on their decisions to go into private session automatically, which tends to be what happens, even if, after consideration, they decide that the circumstances merit taking an item in private. At least the question whether to take the item in private will have been considered. That is the principal point.

Mr Paterson: That is right. Explaining the rationale means that the public will have a better understanding. Too often, even members do not know why a recommendation to deal with an item in private has been made. It is reasonable to operate in such a way that an explanation is given in advance and a decision is taken.

Susan Deacon: May I clarify the point that I asked about earlier? What will result from all of this? I have lost sight of the end point of the process. Are we saying that the Conveners Group will produce a specific set of proposals for the committees to work to?

The Convener: We cannot tell the Conveners Group what to do, but in the last paragraph of the report I suggest that

"We address the report to the Executive, the Parliamentary Bureau, the Scottish Parliamentary Corporate Body, the Conveners' Group, and all MSPs."

The points that are within their areas of responsibility are addressed to them. We are

inviting the Conveners Group to reflect on anything in the report that is germane to its function.

Susan Deacon: Does anybody have an objection to us tagging on to the end of that a statement such as "with a view to developing guidelines to which committees will operate in future"? That is still quite a minimalist position compared with the statutory framework to which local authorities have to work.

The Convener: We can add an extra paragraph that states that the issues that are raised in this and other sections of the committee part of the report should be referred to the Conveners Group, and that it should be asked to reflect on the report and review its guidance.

Susan Deacon: This is an incredibly important area. We have received so much evidence on the matter that it is vital that we produce something with some hard edges.

The Convener: The paragraph will not necessarily belong in this section, but it will be in this general span of the report. We will consider where such a paragraph might best be located.

Do members have points on the section on draft committee reports on bills at stage 1?

Members: No.

The Convener: Members have no points on paragraphs 652 to 657, on Executive majorities on committees, and on paragraphs 658 to 667, on committee meetings outside Edinburgh.

We will move on to paragraphs 668 to 687, which deal with changes to committee membership. Paragraph 682 has been substantially rewritten. I have left it in for members to consider. We have discussed the matter before. I think that the agreement was that we should reflect the range of opinions and the concern that existed, although we could not see a way to resolve the difficulty. I hope that members are happy with the way that that is expressed.

Members indicated agreement.

The Convener: Paragraphs 688 to 707 are on non-Executive bills. I have no points to raise on those paragraphs and neither do other members.

The next section, paragraphs 708 to 735, is on other committee operational matters.

Mr Macintosh: I have a tiny point, which might be covered in the first half of the report. We had a discussion about the importance of non-confrontational meetings to get the best out of some witnesses. That is not covered in those paragraphs.

The Convener: But it is covered somewhere else in the report.

Mr Macintosh: That is fine.

The Convener: I cannot tell you offhand where it is, but I guarantee you that it is in the report. I rewrote it, because the last time that we discussed the matter, Susan Deacon said that it was a bit patronising. I rewrote it to incorporate a number of nuanced suggestions that she offered in a constructive spirit. I will recognise it when we come to it later on. If, at the end of the meeting, Ken Macintosh is not satisfied, I ask him to raise the matter again, because we were very particular about what we wanted to put in the report.

Are there any other points on that section?

Members: No.

The Convener: Paragraphs 736 to 745 are on the Parliamentary Bureau, and paragraphs 746 to 776 deal with concerns expressed about it. Paragraphs 768 and 769 remain underlined because, although we have discussed the matter twice, we did not ultimately agree. We agreed that we would try to put responsibility on the bureau to open up its processes, but we did not agree on those two specific paragraphs. Does anybody want to raise points about the earlier paragraphs or can we go to paragraphs 768 and 769 now?

Mr Macintosh: I have a point about paragraphs 763 to 766, but it relates very much to the build-up to the points in paragraphs 768 and 769.

The Convener: I think that, at the last discussion, the committee was broadly split between those who felt that they could accept the recommendations and those who felt that we did not know enough about the bureau to be able to make a judgment. In effect, paragraph 768 recommends that we move away from the block-voting arrangement in the bureau. It suggests that the bureau should have a membership of seven, for example; that the balance of the parties should be reflected in the bureau membership; and that we should operate it like a committee rather than have block votes.

The argument was that we could risk that, because the bureau would always meet within the framework of an overall parliamentary programme that had been agreed in advance, so there was no question that, because somebody did not turn up, the Executive would lose all its business for the following week. Such an arrangement would give the bureau the opportunity to consider issues differently from how it considers them when there are substantial block votes, which mean that everything is predetermined, although in practice—as has been said frequently and heavily—most bureau work is done by agreement and consensus, and explicit disagreements are rare.

That led to a specific recommendation in paragraph 769 that we move away from the

current bureau arrangements, and that the bureau should propose changes for consideration. That did not command total agreement last time. I guess that we will want to explore the matter further and decide what to do today.

Mr Macintosh: Shall I go first?

The Convener: Why not—you were the first to put your hand up.

Mr Macintosh: The saying is something about where angels fear to tread, fools rush in.

The Convener: Do not overstate it. I know that you should come in with your “Stardust” music at the beginning.

Mr Macintosh: I have concerns about the Parliamentary Bureau. Such concerns were echoed throughout the evidence and throughout our year and a half of work. My concerns are about transparency in how the bureau operates. We have made a number of recommendations and suggestions for improving the operation and standing of the bureau—both in our eyes and in the public’s eyes.

The voting procedure in the bureau was never a particular bone of contention for me. The point that the convener made a minute ago about few of the decisions that the bureau makes being contentious reveals that voting is not at the heart of public concern or members’ concern about the bureau. I do not see the need for a change. The issue is difficult, because I would hate this to be the one issue on which we cannot agree when we have agreed on almost everything else.

In many ways the paragraphs before paragraphs 768 and 769 aggravate my concern. They refer to the Parliament’s “outline business programme”, and I am concerned about the use of the word “programme”. I accepted the use of the word because I thought that it had a number of interpretations, but I am concerned about the idea that the Parliament might have a programme that stands alongside or in opposition to the Executive’s programme. I know that we discussed the matter, and I was assured that that would not be the case. We were assured that the word “programme” was being used to mean a diary or a timetable. If we were to put in the word “timetable” instead of “programme” throughout those paragraphs, that would allay my fears entirely.

The Convener: I am happy to do that. The point is not substantive. I do not know why the word “programme” was used; it was not a weighted or decisive choice of words. The term “timetable” will do just as well.

Mr Macintosh: That is fine.

Paragraph 766 refers to a “detailed implementation plan” in relation to the programme.

We could put something about working to a timetable.

I have no worries; I just wanted to ensure that I understand the thrust of the paragraphs, which I do in that case.

The Convener: We will go through the section systematically and change references to the “programme” and “programming” to “timetable” and “timetabling”. The idea is to have a framework that guarantees the Executive of the day its agreed time. It will divulge its business for the period over which officials are working. That would be more transparent.

11:00

Mr Macintosh: Yes. To that extent, it is welcome. We are all frustrated by the fact that we never quite know when business will come up. However, the voting has not been the main issue of contention for me, and it is still not. I am not at all in favour of paragraphs 768 and 769.

Mr Paterson: I support Ken Macintosh. I am concerned that the Parliamentary Bureau has not been open and transparent. We address that in our report. However, I must be consistent. In the past, I have talked about a consensual type of Parliament, but we are members of political parties that have different views on many things, including some quite dramatic matters of disagreement. I have said that people should not expect us to walk in hand in hand in the morning and get on with our work. Parliament is not exactly like that.

The voting procedure in the bureau involves block voting. I am not in favour of block voting in normal circumstances, but that voting system reflects the number of votes that each party gets. In the type of Parliament that we have, the power—or lack of power—that a party has is based on the number of MSPs of that party that are elected. I will probably be shot down in flames for saying this, but I think that it is right and proper that a Government has the right to set a timetable and it would be ridiculous if the Opposition was given that right. The vote reflects the nature of the Parliament and there is no need to change the voting procedure.

If we open the bureau up, we will see exactly how the votes operate—I would be quite happy with that. However, if we change the voting procedure, we will be going backwards to give an individual member a vote rather than accepting the vote that the Government holds as of right, albeit that the current Government is a coalition. The Government has that right because it received the greatest number of votes and has the most MSPs. The danger if we change the procedure is that there could be a logjam. The Government has to get on with its programme.

The Convener: Earlier paragraphs are designed to allow that very thing to happen.

Fiona Hyslop: Members may recall that I suggested the introduction of paragraphs 768 and 769. I sit on the bureau, so I know about the frustration, when there is consensus about ensuring proper timetabling of business, about having to set a timetable with one hand tied behind one's back. There might be consensus, but the voting system ensures that certain parties will always lose, which puts them at an extreme disadvantage.

The previous paragraphs help to build towards a consensual position, although I envisage that the parliamentary timetable would include the Executive's requests and that the Executive would have the majority of the time in that timetable. In arguing the case for paragraphs 768 and 769, I suggest that there should, in a mature Parliament, be some agreement to go forward consensually. The previous paragraphs make it clear that, as long as the other parties do not try to wreck the Executive's programme for bills and so on, that should be possible. We need to find a way of re-balancing the power.

The corporate body is a five-person committee—including the Presiding Officer, who has a casting vote—that operates a one person, one vote system. I suggest not that the bureau could be a seven-member committee, but that it could be more like the corporate body in its membership. Nevertheless, I accept that we are members of political parties and, although there is talk of consensus, the idea that Patricia Ferguson and I hold hands as we skip into the bureau would bring a smile to many members' faces.

The Convener: I hope to see that one day.

Fiona Hyslop: Politics is politics. Such a change might be a challenge too far for the committee and the Parliament just now; we might want to wait to see the results of making the bureau more transparent. Nevertheless, if we are to be a proportionally representative Parliament, we should strike now to try to change the sharing of power. If the bureau is at the heart of the power, we should try to share more power around the bureau.

Some members obviously do not support my suggestion, and I do not want to press the issue too much if there is strong feeling against it. However, I would like to know whether I have any allies in my attempt to open up power sharing in the bureau before we move on.

Donald Gorrie: I am a bit bemused by all of this. I understood that there was reasonable agreement that we should suggest turning the bureau into an ordinary committee, such as this one, with seven members and a built-in majority—

on a roughly proportional basis—whereby the Executive would carry the day if all its members agreed. That seems to me to be a reasonable suggestion. The Scotland Act 1998 said that there should be a business committee, about which I was enthusiastic. However, there is not a business committee; there is a bureau.

The bureau should be a committee like the Procedures Committee and should, as far as possible, meet in public. The Parliament has a responsibility for its own business. It would be reasonable to say at the beginning of the year that, after negotiation, the Executive would have 300 or 400 hours for its business and that the rest of the time would be available for the Opposition parties, for members' bills, for discussion of parliamentary reports and so on. It would in that case be up to the Executive to make the best use of its time. If the Executive encountered serious difficulties, its majority on the committee would ensure that, if it could get its supporters to agree that it needed more time, it would get that. A one person, one vote, proportionally representative seven-member committee is what I thought I had signed on for.

The Convener: That was my view. I do not like the block-vote system in principle, because it deadens discussion and decision making in the bureau. Disputes tend to be about how much time is allocated to specific bills; it is not a question of taking time from the Executive—nobody has ever tried that. What has been suggested from time to time is that more time be allocated to certain debates or that a debate might be brought forward.

Such issues are usually argued out, but sometimes they go to a vote. I expect that that would continue to happen in a seven-member committee with an in-built Executive majority, but it would happen in a better way and the opportunity would exist for members to say, now and again, that a good point had been made and that the bureau should consult more widely and talk to back benchers—for example, about the level of demand to speak in a certain debate. That would make for a far better way of working, which would be similar to the way in which this committee works. Generally, we just get on with the business—nobody has votes locked up in their pocket.

Susan Deacon: As I have said previously to the committee, I do not think that we are ready to make this recommendation. It does not flow naturally from the evidence that we have heard. I remain open minded about whether it will be the right way to go in the future, but I think that we need to probe the matter more fully with others who have been on the inside of the process—although I do not doubt Fiona Hyslop's experience

or sincerity. I am more than happy to highlight the matter as an area for potential further examination, but I am not happy about our jumping to make a recommendation.

The Convener: Okay. What do you think, Paul? Springburn speaks.

Paul Martin: My view is similar to Susan Deacon's and you will not be surprised to hear that I am opposed to the PR system to which Donald Gorrie referred.

Donald Gorrie: There is already such a system in the bureau.

Paul Martin: Aye, there might be in the bureau, but there is an issue concerning the robustness of the bureau. The fact that the bureau is limited to a certain number of members is helpful. You said that the bureau might ask what back benchers thought. Does the committee really think that, given the pace of turnover of business in the Parliament, the bureau would have the time to consult Paul Martin to see whether he thought that—

The Convener: But the bureau would be able to do that, given that the report says that members would have the opportunity to bid for more time if they knew what the forward business was.

Paul Martin: Opposition parties are, however, sometimes able to change their business two or three days before it is due to be debated. It will not always be easy to find out what back benchers think. We must live in the real world of the Parliament. It is helpful to have a robust exchange of views about business.

I am willing to develop an open mind about the bureau's meetings being open to public scrutiny, and to change my initial view on that issue. However, I made the point at previous meetings that although it is all very well to say that the bureau should be opened up so that everyone can understand it, to do so would be a token gesture. The public should also have access to a number of other business meetings that take place in the Parliament. Should not meetings between civil servants and ministers and meetings of political parties be subject to public scrutiny because they discuss business issues? As Donald Gorrie said, the Parliamentary Bureau should be a business committee. However, I am not sure that that is relevant to the proposals that we are making about public scrutiny.

I am afraid that I have not received a large postbag of letters from people in Springburn asking for the Parliamentary Bureau and the Scottish Parliamentary Corporate Body to be opened up for public scrutiny so that they can see what happens in their meetings. However, I have received many letters about the Criminal Justice

(Scotland) Bill and interim anti-social behaviour orders. Perhaps that reflects the profile of my constituency. However, I do not believe that there is great public demand for the bureau to be opened up. It would be tokenistic for us to say that we should open up the bureau as a way of dealing with media speculation and of addressing the concerns that have been raised about the bureau. Opening up the bureau would not do that.

Mr Paterson: The bureau is so secret that no one knows about it.

Fiona Hyslop: Exactly. That is the point.

The Convener: Susan Deacon made the point that we do not know enough about the bureau to be able to pass judgment on it.

Paul Martin: I accept that insufficient information is provided on the bureau. However, if we open up one secret vault we will create another. There will always be concerns about secrecy. I am being realistic about the position in which we find ourselves.

The Convener: We cannot agree with the premise that simply because people do not know about something and do not write to their member about it, it does not matter to them, or that people would not be concerned if the issues were explained to them.

We could keep going round in circles and widening out the debate. We have all stated our opinion and it is clear that there is not majority support for recommendation 93 in paragraph 769. We have discussed the issue at some length three times. I suggest that we leave the argument on the record and retain paragraph 768, but we should say that some members of the committee argued for a change in the composition of the bureau. We should replace paragraph 769 with a statement to the effect that the majority of members felt that the case had not been made for change and that the issue should be kept under review and revisited in the light of possible changes to bureau transparency, as Susan Deacon said. That would reflect the discussion that has taken place.

Fiona Hyslop: It would be good to use the term "open-minded".

The Convener: The essential point is that the committee agrees to recommend no changes to the Parliamentary Bureau at this stage.

Fiona Hyslop: However, we believe that the Parliament might want to revisit the issue in the future.

The Convener: We believe that, in the light of greater transparency in bureau business, our successor committee might want to return to the issue.

Donald Gorrie: I proposed a further change to this section.

The Convener: Given what we have just decided, that suggestion now goes by the board.

Donald Gorrie: We could redesignate the bureau as the business committee. That is a separate issue.

The Convener: Would not that be a slur on the other committees? [*Laughter.*]

Donald Gorrie: I proposed that we should delete the last three lines of paragraph 774, delete the first line and a bit of paragraph 775, and insert the words:

"While the role, composition and procedures of the Bureau, even after the changes we have recommended, are and would be different, in some respects, from other Parliamentary Committees we propose that the term 'Business Committee' should replace 'Parliamentary Bureau'".

Fiona Hyslop: I am happy with that proposal. However, we will need to change Donald Gorrie's wording slightly to reflect the fact that we are not suggesting a change to the composition of the bureau. We must make it clear that the bureau is not subject to the same standing orders rules as other committees. The member has made a fine suggestion; changing the name of the bureau might help people to understand what it does. However, if we use the word "committee", would the bureau be subject to the standing orders rules that refer to committees?

11:15

The Convener: No, but a degree of confusion would be introduced. The bureau would be called a committee, but it would not be like other committees. It would not look like a committee, sound like a committee, smell like a committee or taste like a committee. We have decided that the bureau should not be a committee, so it would be difficult for us to decide that we should call it one. The bureau is not a committee in the same sense as other committees and should have a separate label.

Fiona Hyslop: As a compromise, could we call it the business bureau?

The Convener: That makes it sound like something that the Standards Committee would want to regulate.

Susan Deacon: We have discussed the issue of names umpteen times. We should be careful about devising new labels in this way. As we have said, it is crystal clear that the terminology gets in the road—I had intended to raise this issue during discussion of the next section, but I will do so now. We seem to have lost the point that we wanted to make about the Scottish Parliamentary Corporate Body. We had agreed to raise the issue of names and titles in the section of the report that deals

with the SPCB. I hate the terms SPCB and Parliamentary Bureau, because they inhibit people from understanding what we do. I like the simplicity of the term business committee, although I can see its downside.

There is work that needs to be done on the matter, but not by a committee; the work would probably involve some market research. Can we recommend firmly that changes need to be made, but stop short of saying what those changes should be? I would not be frightened to jump if we knew definitely where we wanted to jump to, but I am not sure that we do.

The Convener: Nor am I.

Mr Macintosh: I have no objection to the name business committee but it might create another problem. Paragraph 775 sets out our position: we are not happy with the name Parliamentary Bureau because it has overtones of politburos.

Fiona Hyslop: Can we include the suggestion that the name Parliamentary Bureau be changed to business committee?

Mr Macintosh: Yes.

The Convener: We will do that.

We now move to the section on the Scottish Parliamentary Corporate Body. Does Susan Deacon want to repeat her suggestion that we find a new name for the corporate body, which is one of the least transparent names of all time? "Conclave of cardinals" would be clearer.

Donald Gorrie: Does not the term Scottish Parliamentary Corporate Body appear in the Scotland Act 1998?

Fiona Hyslop: Yes.

The Convener: Given that we are recommending that we should be able to change provisions of the Scotland Act 1998 that are essentially our business, it is not unreasonable for us to be able to change the name of the SPCB.

Susan Deacon: Company law requires companies to have particular titles and to be registered in particular ways, but the precise status of an entity can be set out in four-point text at the bottom of a company letterhead—companies may have day-to-day working titles. We are not in a position to resolve the issue now, but I suspect that even without statutory changes we might devise working descriptors of the key bodies, which people would recognise and understand far better than the current titles.

Paul Martin: There is an issue about branding. The administration committee at Westminster is referred to—

The Convener: The Public Administration Committee.

Paul Martin: I do not know whether there is an opportunity to look at the Westminster model. There is a branding issue; what does the Scottish Parliamentary Corporate Body actually mean? A public exercise has been required in terms of the corporate body, so there is an issue about how we should brand it.

The Convener: We could include in paragraph 792 a phrase that would cover that and cite it as an example of an area in which we cannot amend the Scotland Act 1998 despite the matter in hand's being clearly the Scottish Parliament's business, thereby resolving our difficulty in finding an appropriate example of that problem.

Mr Macintosh: I will make two very small points. The first concerns the opening sentence of paragraph 777.

The Convener: It is a John Patterson-type sentence.

Mr Macintosh: I cannot believe that you said that.

John Patterson: I thought that the sentence was the convener's.

The Convener: It probably was. John has begun to influence me.

Mr Macintosh: That is the sort of thing that usually precedes a sycophantic reference to somebody.

The Convener: What do you want to do with that sentence?

Mr Macintosh: I want to delete it and to start with the second sentence. I am not quite sure what it says.

The Convener: Indeed. The first sentence is definitely Pattersonian. Take it out. Off with its head!

Mr Macintosh: My other point is about paragraph 791. We discussed it previously and concern was expressed that there are no formal domestic or housekeeping committees; however, there are such committees and we should acknowledge that fact. The SPCB has set up at least three committees—that I am aware of—to assist it in its work.

The Convener: The reference in paragraph 791 is to committees on the House of Commons model; I do not think that the Holyrood progress group or the art steering group—with its profligate attitude to public money—are what is being referred to.

Mr Macintosh: Perhaps there is an issue there.

The Convener: There are committees at Westminster that do the menus and choose the wine, are there not? They are very heavily

oriented towards getting into the nitty-gritty there, because there are so many people.

If you want to phrase paragraph 791 in another way, I will be perfectly happy to accommodate that.

Mr Macintosh: I assumed that committees such as those the SPCB has formed were what we were referring to.

The Convener: I do not think so. We will look at the matter again.

Mr Macintosh: It is not that important.

Susan Deacon: I am not suggesting that anybody here is being flippant about such issues, but it is important that we are not. The housekeeping issues for which the SPCB is responsible extend to the small matter of providing new building accommodation for members of this Parliament. A degree more transparency and scrutiny of what goes on there would therefore be for the good of all concerned. It is important that we do not understate the significance of the body.

Fiona Hyslop: I do not want to get into a feminist analysis, but the implication of words like “domestic” or “housekeeping” is that such issues are somehow trivial or unimportant. Members are saying that some of the sub-committees have a great deal of importance, and we should reflect that. Either the author feels that those terms are appropriate, and he is taking a feminist analysis, or he does not. If he does not, I suggest that we have more appropriate wording.

Susan Deacon: I second that.

The Convener: What was that?

Susan Deacon: Just read the *Official Report* and you will be okay.

The Convener: We have to finalise the wording before we get the *Official Report*.

Fiona Hyslop: If Ken Macintosh can come up with wording that reflects the importance of some of those committees, that would be helpful.

Mr Macintosh: We should acknowledge the fact that there are at least three committees that have already been established by the SPCB to assist it in its work.

The Convener: And, as new men, we see nothing gender-biased whatever in the use of the terms “domestic” or “housekeeping”, do we?

Mr Macintosh: No comment.

Susan Deacon: Do not go there.

The Convener: The next section—paragraphs 793 to 802—is on the Conveners Group. There are no comments on that section.

The next section—paragraphs 803 to 822—is on issues that were raised by the Presiding Officer. Paragraph 822 remains partially underlined, because there was quite a lot of discussion on it. The current wording is my latest attempt to get at the recommendation without getting sucked into the process.

Fiona Hyslop: The only thing that I want to ask about is the investigation of methods. Is that something that we want to recommend as research, or does the committee want to consider whether that could be done by an issues paper?

The Convener: Do you want to extend paragraph 822 to recommend that our successor committee should request an issues paper?

Fiona Hyslop: Yes—that would be helpful.

The Convener: Okay. If we are happy with that, we shall move on to the next section, on the role of MSPs, which is covered in paragraphs 823 onwards. I relocated some of the material on whipping to paragraphs 828 and 829. Paragraph 828 states simply that whipping exists and that there are reasons for it. Paragraph 829 is an attempt to encapsulate the point that we agreed on last time: that what is said should reflect what we expect of MSPs and what we expect of them is that they exercise their judgment. That is there for members to like or not, and to accept or change.

Mr Macintosh: I am happy with the way in which you captured that, except in regard to a factual point that we agreed on. You say in the second clause of paragraph 829

“that there is little scope or need for party whipping in committee work.”

I believe that there is no party whipping in committee work and that that is officially the case.

The Convener: You are probably right, but if there is no general agreement on a bill at the end of committee’s stage 1 report, an Executive that is promoting a bill as a big election commitment has a legitimate right to expect that its MSPs will support the general principles of that bill. I am sure that somebody made that point. MSPs might not agree on aspects of such a bill and might say, “We are not convinced about that part of the bill.” I am thinking of the Transport and the Environment Committee’s views on workplace parking charges, for example, when the committee said that it did not think that a case for such charges had been made. At the end of the report, however, members agreed to recommend the general principles of the Transport (Scotland) Bill.

When we talked about committees finalising reports and considering amendments, we agreed that there was not and should not be whipping, but that political decisions were taken for a stage 1 report and that that was reasonable. Perhaps we are getting too far into the matter.

Mr Macintosh: That is possible. People obviously form, and occasionally follow, party allegiances. Party whipping has a specific meaning as well; disciplinary procedures will be—or may be—followed if a member does not obey the party whip. As a matter of record, I do not think that the party whip is used in committee work. There might be all sorts of obligations, pressures, discussions and arguments, but I do not think that there is a party whip. If we replace the wording with—

Fiona Hyslop: We could replace it with “voting along party lines”.

Mr Macintosh: It is not so much that.

The Convener: There is lots of that. It happens for all sorts of legitimate reasons.

Fiona Hyslop: That is what I mean. I was on the committee that went through the Housing (Scotland) Bill, to which there were about 500 amendments, and the three members from the Labour party never once deviated from the Executive line. I am not saying that they were formally whipped—that behaviour might have been voluntary, and that is what we have had the discussion around. However, if we do not like the word “whipping” in paragraph 828, we could say, “We concluded that voting on party lines was legitimate when the Parliament voted on motions related to the political messages of the political parties”, which would reflect what we are trying to get across. Ken Macintosh is right to say that “whipping” implies that members vote on party lines because of instruction, as opposed to its happening voluntarily because members want to support the core election platforms of their party.

The Convener: Susan is desperate to get into the dialogue.

Susan Deacon: No, I am not desperate. Perhaps we could amend paragraph 829. Rather than say

“that there is little scope or need for party whipping in committee work”,

we could say—as a statement of fact—“formal party whipping does not generally take place in committee work.” I do not know whether members feel that the word “formal” goes far enough.

My greater concern, which might be addressed elsewhere in the report, is that paragraphs 828 and 829, as they are currently constructed, lose the much bigger and more strategic point that we have discussed, which is that too many plenary votes in the chamber are whipped. I would like us to move away from that practice.

11:30

Donald Gorrie: There is a certain amount of nuance in respect of what is and is not a whip. I

am a member of one of the Executive parties and, in the past, I have received hymn sheets for committees that have told me the Executive line on everything. They go straight in the bucket, but they are issued. Do they constitute a whip? If I ignore what I am given, will I have to appear in front of my group whip, who will tell me that I am very naughty? I do not know. Would that happen to a member of another party?

There are excessive attempts at party control in all parts of the Parliament, which should be resisted. That is the society in which we live, but we should do anything that we can to make the Executive more relaxed. In many matters—with bills, for example—one agrees on the objectives, but there are differences of opinion about how the objectives should be achieved, which have nothing to do with politics. It is wrong to put members under pressure to vote on such matters as a result of a Government, civil service or party line. I am happy with what the paragraph says.

Susan Deacon: I want to make two brief points about what Donald Gorrie has said—members should forgive me if what I say sounds like nit-picking. First, the matter is not just about legislation; if anything, party whipping systems—certainly at stages 1 and 3—are usually a healthy and legitimate part of the legislative process.

Secondly, we must get away from the idea that the matter is just about Executive parties. Donald Gorrie used the word “control”—perhaps that is the issue. Perhaps we are getting stuck on whipping. As professional politicians, we all recognise that such a process exists. Perhaps the general point relates to loosening the reins of party control and is made elsewhere. If it is, I will back off, but if it is not, we ought to incorporate that point here.

In my 11th or 12th hour words for the introduction, I proposed a couple of lines about a matter that we did not think that we had reflected properly at the outset. Perhaps those words could be rested elsewhere in the report—they concerned a balance being struck between effective party management and control.

Mr Macintosh: I said that the convener had come close to capturing the spirit of the matter. The only small point that I made concerned the use of the whip as opposed to voting on party lines. Susan Deacon is probably saying that

“little scope or need for party whipping”

should be replaced by an observation that there is no formal party whipping—

The Convener: Donald Gorrie observed that there is a hymn sheet to guide some of the congregation, but not the whole body.

Mr Macintosh: Not in committees.

Fiona Hyslop: I do not think that we should debate when a whip is not a whip.

Mr Macintosh: Why do not we just leave the paragraph?

The Convener: The proposals are an attempt neither to validate nor to invalidate processes that happen and that we have not investigated in detail. It would help if we left the paragraph.

Paragraph 833, which includes new text, attempts to insert something better than what was in the previous draft—I think that we agreed on the content of the previous draft, but not on how it was written. I hope that members like the new text.

Donald Gorrie: The final four words of the improved text are superfluous.

The Convener: I disagree—I think that only the final two words are superfluous. It is reasonable to mention “needs and interests”.

Donald Gorrie: Okay.

The Convener: It is clear that the words “of constituents” should have disappeared.

Donald Gorrie: The word “constituents” is used earlier in the sentence.

The Convener: You are right.

Donald Gorrie: I can live with what the paragraph says.

The Convener: The optional section after paragraph 838 concerns representation of back benchers. I think that previous discussion came down against such representation, but the section is there if any member wishes to have another stab at persuading colleagues that it should be included.

Donald Gorrie: We should mention exploring the possibility of a group to give a voice to back benchers.

The Convener: It is clear that paragraph 1 in the optional insertion should go, as we have not agreed to recommend changes to bureau membership—I think that the same is true of paragraph 2—but the other proposals concern a back-benchers’ group. The proposals could be amended to take out further references to bureau representation and a coherent justification for a back-benchers’ group could still be produced. We should deal with the proposals, but appreciate that if they are agreed to, they would have to be amended so that references to bureau representation were combed out.

Donald Gorrie: I think that the majority of committee members are against a back-benchers’ group, but I would like the possibility to be on the table for future consideration. It is clear that the committee does not agree with the proposals, but

we should recommend that such a group could be considered in the future.

The Convener: Paragraph 8 of the optional insertion could be reworded to say that we have considered the principle of a back-benchers’ group and recommend that, in future, the views of back benchers should be established by the parliamentary authorities rather than the Presiding Officer. We could mention the matter, but leave it hanging in the air for future reference—it is reasonable to mention that the matter has been discussed.

Fiona Hyslop: I strongly support that suggestion. We have not taken a great deal of evidence on the matter and we should ask the Presiding Officer to progress it.

The Convener: Okay.

The last part of the section relates to regional meetings. I draw members’ attention to paragraph 844 in particular, which is underlined. I wrote the paragraph to try to encapsulate points that Fiona Hyslop made in promoting the paper that we discussed in January. The committee has not seen the proposals before, so we should discuss whether they should be approved.

Fiona Hyslop: From time to time, issues should be considered regionally—for example, the Glasgow hospitals issue, with which members of the committee were involved. It would be helpful to ensure that support for advertising and administering regional meetings could come from the Parliament. We should consider how to connect people to the Parliament.

During the Ullapool visit in particular, I was struck by the fact that it is helpful for committees to get out more, either formally or informally. To try to ensure that we are connecting, regional meetings would be an added bonus. If necessary, there could be feedback at public meetings on topical issues. Those of us who were in Hawick will certainly remember that the public expressed vociferous views to parliamentarians—that is part of keeping the Parliament in touch.

I understand concerns about having meetings formally set up, their frequency and the fact that there would have to be rotation, but regional meetings that were supported by parliamentary resources would be a helpful addition to ensure that parliamentarians got out of Edinburgh and reached the people. There would be consultations and discussions with the public and people would have a means of getting in touch with politicians.

It is important to enable that to be done on a cross-party basis so that a party-political agenda is not necessarily pursued. The point is to promote the Parliament. It might be helpful for the public to see politicians from different parties working

together and ascertaining views and opinions. That would be one way of doing things rather than just relying on committees.

The Convener: Are members happy with paragraph 844?

Susan Deacon: I do not have a problem with flagging up regional meetings as something that might happen and therefore saying that parliamentary resources should be available for them. However, for the record, I am concerned that we might lapse back into the early mindset of the Parliament, which was about busyness, consultation, discussion and endlessly looping around issues. Such a mindset might falsely raise public expectation, because people will ask, "You have done a lot of talking—what are you actually doing to make a difference?" It is always a bit more complicated to deliver.

I feel the need to record my anxiety. If anything, I would like the wording to be diluted slightly, but I will not stand in the way of our noting that there might be a place for regional meetings. The previous paragraphs mention regional identity. In most cases—the south of Scotland is a perfect example—the absence of regional identity renders such a level of organisation irrelevant.

Fiona Hyslop: Susan Deacon's concerns are covered by the phrase "there could be merit". The wording is fairly weak as it stands.

The Convener: The key point is the recommendation in paragraph 845, which is that the SPCB should talk about what meetings it might be prepared to resource and facilitate. That matter could be thrashed out in further consideration. I do not think that there is a difficulty with the wording of paragraph 844.

Donald Gorrie: Regional meetings would be helpful to constituency MSPs rather than list MSPs. Because of etiquette, it is sometimes difficult for constituency MSPs to get involved in issues that affect their constituents but are based in other constituencies. List members can become involved more easily in such issues.

The concept of regional meetings is good. I accept Susan Deacon's point that we should not be busy for the sake of it, but well-structured local meetings to discuss issues—for example, the hospital service in Fife and Perth and Kinross—would be beneficial. We should put the suggestion down as a definite possibility.

Susan Deacon: I do not oppose the suggestion, I merely noted some concerns.

The Convener: I appreciate that. The next section is on public petitions. Ken Macintosh will take the chair.

The Deputy Convener (Mr Kenneth Macintosh): Are there any points on paragraphs 846 to 850, which are on public petitions?

Members: No.

The Deputy Convener: Paragraphs 851 to 861 are headed "Defining what the petitions process is able to deliver". Are there any points on those paragraphs?

Members: No.

The Deputy Convener: I am a good convener—we are making rapid progress.

Donald Gorrie: You are making a bid for power.

The Deputy Convener: Absolutely. The next section is very big and goes from paragraph 862 to paragraph 935. Are there any comments?

Members: No.

The Deputy Convener: If we are lucky, we will conclude the report before Murray Tosh comes back.

If there are no comments on paragraph 936, we will move to the next section, which is on consultation. Paragraph 957 is the next point of substantive change—are there any comments on it?

Donald Gorrie: Is the underlining in paragraph 941 significant?

The Deputy Convener: That is a good point. I think that the underlining is simply to highlight rather than to introduce new text.

Donald Gorrie: So the points are not new.

The Deputy Convener: Perhaps we should put the words in bold or italics, although, on the other hand, when the underlining in the rest of the report is removed, there will not be an issue.

Are there any comments on paragraph 957?

Fiona Hyslop: I have concerns about the whole section. Murray Tosh produced some suggested changes.

The Deputy Convener: Do you mean the section on consultation generally?

11:45

Fiona Hyslop: My concerns relate to Pamela Tosh's example of the Housing (Scotland) Bill and the issue of non-Executive members participating in task forces. I am content with Murray Tosh's suggestions, which I will go through. There is nothing horrendous about the proposals—some of them are merely clarifications.

On Pamela Tosh's work, paragraph 962 points out that there was a difficulty with

"non-Executive members of the committee dealing with the Bill at Stage 2"

because

"They had not been party to the policy debate and arguments in the Task Force."

In fact, none of the members of the Social Justice Committee, whether from Executive or non-Executive parties, was on the task force, which caused difficulties. Because I have gone through the experience, I want to ensure that the report is accurate on that point.

I see that the convener has returned—I seek his assistance with a point. I inform him that we have made rapid progress.

The Convener: Very good. I should have handed over to Ken Macintosh earlier. What point have we reached?

Mr Macintosh: We have reached the section that begins at paragraph 937; we are discussing the description of Dr Pamela Tosh's work and the involvement in task forces of members from non-Executive and Executive parties. The specific paragraphs are 962 and 963.

Fiona Hyslop: I explained to the committee that I have had correspondence with you on the matter. Some of the points clarify the facts of what happened, but my main point relates to paragraph 964.

The Convener: We have a paper to circulate on paragraph 964.

Fiona Hyslop: Has it been circulated?

The Convener: No—it will be circulated now.

Fiona Hyslop suggested that she wanted an additional phrase in paragraph 964. I see no difficulty with that.

Fiona Hyslop: A number of task forces have invited members from non-Executive parties to take part along with ministers. Pamela Tosh's points about the homelessness task force were well made, but that task force did not involve members from non-Executive parties or Social Justice Committee members from the Executive parties. We have evidence about the good work of the homelessness task force, which involved civic or civil society—whichever word members prefer. That task force worked well and I am happy with the paragraphs on it. However, we did not take evidence on the merits or demerits of involving in task forces members from non-Executive parties, whether back-bench members or shadow ministers.

I want to encourage the principle of cross-party working, but my colleagues' experience on a number of recent task forces has shown that members might have good reasons to withdraw

from them. Anybody who listened to Lord James Douglas-Hamilton's comments on sectarianism during the debate on the Criminal Justice (Scotland) Bill would know that there were concerns about the workings of the task force that was involved.

My suggested wording is intended to protect members from non-Executive parties. There might be times when they want to withdraw from task forces and they should be able to do so legitimately. We have not taken enough evidence to argue for the merits or demerits of non-Executive involvement, but I am content with adding the underlined points that are in the paper that has now been circulated. My suggestion is based on recent experiences of members speaking to me about task forces on which they been invited to take part; that evidence has not come to the committee through witnesses.

The Convener: I have no difficulty with that. My concern is to encourage the concept and to encourage members to get involved in the development of policy. That is a sensible and constructive way in which to work. I appreciate that, if a political party decides that it does not want to join in, we cannot make it do so. Similarly, if a party decides that it does not like the way in which the process is going and decides to pull out, we cannot stop it doing so. I am happy for the text to reflect that; the important point is to encourage that type of working.

Susan Deacon: I am conscious that all the committee members want to—

The Convener: Get finished.

Susan Deacon: Yes. We also want to co-operate with one another as far as possible. We are in familiar terrain—I will not go to the wall about the existing wording or Fiona Hyslop's proposed wording. However, I am bound to say that the words "eat", "cake" and "it" are going through my mind. We are right at the heart of a serious issue in relation to power sharing. If we are serious about delivering meaningful power sharing, there must be a fair amount of risk and buy-in on all sides—including from the Executive parties.

You are obviously right, convener—we cannot stop somebody walking away from the process. Perhaps we should make it possible for people to state from the outset that, if they do not like the direction, they will leave the process. It is important to develop the concept and thrash out some of the aims, objectives and ground rules into which there must be a collective buy-in. I hope that that would make the kind of scenario that has been described very much the exception rather than the rule.

Fiona Hyslop: I agree with Susan Deacon.

However, the problem is that that is not how things have been in the past. The existence of cross-party task forces can allow ministers to pretend that there is a consensus when there is not. That is not the way forward. Susan Deacon's analysis is right—there must be equality from the start. Perhaps the experience of recent months has not been the best example of task force working. The whole paragraph concerns me and I want to add to it in an attempt to achieve consensus among committee members.

The Convener: I have already knocked several suggestions on the head.

Fiona Hyslop: Yes, I am inclined to think that.

Donald Gorrie: It would be a great mistake to generalise from the experience of the working group on religious hatred, so I will not go further with that.

It is important to get people as involved as possible, but it is not realistic to expect them to commit themselves. If an individual on a transport task force is dead keen on railways and the task force is increasingly going towards having more roads and fewer railways, that person cannot be expected to sign up to the task force's view. He or she either writes a minority report or walks out. We are not talking about a cabinet system; people are not tied in in that way. However, the more reasonable and honourable the route for retreat, the more people are likely to take part. The proposal should be given a reasonable go. I am not unhappy with the revised or the original wording.

The Convener: Having made our points and entered our reservations, we can move on.

Mr Macintosh: Paragraph 957 has a bash at glossies.

The Convener: That is Paul Martin's paragraph—it is dedicated to him.

Mr Macintosh: Paragraph 957 says:

"resources should be placed on efforts to publicise consultation ... rather than on expensive publications."

We are missing the point. The point is that such publications should be accessible and understandable. In other words, high-quality presentation does not always make a document understandable. Some of the glossies are totally unreadable; they are just glossy. It is important in any consultation that one engages with the public.

The Convener: What phrase did you use?

Mr Macintosh: I said "accessible and understandable".

The Convener: Is there a difference? Do you mean physically accessible rather than intellectually?

Mr Macintosh: I think that I am just –

The Convener: Shall we just say "publicise accessible consultation"?

Members indicated agreement.

Susan Deacon: I agree with Ken Macintosh's reservations about that paragraph. It is a bit self-indulgent, to be honest. We live in an age of modern communications and, frankly, if Government bodies were to publish poorly produced documents using a Gestetner that produced 10-point, densely packed text, people would rightly have something to say about it. That said, obviously what matters is substance.

Paragraph 957 may inadvertently reinforce the suggestion, which I have previously challenged, that consultation is all about producing documents—be they glossy or otherwise. I do not like the paragraph and I feel that it should be reworked to include Ken Macintosh's points about accessibility and engagement. That would bring us back to the need for relevance and appropriateness. As we have said elsewhere, there are other forms of engagement and consultation beyond simply producing a document to which people must respond in writing within eight to 12 weeks.

The Convener: To be fair, I think that those points have been made earlier in our draft report. Paragraph 957 was added by Paul Martin, so I will let him speak to it.

Paul Martin: The point that I was making is that if I could sell all those documents at a car boot sale in Blochairn, I would make an absolute fortune. The documents would litter my office. Indeed, I could fill my office to capacity with all the documents. A nice photograph of a toothbrush will not tackle young people's dental decay. A nice photograph of the minister will not deal with the issues surrounding the cities review.

We are obsessed by glossy documents, which cost an absolute fortune to develop. I am not opposed to glossy documents—I produce some in the form of a newsletter—but the documents must provide information that people will actually read rather than nice pictures of toothbrushes. For example, how many of us have read the cities review document from cover to cover? That is an important point, because the document was produced after a great deal of trouble and effort.

My point is that spending vast amounts of money on documents will not sort out people's problems with dental decay or the issues connected with the cities review. We need proper probing documents that look at how we can tackle dental decay and how people can get involved in the process. We do not need nice pictures of Dundee, such as we get in the cities review

document. The pictures say, "Here is Dundee" or "Here is Glasgow", but they do not explain how we will go forward on the issues.

I agree with the principle that Susan Deacon outlined—it is important that we publish professional documents. However, the documents need to mean something. That is the principle that I wanted to highlight. It would be an interesting to see how much money is spent on all the documents.

The Convener: Consultation documents need to be successful and meaningful.

Paul Martin: Absolutely. They also need to be probing. For example, the documents need to ask those who complain that we are not tackling social exclusion how they would tackle the problem. The consultation documents should set out examples of how things can be achieved. Options a, b or c could be suggested and people could be given the opportunity to phone in on a helpline number to respond. Not many people will take the trouble to sit down and respond in writing to consultation documents, but they might phone in or use some other mode of modern communications technology to say what they think. My point is that we need documents that are meaningful and interactive. We should not simply be saying, "There is the document. There are nice pictures in it. End of story."

The Convener: I am sure that nobody means to produce consultation documents like that, but those who do so will, I am sure, reflect on Paul Martin's words.

Susan Deacon: Of course, an exception might be made if the document contained nice pictures of Springburn.

Paul Martin: Perhaps.

The Convener: As long as there are probing questions to go with the pictures. Have members any other comments on this section of our report?

Susan Deacon: I had a query about the section that deals with petitions. Ken Macintosh mentioned that section, but he went at such a rate of knots that, before I realised, we had moved on to consider Fiona Hyslop's points about the next section. I suspect that you will be able to reassure me quickly, convener, but I want to ask about the beginning of the section on petitions.

The Convener: To which paragraph are you referring?

Susan Deacon: I am not referring to any paragraph in particular. Perhaps this is already buried somewhere in the section on petitions and simply needs to be put in bold or something, but where do we capture the issue of feedback about petitions? After all, one of the main issues that

was raised by everyone who had been through the petitions process was that, after their petition went into the system, they did not receive any regular updates about where it had got to. As a result, they felt that, although they had made their views known, no one was listening to them. I cannot find where that point has been highlighted in the report.

12:00

The Convener: We will look for that, because the committee certainly agreed that there ought to be a report-back on petitions. The Public Petitions Committee should be constantly following up petitions to find out what the petitioned parties have done about them and feeding back to petitioners all the way through the process. Is that the point that you were pursuing?

Susan Deacon: Yes. That is a substantive point and it should jump out at the reader. I could not find it.

The Convener: That text was to go into the report somewhere.

Susan Deacon: After all, it ties in directly with the question of resources. When we spoke to John McAllion and Steve Farrell of the Public Petitions Committee, they indicated that they were willing to undertake such work, but were obviously limited by time and energy.

Fiona Hyslop: And resources in general.

Susan Deacon: I am happy to leave the matter to you and the clerk, convener.

The Convener: The issue is mentioned in paragraph 916, in which we accept that the Public Petitions Committee does not have the power to enforce any decisions. However, the paragraph goes on to say that we believe that the committee's recommendations can carry authority and that we recommend

"that the PPC should follow up the outcome of such recommendations as it might make, as this action may encourage the recipient of the petition to act on its recommendations."

In other words, if the Public Petitions Committee recommends a suggested course of action on a petition, it should then go back and ask the petitioned party what it has done about it.

Susan Deacon: I think that the words "regular feedback" should be included in bold somewhere in that section. That would be the big improvement to the process. After all, although the feedback might be that nothing had happened, it might still let the petitioner know what point in the process the petition had reached. Petitions were just disappearing into a black hole.

The Convener: You are talking about feedback to petitioners instead of an end review.

Susan Deacon: Yes.

The Convener: Well, we have mentioned that in the report.

Susan Deacon: I am sure that it is in there somewhere.

The Convener: We recommended that the petitions staffing side should be responsible for feedback. In paragraph 906, we say that

"the petitioner should ... be notified and invited to all of the relevant sessions, and should be invited to make a brief oral contribution".

Similarly, in paragraph 907, we recommend that petitioners be kept in touch with progress. We also encourage people to try and track petitions through their MSPs, because they are partly responsible themselves. However, in paragraph 907, we accept that the Public Petitions Committee should monitor the petition's progress and provide feedback.

Mr Paterson: I think that paragraph 934 also mentions something.

Susan Deacon: I really do not want everyone to start combing through the report. I just want us to test the matter and ensure that there is a clear recommendation that practices should be developed and resources allocated expressly to maintain a regular feedback process.

The Convener: We will find out whether we can toughen up paragraph 907 in some way.

Fiona Hyslop: As someone who has been keen to pursue the issue in the committee, I am fairly confident that the report covers the issues of resources and feedback well.

The Convener: Susan Deacon mentioned the phrase "regular feedback". We will see whether we can include that.

That discussion has taken us back a bit. We had reached paragraph 964. I hope that there is no problem with the section headed "Future activity, self-assessment and monitoring". After all, we did not get bogged down on that issue.

We have already discussed Donald Gorrie's points, which are outlined in annexe B. After that, there is the additional stuff on conclusions. Some of the suggested text that I wrote and circulated might have to be fine tuned in the light of what we have discussed. For example, in paragraph 1003, the reference to

"the Bureau's composition and voting mechanism"

will have to be taken out, because we did not agree to that. There might be some other issues to discuss.

The text of the section is intended to summarise the report in a better way than a simple list of

recommendations would provide. Often, such a list in isolation lacks context and clarity. The section is an attempt to escape from the detail of what all members have agreed is a massive amount of evidence, opinions and observations in order to state some of the report's broader themes in what I hope is a meaningful way.

Mr Macintosh: I am interested that you said that. I assumed that there would be a list of recommendations, as well as this summary.

The Convener: We will list all the recommendations separately, but they will just be as they are in the text. We did not think it necessary to extract them and show them separately.

Mr Macintosh: On a more general point, I am not sure whether there is a need to emphasise the fact that although we are making a series of recommendations, much of what we are doing is developing the principles on which we focused our inquiry, and that we expect all the committees and various bodies within the Parliament that are responsible for their own practices to follow those principles.

We have veered between examining the broad principles and making specific recommendations for individual bodies. In some ways, however, we ought to emphasise the fact that we have found the principles to be fairly sound, and that we wish that the Parliament, and individual bodies within the Parliament, would refer to them when implementing procedural changes.

The Convener: In paragraph 1003, I have said that the bureau should consider the issues. In paragraph 1004, I state:

"the SPCB and Conveners' Group should ... make their work, and their decisions, more transparent."

At the very end, we say that we address the report to the Executive, the bureau, the corporate body and so on. I take your point. We could add that we consider that all those bodies are charged with implementing the principles and that we address the report to them in that light. They should develop the conduct of their own business through the principles. It would be helpful to point that out.

Mr Macintosh: Indeed.

I do not want to be overly contentious, but the last sentence of paragraph 1001, on recommendations, states:

"Of these, the last is the most crucial, where we recommend that every aspect of the legislative process should be held in public."

Is that the most crucial recommendation? I am not sure that it is. It is certainly important, but whether it is the most important is a matter of opinion. If

others think that it is the most crucial, I am not worried.

The Convener: We thought that it was, in the sense that we considered what committees discuss in public and what they do not. We looked separately at the issue of considering stage 1 reports in public. In every other area, we said that it was up to committees and that they should develop good practice, but we did not see any compromise on stage 1, because it is part of the legislative process. In that sense, the recommendation is stronger than the others in that area.

Mr Macintosh: It is a question of interpretation, and I agree with what you said. I just did not think that there would be any resistance to this proposal, whereas there will be resistance to some of our other recommendations about opening up.

The Convener: If you are uneasy with the wording, we could say instead that we highlight the last recommendation. I am not bothered about the wording with which we highlight it.

Mr Macintosh: I understand your explanation of why the recommendation has been highlighted. I was putting a different interpretation on it.

The last sentence of paragraph 1008 states:

"We return therefore, at the end of our report, to our first Recommendation, that the Executive must apply the principles to all of its partners and in all of its dealings with them."

I have two things to say on that. First, I would change the wording to "the Executive must continue to apply", because although the Executive may not be as good as the Parliament at applying the principles, it is not resisting them. I am also slightly concerned that we are using the fact that this was our first recommendation to give it a status that it does not merit. It is only first because it happens to be the first point that we reached. It is not first because it is the most important.

The Convener: It was first chronologically and logically, but we attached an awful lot of importance to it. One of our first discussions was about the fact that while the Executive has committed itself to operating according to the principles in its dealing with the Parliament, it has not committed itself—you may say that it does so implicitly and in reality—to applying the principles in its dealings with partners.

We are trying to get the Executive to apply the principles across the board. We do not mean that the Executive does not ever do so, as it is clear that it applies the principles in its consultative work and in the work that it undertakes with the Scottish Civic Forum. It would also be possible to highlight many other areas of good practice. There is a lack

of an overarching conceptual and explicit commitment in the Executive's application of the principles, although its commitment is clear in the operation of the principles in the parliamentary context.

Susan Deacon: Can I suggest that the point of substance be left in, but that we remove the false status that is implied by:

"We return therefore, at the end of our report, to our first Recommendation".

That sounds as if we are saying that this recommendation must be implemented above all else. I have no problem with the point of substance, but I suggest that we simply say, "We believe therefore that the Executive must apply the principles to all of its partners and in all of its dealings with them." That would not elevate the recommendation to a point that would suggest that it is the biggest thing in the planet, or in the report for that matter.

The Convener: Okay.

Donald Gorrie: I sent in a note to say that the civil service deserved more of a mention. I also said that I did not have a form of wording for my suggestion. We mention scrutiny of the civil service in paragraph 999, but we have also raised the idea of getting a better partnership. I suggest that we say something along the lines of, "We considered how to improve the way in which the Parliament and the civil service work together." We could then add a summary of recommendation 65. Working with the civil service is a big area that requires a wee plug in the report.

The Convener: Where do you want to put that text?

Donald Gorrie: Chronologically, it would be best to insert it after paragraph 999.

The Convener: Could you run the wording past me again?

Donald Gorrie: Something along the lines of, "We considered how to improve the way in which the Parliament and the civil service work together and we recommend—". We could then add the number 65 in brackets plus a short summary of that recommendation.

The Convener: When we look at it, we might think that the text would fit better somewhere else. Is that okay?

Donald Gorrie: Certainly.

The Convener: Paragraph 999 is about accountability, so the proposed text might sit better in another section. I am sorry; I must have overlooked that suggestion.

Susan Deacon: I have two broadbrush statements to make on the conclusions. I suggest

that we try to work them in at the very end of the report. The first is about the consultative steering group principles. I do not have a problem with anything that has been said to date about the importance of the principles or their adoption. However, as we have touched upon previously, many people, including those who are close to or were even involved in the CSG in the first place, have expressed surprise at the extent to which the principles have been elevated into almost tablets of stone.

As we have gone through the report, we have become pragmatic about it. Perhaps, at the end of the report, it would be possible to say, "Although we recognise the importance of the CSG principles, we also recognise that they are not set in stone." We could also say, "Although we believe that the principles will continue to shape and influence the Parliament for the foreseeable future, we also recognise that the Parliament will evolve and develop."

I suggest that we insert a form of wording to that effect. Although in a way the words say nothing, they recognise that we will not always be stuck at a point of looking backwards and that we want to look forwards. I have noticed that that comment is being made very widely.

The Convener: That is why we included the point in paragraph 992, which was originally the last paragraph of the report. In effect, we said that, because the principles have been adopted and adapted by the Parliament, they have been overtaken. We also said that we considered that they would evolve in the future. We are anxious to move on and to talk about the parliamentary principles. There is no reason why a future committee should not devise an entirely different checklist of principles.

Despite the difficulties of slicing the CSG principles into distinct, coherent, discrete groups, we have found that they have served us not too badly as a means of analysing process and checking progress against principle.

Fiona Hyslop: One of the points in the introduction is that there was no strong evidence to say that the principles were inappropriate or wrong.

The Convener: To be fair, we did not really invite such comments.

Susan Deacon: I am happy to leave that point. I remember paragraph 992 and I am happy with it. I thought that the issue merited a couple of sentences, but the conclusion draws those points together.

One point that I feel does not come through strongly enough is about the relation between process and outcome. My earlier submission

proposed a formulation of words on that issue for the introduction. We are the Procedures Committee and, by definition, we have compiled a report that focuses on the processes of the Parliament and the Executive, but I suspect that it would go a long way and please a lot of people if we acknowledged that a process is only as good as its results. Perhaps I worry too much about the matter, but we should recognise that the Parliament's job is not only to get better at how we do business—we must concentrate more on what we do, which is the big issue for the wider public. The evidence that we have taken bears out the point that those who have not interacted directly with the Parliament have yet to see its relevance.

I do not want to witter on any more, but the point that I made in my previous submission is worth reinforcing at the end, too.

12:15

The Convener: The committee has agreed that we should consider that point and try to work it in. I am sure that members will not object if a form of words that would make that point can be added to the conclusion.

We have one final matter to decide, which is what to call the report.

Donald Gorrie: That is good for an hour or two of discussion.

The Convener: That is why we kept it until last. Members have a copy of the draft title.

Mr Macintosh: Is it the long title?

The Convener: I do not know that it is long, but it is a title.

John Patterson and I exchanged notes about the title at the beginning of the week. We decided to refer not to the CSG, but to the Parliament's principles.

Mr Macintosh: The proposal is snappy.

The Convener: I can tell from Fiona Hyslop's face that she wants to make a change. She is thinking, "Will I go for it? Will I alienate them and really cheese them off if I push the matter?"

Fiona Hyslop: Why not call it "Are we living up to our principles?", which is the question that we have analysed?

The Convener: That is a bit tabloid.

Fiona Hyslop: Perhaps, but that is the question that the report tries to answer. If we want to be transparent and to mean what we say, that would be an appropriate title.

Mr Macintosh: It sounds like the title of a glossy Executive document.

The Convener: We could decorate it with photographs of Dundee.

Fiona Hyslop: I am going back to my marketing days. We could use the convener's proposal as the subheading. The convener could tell by my face that I was not sure about how my suggestion would go down—I simply thought that it was a bit snappier.

Donald Gorrie: Fiona Hyslop's suggestion is catchy, but I suspect that most people have only a vague knowledge of the Parliament's principles. It would be helpful to state what we are on about. We could have "The Parliament's principles" in a large font and the rest of the convener's suggestion in a smaller font.

Mr Paterson: I am not sure that we should ask a question in the title. "Living up to the Parliament's principles" would be okay, but putting a question mark at the start would suggest that there are a lot of problems.

Fiona Hyslop: In that case, why not call it "Living up to our principles"?

Susan Deacon: That is the other way round—it implies that the Parliament has made it.

The Convener: In a sense, we have found that the principles are being absorbed and applied. We might not have made it in every respect and the system might not be perfect, but the Parliament and many of its processes come out of the report with a reasonable B plus.

Fiona Hyslop: I am happy to delegate powers, because I do not think that we can decide on the matter by committee. Perhaps we should talk to the press people. A short, snappy title with an explanation might be helpful.

The Convener: We will reflect on those comments, discuss the matter with the media relations office and come up with the same proposal or something else.

Mr Paterson: Is that a no?

John Patterson: No.

The Convener: That brings us to the end of our consideration earlier than I thought. I apologise for being ratty with members earlier when I saw the clock going round.

Donald Gorrie: We should record our thanks to the convener for the enormous amount of work that he has done on the report and for his remarkable patience.

Members: Hear, hear.

Fiona Hyslop: We should also thank the clerks and our special adviser.

The Convener: Indeed. We should especially thank poor Eileen Martin, who has done a lot of typing—she will be delighted to know that she is appreciated. That is not intended to detract from anyone else's contribution.

Meeting closed at 12:20.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, 375 High Street, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Tuesday 4 March 2003

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

PRICES AND SUBSCRIPTION RATES

DAILY EDITIONS

Single copies: £5

Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

Single copies: £3.75

Special issue price: £5

Annual subscriptions: £150.00

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at the Document Supply Centre.

Published in Edinburgh by The Stationery Office Limited and available from:

The Stationery Office Bookshop
71 Lothian Road
Edinburgh EH3 9AZ
0131 228 4181 Fax 0131 622 7017

The Stationery Office Bookshops at:
123 Kingsway, London WC2B 6PQ
Tel 020 7242 6393 Fax 020 7242 6394
68-69 Bull Street, Birmingham B4 6AD
Tel 0121 236 9696 Fax 0121 236 9699
33 Wine Street, Bristol BS1 2BQ
Tel 01179 264306 Fax 01179 294515
9-21 Princess Street, Manchester M60 8AS
Tel 0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
Tel 028 9023 8451 Fax 028 9023 5401
The Stationery Office Oriel Bookshop,
18-19 High Street, Cardiff CF1 2BZ
Tel 029 2039 5548 Fax 029 2038 4347

The Stationery Office Scottish Parliament Documentation
Helpline may be able to assist with additional information
on publications of or about the Scottish Parliament,
their availability and cost:

Telephone orders and inquiries
0870 606 5566

Fax orders
0870 606 5588

The Scottish Parliament Shop
George IV Bridge
EH99 1SP
Telephone orders 0131 348 5412

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers