

PROCEDURES COMMITTEE

Tuesday 2 March 2004
(*Morning*)

Session 2

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PROCEDURES COMMITTEE

4th Meeting 2004, Session 2

CONVENER

*Iain Smith (North East Fife) (LD)

DEPUTY CONVENER

*Karen Gillon (Clydesdale) (Lab)

COMMITTEE MEMBERS

*Richard Baker (North East Scotland) (Lab)

*Mark Ballard (Lothians) (Green)

*Bruce Crawford (Mid Scotland and Fife) (SNP)

Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

Mr Jamie McGrigor (Highlands and Islands) (Con)

COMMITTEE SUBSTITUTES

Linda Fabiani (Central Scotland) (SNP)

Robin Harper (Lothians) (Green)

Irene Oldfather (Cunninghame South) (Lab)

Mr Keith Raffan (Mid Scotland and Fife) (LD)

Murray Tosh (West of Scotland) (Con)

*attended

THE FOLLOWING GAVE EVIDENCE:

Joyce McMillan (Scottish Civic Forum)

Barry Winetrobe (University of Glasgow)

CLERK TO THE COMMITTEE

Andrew Mylne

SENIOR ASSISTANT CLERK

Jane McEwan

ASSISTANT CLERK

Lewis McNaughton

LOCATION

Committee Room 4

Scottish Parliament

Procedures Committee

Tuesday 2 March 2004

(Morning)

[THE CONVENER *opened the meeting at 10:18*]

Non-Executive Bills

The Convener (Iain Smith): Good morning. Apologies have been received from Jamie McGrigor, who is running a little late as a consequence of car problems and probably will not get here until about 11 o'clock. Karen Gillon is also having transport problems this morning—she is stuck in traffic somewhere and will be here as soon as possible.

I introduce Jane McEwan, who is the committee's new senior assistant clerk. Like the rest of us, I am sure that she is looking forward to having an exciting time on the Procedures Committee. I welcome her to her first meeting.

The first item on the agenda is the inquiry into the handling of non-Executive bills. I am pleased to welcome Barry Winetrobe and Joyce McMillan to the meeting. Although they are both sitting at the table, we will take their evidence in two separate sections. Joyce will listen with interest to what Barry has to say before we take her points. Before I ask Barry to make his introduction, I wish to draw members' attention to Joyce's brief written statement, which has been circulated. We have received a summary of what Barry intends to say. We will ask questions when he has finished his opening remarks.

Barry Winetrobe (University of Glasgow): I thank the committee for inviting me to this meeting. I am privileged to have been asked to contribute to the committee's inquiry into this important matter. As the convener said, I have submitted a short two-page note in lieu of written evidence. I did not contribute at the beginning of the inquiry, unfortunately.

The main thrust of my submission is as set out in the first couple of paragraphs. It is extremely important that a subject such as the treatment of non-Executive bills be dealt with in accordance with the Parliament's well-established principles and its much admired culture and ethos.

That is really all that I want to say except that because my submission is not in the nature of formal written evidence, and because I wanted to keep it as brief as possible, a lot of it is written in

shorthand, so there might well be quibbles about some of my terminology. None of it is meant to be contentious or accusatory. For example, in paragraph 3 I am not in any way criticising the committee for not doing a comprehensive inquiry into the scope of the Parliament's legislative function; I am simply noting that that is where we are at the moment. To some extent, your predecessor committee did that as part of its big consultative steering group inquiry. With that, I am happy to answer any questions that members might have.

Mark Ballard (Lothians) (Green): I am interested by the concept of non-Executive party bills as mentioned in paragraph 7 of your submission. How do you see the current non-Executive bill procedure relating to non-Executive parties? What kind of bills do you think would be genuinely non-party, cross-party or individual initiatives? There are quite a lot of assumptions in relation to that point and I am interested in hearing your thoughts behind them, particularly on the relationship between non-Executive parties and non-Executive bill proposals.

Barry Winetrobe: I was just trying to suggest that—purely anecdotally as I have not done a full analysis—it is noticeable that a significant number of bills seemed to be designed to promote official party policy. That was especially true of the rash of proposals that were made at the beginning of the new session after the election. It did not look as if the bills were simply the personal ideas of the members.

I am not criticising that practice in any way. The procedures exist to be used by anyone for whatever purpose as long as that purpose fits with Parliament's rules. However, it seems that there were quite a range of topics, or categories of topic, that were covered by the concept of members' bills. They ranged from the small bright idea for a little bit of legislative reform in one particular public policy area, from an individual member who tries to get support from across the Parliament for that proposal to become law, to the other end of the spectrum where it looks as if the procedure is being used by the non-Executive parties, quite legitimately under the present rules, to promote their party's policies. They could be using the procedure as a way in which to publicise their policies or to chivvy the Executive into ensuring that it does not backslide on a proposal—for example, Tricia Marwick's Proportional Representation (Local Government Elections) (Scotland) Bill.

Paragraph 7 is not designed to show what I would like to happen. I am saying in it merely that, if there are systems that prioritise in some way, it would be sensible in terms of transparency as much as anything else to build such systems into

existing procedures or practices of the Parliament. Paragraph 7 gives three examples that could be built on to the existing way of doing things. I do not know whether that is sensible or not.

Parliament has non-Executive time when Opposition parties are allowed to decide business and express their points of view. That concept could be developed by, for example, suggesting that Opposition parties could introduce bills on the same basis, thus guaranteeing them a time slot to promote a bill in a way that would not impinge on what we might think of as the traditional or archetypal ordinary small member's bill.

Mark Ballard: We have discussed at length the question of which bodies should be responsible for any prioritisation that might be introduced. Implicit both in your proposal and in my question is the idea that someone would have to decide what is a non-Executive party bill and what is a genuine non-party, cross-party or individual initiative. Do you have any thoughts on what would be the appropriate body to decide on such questions?

Barry Winetrobe: I have not thought about the matter in any detail, because it would obviously be up to people such as committee members and the relevant parliamentary staff who devise the procedures. However, one could imagine a system in which bills were defined not by type but by the time that was available for them, in the same way that rule 5.7 sets out special cases for non-Executive parliamentary party time. There would be time slots in which non-Executive parties that qualify could introduce bills and progress stages of business. I am prepared to be corrected on this but, in theory, non-Executive parties could use the time that is already available for legislation if they so wished. However, that has not happened in practice.

Mark Ballard: To be honest, I think that the bottleneck happens less as a result of the amount of available chamber time than as a result of available committee time and non-Executive bills unit drafting time.

Barry Winetrobe: The relevant bullet point in my paper does not suggest a way of resolving bottlenecks. Instead, it considers the broader issue of the purpose of the non-Executive legislative function. From evidence that the committee has received over the past few months, I understand that the bottleneck is a potential rather than an actual problem. As a result, the committee's inquiry covers more than the question of how to cope with actual bottlenecks or bottlenecks that might occur in the future. I hope that the committee's recommendations take a broad view not only of the whole non-Executive legislative function, but of the whole of Parliament's functions, including its legislative function. To pragmatically examine an issue in

isolation always carries the risk of producing a solution that suits the particular case, but not the Parliament's overall ethos. After all, that ethos has been built up over the past five years and is—and deserves to be—cherished.

Richard Baker (North East Scotland) (Lab): On point 4 of your paper, would it be feasible for the Executive to indicate the complexity of its bills and the time their passage is likely to take? Often, we do not know exactly how complex bills will be until the legislative process has started—I think in particular of the Mental Health (Care and Treatment) (Scotland) Bill.

Barry Winetrobe: I was trying to suggest that there seems to be an implicit and—from the committee's discussions and the papers that it has received—to some extent explicit assumption that the Executive would not be required to have limited the number of bills that it could introduce, although I might be wrong about that. I hope that, in an ideal world, the Executive would be subject to the same principles as would other initiators of bills. Assuming that, in the real world, the Executive is permitted to introduce as many bills as it wishes whenever it wants, I suggest simply that the existing provision for the First Minister's annual statement on the legislative programme—which I think is contained in rule 5.6—could be used if the programme itself was set before the parliamentary year to which it relates. That might allow committees and staff to make sensible guesses about, for example, the distribution of legislative work load among committees. As Mark Ballard pointed out, that—not the amount of plenary time—tends to be the pressure point.

The tendency has been for the legislative statement in non-election years to be made in September. We have got into the Westminster-style annual parliamentary cycle, which is not even annual; it lasts from the end of the summer recess in September until the start of the next summer recess, which causes unnecessary bottlenecks. That is a wider issue that should be taken into account. All I am suggesting is that if the committee wants efficient programming, you could put in any system that you require non-Executive bills to meet in advance programming, alongside some sort of indication of the other pressures—the main one being the Executive's legislative programme.

10:30

Richard Baker: I thought that point 5 was interesting. I am a member of the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee. You seemed to suggest in point 5 that there could be a way in which to deal with private bills other than the current process. Will you elaborate on that?

Barry Winetrobe: I have always been rather surprised that private legislation exists at all; I am even more surprised that members have not been critical of the concept both in principle and on a practical level, given the commitments that it requires of them. Private legislation does not sound right and it does not send the right messages about the Parliament's ethos and culture. On practical considerations, even Westminster has taken steps to minimise the burden of private legislation through the concept of transport and works orders.

It seems that Parliament has until now taken over the traditional private legislation functions, processes and practices. I am happy to be corrected about this, but perhaps so far most private bill proposals have been relatively minor or relatively consensual—we have not seen the big controversial proposals that used to cause lots of trouble at Westminster, such as proposals to privatise docks or to build crematoria, which I remember from my days there and which caused all sorts of backlogs and took up huge amounts of time, because they were opposed vehemently. Private legislation is a relatively small area in which resources and time could be freed up. I would rather see legislation being introduced through members' bills and committee bills than through private bills, if they would provide a better way to achieve purposes.

The Convener: I suspect that the committee will return to private bills at some point.

Barry Winetrobe: On abolishing the private bills procedure, I included in my paper the phrase, "if within legislative competence". I do not know whether it is in Parliament's power to say, "We don't do private legislation." I realise that that might be challenged in the courts.

Bruce Crawford (Mid Scotland and Fife) (SNP): My question does not relate directly to the matter under consideration, but I share many of Barry Winetrobe's concerns about private bills, not so much because the phrase does not sound right or does not sit well with the Parliament's ethos, but because the process is ridiculously bureaucratic and seems to tie up huge amounts of MSPs' time on matters in which I do not think there is necessarily a role for Parliament. I am glad that the convener has said that we will return to the issue.

I realise that it is tempting not to consider the issue as part of the inquiry, but if time could be freed up, that would create space to proceed with other matters that were considered to be more important. That is an important point for us to bear in mind. We might not be able to deal with the issue as part of our inquiry, but we have to send out a strong signal that it needs to be examined at some stage. Given that local authorities are able

to carry out large projects by lodging planning applications and going through the public inquiry process, it is staggering that Parliament must go through such a rigmarole in relation to infrastructure projects. There must be a process—one might already exist in law—whereby we can adjust the procedure in the Scottish Parliament and make dealing with private bills much easier and less bureaucratic, so that it does not impact so much on the parliamentary week. That is a comment rather than a question.

Barry Winetrobe: I agree with it.

The Convener: The first bullet point in paragraph 7 contains an interesting suggestion. Rather than their having to wait until a bill has been introduced before starting to examine it, Mr Winetrobe has suggested that committees should be allowed to examine proposals for new bills. Perhaps Joyce McMillan will comment on the suggestion when she gives her evidence. I suspect that it may be closer to what the CSG was looking at when it referred to the "two bill proposals". It did not say "two bills"; it said "two bill proposals".

Barry Winetrobe: I think the "Report of the Consultative Steering Group on the Scottish Parliament" said "2 Bills".

The Convener: No, the CSG report quite clearly mentioned "two bill proposals". This issue has been brought to our attention because it relates to the amount of time that is available to committees. When a bill is sent to a committee, it has no choice, essentially, but to deal with it. That is also the case with proposals that are made to committees. A small percentage of proposals have been converted into bills so far. If we adopt the suggestion in Mr Winetrobe's first bullet point, is not there a danger that committees will be under more pressure and that they will have even less time to perform the other duties that are required of them? Committees may have to spend their time dealing with bill proposals of a kite-flying nature, rather than with the details of bills.

Barry Winetrobe: Can I start by repeating the caveat at the beginning of paragraph 7, before the bullet points? The ideas that I propose in paragraph 7 would be relevant only if the committee decided to pursue some sort of sifting or prioritisation system. I would prefer any new system to relate to systems that already exist, rather than its being represented as a crude sifting process to which the Executive need not be subject. That could easily be distorted and represented as the Executive or the Parliament cracking down on individual members or Opposition parties. That is not the sort of media representation that one would want.

My suggestion relates to a possible system, from a presentational and a substantive point of view. I suggest that one or two procedures in the existing standing orders could be developed to achieve some of what the committee is trying to achieve, within the Parliament's overall ethos. I am happy to be corrected, but as far as I am aware committee bills have never been generated in this secondary way, which involves a member submitting a proposal to the Parliamentary Bureau and the proposal then being sent to committee. I suggest that this dormant procedure could be picked up: rather than generate a committee bill, the procedure could generate a members' bill.

The process that I have outlined would involve a degree of committee scrutiny and, more importantly, public involvement. It would mean that people would be able to see whether a measure deserved to be supported in some way. Such a method of prioritisation would ensure that there was a degree of parliamentary scrutiny and public involvement before a decision was taken by a body like the bureau or the Parliament, simply on the basis of a proposal. It would give an opportunity for the public to be heard, as well as the Parliament.

The Convener: Sifting is more likely to take place not when a proposal is introduced, but after the proposal has been the subject of consultation led by the member. Under Mr Winetrobe's proposal, responsibility for consultation would shift from the member who was introducing the bill to the committee, thereby increasing rather than reducing committees' work load.

Barry Winetrobe: I accept that responsibility would shift in that manner. That is also true of the suggestion that I made in my second bullet point, which would involve members lodging some sort of legislative petition, which would follow the usual petitions process or something similar. Both systems would increase work in that sense, but one should consider whether time would be saved later. Procedures could be changed to make stage 1 more formal, because there would already have been some sort of committee inquiry. That happens already with committee bills to some extent, when stage 1 is passed or is purely formal. One could make that the case depending, of course, on the committee that was dealing with the bill. Some time could be clawed back in that way, which would save time later in the process.

We are talking not only about efficient business management of Parliament's limited time but about issues of principle. The idea of a limitation on parliamentary time is a rather fluid concept because of the time arrangements that Parliament currently operates. The Parliament operates within its present system almost by default. I have always been unhappy about the idea that, apart

from all the times that are specified in the rule about special cases of time, the assumption has been that the rest of the time is Executive time. The Executive claims that that is the case; I suggest that in that assumption the Executive was acquiesced to in practice by your predecessor committee and by Parliament as a whole. The idea of limited time is not one that I necessarily accept.

It is a question of what the committee thinks is the best use of the Parliament's limited time. The cliché, "I would not start from here," sums up my position on the point. However, given that we are starting from here, I would say that use of committee time for the proposal that I make is arguably just as important as some other uses of committee and, especially, plenary time.

For example, one of the issues about plenary time relates in particular to the idea that all other time is pretty much the Executive's time. Although it might not happen in practice, one can envisage a bureau meeting at which the Executive was still thinking about how it would fill a prime slot on a Wednesday or a Thursday. It could also be envisaged that a member's bill would be champing at the bit, just waiting for a plenary slot. All those things interact. To that extent, the matter is a question of what Parliament regards as being its priorities.

The Convener: To be fair, I am not trying to pin you down. I am conscious, as a member of this and other committees, however, that there is a limit to the amount of time that committees have. As Richard Baker said, it is not so much a problem of plenary time as it is one of committee time: the committees have problems with the timing of bills, over which they have no control.

Although I know that what you suggest is only an idea, I am slightly concerned that that process would increase pressure on committees, rather than ease it because every proposal would have to go before a committee. At present, some bill proposals are sifted out before they reach committee because the member decides not to proceed, consultation shows that there is no need for the bill or as a result of some other means.

Barry Winetrobe: Procedurally, it would be possible to add in threshold or prior requirements before the proposal even reached that stage: it would be possible to deal with that. As I said, the more fundamental question that the committee needs to address is whether, if that would lead to an increase in time because it is a new function for committees, it would be a valuable function that committees should perform even if they have to lose another function to do it. I am not making suggestions, I am simply putting forward in non-procedural terms options for a way forward that would achieve what the committee aims to achieve.

Karen Gillon (Clydesdale) (Lab): The suggestion that you make in the third bullet point of paragraph 7 is bizarre. I find it absolutely reprehensible. We talk a lot in the Parliament about outside influences on the Parliament and about the needs of the minority parties. What you suggest is that everybody except back benchers from Executive parties should have certain rights. We have gone too far down that line already and to suggest that there should be a non-Executive party bills procedure is to suggest that bills that come from Executive party members have less value.

At the moment I have a proposal to change the law on culpable corporate homicide. The reason why I think that that is one of the most important things that Parliament could do is that four of my constituents died as a result of a company's failings. It goes too far to say that that bill is somehow less important than those of non-Executive parties, which would get priority. That is the way we are going anyway; we have to include all minority parties, which can seem to exclude back benchers from Executive parties who are equally important in terms of the way in which all of us were elected. If that is a serious suggestion, I have to say from the start that I do not support it.

10:45

Barry Winetrobe: I am not suggesting that there should be prioritisation, but the creation of a parallel track so to speak. In that sense, it would be no different to allowing the non-Executive parties to choose business and to initiate debates as parties. If members are given time to do that, why should they not also be given time to initiate legislation?

All that I am talking about is opportunities; it is not a question of priorities. Back benchers from all parties, Executive or non-Executive, would still continue to use the member's bill procedure. It is not a question of that procedure's being downgraded; I am saying that the suggestion is one of the ways in which the committee could deal with out the bottleneck. At present, the concept of non-Executive bills, with the exception of committee bills and members' bills, is a concept that covers a multitude of types of bill, with differences of motive, scale and consequence. One option for dealing with that might be to put some bills in a different category: not in a higher or more important category, or in a less important category, but simply a category for bills for which there might be more appropriate identifiable dedicated procedures.

Karen Gillon: Why should a bill lodged in the name of Bruce Crawford have priority over a bill lodged in my name, simply because he is a member of a non-Executive party?

Barry Winetrobe: It would not. I am not suggesting—

Karen Gillon: But it would, Barry.

Barry Winetrobe: I am not talking about a bill that was introduced by Bruce Crawford, for example. I am suggesting that, if you went down that route at all, such a bill would be introduced by the Scottish National Party. The Bruce Crawford bill or the Karen Gillon bill would be a member's bill just like any other member's bill. What I am saying—and this is purely anecdotal—is that bills seem to be introduced to promote party policy, which is a perfectly legitimate activity. The current thresholds obviously do not present any problem for the larger non-Executive parties, nor do they seem to be a problem—although I am prepared to be corrected—for the two smaller non-Executive parties. The bills go into the mix and compete there. One could argue that they are already crowding out the opportunities for you, as an individual member, to have time in committees.

Karen Gillon: What is to prevent the SNP, the Greens or the SSP from using their time in the chamber to lodge a motion that, in effect, would achieve the same end, if they secured the support of the Parliament in a vote? For example, when the Tories have their time in the chamber on a Thursday morning, they could lodge a motion that says that the Parliament should legislate to do X, Y or Z; if the Parliament votes for that, the Parliament must take the proposal forward. That procedure exists at the moment. Nobody is taking it on.

Barry Winetrobe: I agree that that is quite possible, but I suggest that, in order to allow it to happen, you would have to increase substantially the amount of time that the standing orders provide for non-Executive business. With only 16 days provided, following such a procedure would crowd out the opportunities for general debates initiated by non-Executive parties. I do not think that those parties would agree to that or that it would fit in with the Parliament's culture or with what people would expect. Those 16 days would have to become 32 days, although I would be perfectly happy with that. I return to what I said before about the Executive assuming that all the residual time belongs to it, so it would perhaps not agree to that. It was difficult enough to increase non-Executive time from 15 days to 16 days in the first session.

Karen Gillon: So what is the point of winning the election?

Barry Winetrobe: The party that you support is producing bills and has priority as part of the Executive and you have opportunities as individual members. As you know, committee conveners also have an opportunity to promote a committee

bill successfully to enactment. In that sense, you are not being deprived. To some extent, the system gives some sort of parity to the parties as parties. I mentioned in my briefing paper that I am not in favour of institutionalising further the notion of party within the Parliament. I have great qualms about even suggesting the change that we are discussing, but I think that it can be managed without too much danger.

I do not think that the issue is about legitimacy or unfairness; perhaps my proposal is simply not a practical way of proceeding. Your suggestion is eminently sensible—we can simply say that non-Executive parties are encouraged to use the time that they are already given under standing orders for legislative business. However, I suggest that that could happen in practice only if the amount of time available for that sort of business was vastly increased.

Karen Gillon: The procedure would take up time only if non-Executive parties won the support of the Parliament. If they did not have the support of the Parliament, it would take only half a day to debate, vote on and reject a proposal.

Barry Winetrobe: I do not want to go into too much detail and I am not suggesting that what I have proposed should happen, but the question depends on whether you are arguing that all the remaining plenary stages, as well as the initial motion, would also have to be taken within non-Executive time. If you are arguing that stage 1 and stage 3 proceedings for a non-Executive bill would have to take place within the time that is allocated for non-Executive business, the time allowed for the non-Executive parties would have to increase.

Bruce Crawford: On that final point, if a political party produced a bill and the Parliament agreed to it at stage 1, the Parliamentary Bureau would decide how to schedule the bill within the overall business time and the bill would not necessarily take up non-Executive time. A bill might be a political party bill—I understand that we are using that term loosely—but our procedures mean that an individual MSP must initiate such a bill. I suppose that it would be up to any party at any time to introduce a bill to use up its allotted non-Executive business time.

I am grateful to Barry Winetrobe for his useful briefing paper, which gives us an expanded menu of options to consider. He suggests how we could use the Parliament's existing system to introduce types of non-Executive bills without increasing parliamentary bureaucracy. However, the danger is that, although the avenues that the paper outlines are useful additions to the menu, we would still have to decide which committees would deal with particular issues. For example, if I produced a justice bill, it would go to one of the justice committees, but that committee could not

decide the overall priorities for other committees—it would simply consider the bill in isolation. Therefore, although it is useful to examine the avenues that have been suggested, each of the parliamentary committees, including the Public Petitions Committee, to which the paper refers, was designed for a particular purpose, as was non-Executive business time. I do not believe that members' bills could be successfully fitted in with either category of process.

The general point is to try to achieve a balance between Executive, Opposition and back benchers' bills. We will deal with that important issue when we come to Joyce McMillan's paper. However, the matter does not concern only Executive back benchers. For example, if the Scottish National Party were promoting a bill, SNP back benchers might not support it, either because they were not in favour of it or because they felt cut out by a system that did not give them enough time for individual members' bills.

The issue for me is Executive control over the prioritisation of members' bills. I will ask Joyce McMillan to deal with that when it is her turn to speak to us. The Executive has the right to say that a member's bill should go no further than stage 1. However, what concerns us is the Executive's level of involvement prior to that, immediately after a bill's consultation period. Barry Winetrobe's paper has a good menu of options, but it does not mention the idea of having a back-bench committee to examine the prioritisation of back benchers' bills. The Parliament could elect the committee members to ensure the committee's legitimacy. The committee could sit annually and recommend to the Parliament which members' bills should and should not be supported.

I will ask Joyce McMillan about that later, but I wonder what Barry Winetrobe thinks about the benefits and pitfalls that might arise from having a back-bench committee. I know that he has not had much time to think about the suggestion, but it is something that is out there in the ether. I have not made up my mind whether such a committee would be the right way to go. I would like Barry Winetrobe to reflect on the matter, if he can.

Barry Winetrobe: I followed with great interest the debates at previous committee meetings on the prioritisation of non-Executive bills. What I took from those discussions was that, for a variety of reasons, existing parliamentary bodies do not fit the bill. The Scottish Parliamentary Corporate Body has the advantage of not being weighted by party balances. However, that body, rightly, does not feel comfortable about taking what are essentially political decisions about the prioritisation of non-Executive bills. In addition, the SPCB is not a public body, so there is no scope for public involvement.

The Parliamentary Bureau has the advantage—in fact, I would call it the disadvantage—of having weighted voting. Therefore, the Executive has the ultimate say in that body. As its proceedings are private, there is, again, no scope for public involvement. I presume that that is why the bureau in the second session is less sanguine about the arrangements than the bureau in the first session was.

I have argued that the Parliament's founding principles must be applied, so that there is scope for some measure of open parliamentary scrutiny before a decision is taken and, perhaps more important, an opportunity for meaningful public involvement before a final decision is taken about the fate of a non-Executive legislative proposal.

The establishment of a separate committee that would meet and decide such matters would involve practicalities about time and resources. I assume that the committee would have the advantage of not being politically weighted, so to that extent it would look more like the SPCB. Each member would have one vote, so the Executive would not have a presumptive majority. I do not know whether that would be agreeable to the Executive.

My main worry, and the reason for my suggestions in paragraph 7 of my submission, is that we might introduce a system that just looked like a crude sifting process. Before any decision was taken, there would still be a need for some sort of pre-legislative, public scrutiny—I suspect that that is also Joyce McMillan's view. I do not think that members would want a system in which proposals that had achieved the required threshold of support were automatically sent to the new committee, simply to be rubber-stamped or considered in isolation.

I am also not happy with the idea of an annual round, which is what happens at Westminster. One of the problems with such a system is that it does not allow for members to bring forward proposals during the year, as matters arise. It freezes a particular moment in time—in late November at Westminster, or in early May or whenever it would be here—so that there is no real chance until the following year of initiating legislative proposals that have a prospect of success. That approach is crude and would not chime with this Parliament's principles. An annual round here might be better than the purely random ballot at Westminster, but it would have the same problems. The system must be more flexible than that. We can programme and plan ahead but we must have a mechanism whereby proposals can be made during the parliamentary year as and when particular issues arise.

The Convener: Thank you very much for sharing your ideas, which have initiated some

interesting discussion and, I am sure, will help to inform our deliberations on whatever recommendations—if any—the Procedures Committee makes.

I am pleased to welcome Joyce McMillan, who is the convener of the Scottish Civic Forum and was a member of the consultative steering group, which drew up the Parliament's founding principles, the maintenance of which the Procedures Committee is charged with trying to ensure. Joyce McMillan's paper has been circulated to members and she may make some introductory remarks before I open up the discussion.

Joyce McMillan (Scottish Civic Forum): I apologise for not being able to circulate the paper to members in advance of the meeting. I thought that it would be helpful for you to have the paper in front of you and I will talk you through it, as you have not had much time to read it.

Thank you for giving me the opportunity to talk to the committee. I emphasise that, although I am the convener of the Scottish Civic Forum, I am here at fairly short notice and have not had the time to do anything like a formal consultation within the forum. I will therefore talk in a personal capacity, but very much from the perspective of someone who has been involved in the civic forum and the CSG.

I am considering the matter in the light of three important criteria. First, as is acknowledged in the committee's papers, there is a need to develop a system that respects the basic principles and ethos of the Parliament. The principle of power sharing is particularly important in relation to this issue.

Secondly, it is important that the Parliament should take every opportunity to play to its strengths and to build on its image as an innovative, 21st century Parliament. There is a lot of talk about a new start for the Parliament when it finally moves into the new building and puts that controversy behind it and I think that that will present another opportunity to take imaginative and innovative steps to build a strong relationship between Parliament and the people. Scotland has a strong tradition in democratic innovation, which the Parliament is in a great position to develop.

11:00

Thirdly, I recognise the need—perhaps more strongly than Barry Winetrobe does—to develop a system that makes the best possible use of parliamentary time, drafting capacity and other limited resources in the non-Executive bills unit. It is important to have a system that really works while respecting the principles that I have mentioned.

I detected a slight doubt in some papers that have been circulated to committee members about the exact motives for the move at this time and whether there really is a problem or whether the bureau and the Executive are simply anticipating or perhaps slightly over-anticipating a problem. I am not in a position to comment on that, but if the committee concludes that there is a problem, it would be useful for it in reporting on the matter to set out clearly what the problem is and the reasons why it needs to be tackled.

I have added a couple of observations about the high-profile importance of the handling of non-Executive bills. As members know, people are hostile to control freakery in policy—they like the idea of open processes that are not entirely controlled by parties and in which back benchers have a chance to express their views and priorities. The handling of non-Executive bills is important for any Parliament—it sends important signals about the openness of the process.

The possibility of introducing committee bills in the Scottish Parliament is frequently mentioned to the Scottish Civic Forum when people discuss good initiatives and positive changes from the old Westminster system. Although the annual ballot for private members' bills at Westminster is a typical Westminster procedure and has a slightly jokey atmosphere—with names coming out of a hat and so on—there is a certain air of openness and excitement about it, which is unusual in the Westminster system. People know that something a bit off the wall can happen and a member who might be struggling to make their voice heard can have a real opportunity to make a mark. Such procedures are important signals that Parliaments, including the Scottish Parliament, send when they handle non-Executive bills.

My paper is short and I will conclude what I have to say so that there is time for more discussion. I broadly agree with the general tenor of the assumption in the papers that have been circulated to members that, in general, committee bills should take priority, or some kind of priority, in the process of prioritising non-Executive bills. Committee bills are a popular initiative that help to strengthen the role of parliamentary committees, which is important to the Parliament's overall development as a distinctive institution. I do not think that there is any objection from civil society in general to the idea that committee bills should have some kind of priority, which is the current situation, and I do not think that there is a feeling that that situation should not continue.

Secondly, I strongly agree with Barry Winetrobe that the current proposals in relation to the bureau and the SPCB smack too strongly of a standard-issue attempt to increase slightly Executive control over the prioritisation of members' bills. It looks

like the parliamentary majority is going to be used to push through a prioritisation of bills that suits the high heid yins and I do not think that the Parliament wants to send such a signal at the moment. If there is any move towards the sifting of bills, the Parliament should be careful to introduce counterbalances and innovations that would correct or counteract that impression.

A simple raising of the threshold of the number of MSPs who need to support a member's bill would send a similar signal. It would look as though the big parties were trying to gain more control over the process, although I recognise that the smaller parties have, in fact, not had much difficulty in reaching quite high thresholds with some of their more important bills. Nonetheless, if a member's bill had to reach a massive threshold before it could be introduced, that would send the wrong kind of signal.

I was attracted by the proposal in paper PR/S2/03/7/7 to create a sort of matrix of support in assessing the likely success of bills, which would involve the volume of support, the extent to which that support is cross-party and, indeed, the extent of support in the wider Scottish community. The suggestion is interesting and should be pursued.

The issue of prioritising members' bills perhaps provides an opportunity for imaginative public consultation that would capture people's imaginations. I am talking here not about any simple opinion polling or interactive "Big Brother"-style vote, in which people at home press a button and say what their favourite bill is that night, but about a responsibly organised, deliberative process. As members probably know, deliberative consultation processes that take place over a couple of days can produce interesting results, because of the way in which opinions shift during the discussion and debate among what should be a carefully selected and representative jury. Having that kind of public consultation, involving a citizens jury-type body prioritising members' bills, would be extremely interesting for voters and would give individual MSPs a chance to make their case to the citizens jury. The whole process could be filmed. It should not be broadcast during proceedings, but it could be recorded for later broadcasting, so that the public could see how the process worked.

At the end of the process, the citizens-jury body could prioritise members' bills. That would have to be done on an annual or, at the very most, twice-yearly basis and would be purely advisory. The process would be consultative. It would always be for the Parliament finally to decide how the bills should be prioritised, but that process would encourage MSPs and ministers to raise their game in proposing why the order should be varied once

it had been the subject of an open, imaginative and possibly quite popular consultative process.

This is one area in which the Parliament could afford to take an innovative step. Frankly, having a citizens jury would knock the Westminster ballot procedure into a cocked hat, in terms of its democratic credentials and its attractiveness to the public. It would genuinely be in the interests of power sharing between Parliament and the Scottish people, while respecting the final say of the Parliament over the order and priority of its business.

The Convener: Thank you, Joyce, for those remarks. I open up the meeting to questions.

Mark Ballard: You were involved in the CSG, Joyce.

Joyce McMillan: Yes, but I did not sit on the procedures sub-committee of the CSG, so I do not have much insight into what that sub-committee was thinking when it wrote down its findings, some of which do not have crystal-clear meanings. I have slight reservations about answering questions on such matters, but I will do my best.

Mark Ballard: I am interested in your thoughts about the threshold of 11 members who must support a proposed bill and on the fact that two bills may be introduced per year.

The Convener: Each member can introduce up to two bills per session.

Mark Ballard: Have you been party to any discussions about the important power that all members have to introduce non-Executive legislation?

Joyce McMillan: The idea behind requiring support from 11 members was that that was not too high a threshold and would enable minority parties—or at least a cluster of small parties—to introduce bills. The idea was not to exclude minority voices from introducing bills.

The decision to allow each member two bills per session was taken as a primitive way of reducing the work load. If members had an unlimited right to introduce bills, some people—there is always an element, as they say—would be introducing bills non-stop. The decision was an attempt to be realistic about the work load that the Parliament could cope with.

Mark Ballard: Limiting the right to one bill per session has been raised in discussions. Do you have any feelings on that?

Joyce McMillan: Rather like Barry Winetrobe, I would be anxious about the ability to deal with matters that arise during a session if members were limited to one bill per session. Karen Gillon mentioned corporate responsibility. If during their period as an MSP a member came across an

issue that was much more significant than they had anticipated and was affecting the lives of their constituents in a way that was quite beyond their previous knowledge, it would be a great pity if they could not have a second pop at introducing a member's bill during the session to deal with that issue. Two bills per session is a reasonable number. Reducing the number of bills that members could introduce would be one way of limiting the number of bills overall but, given the length of the session, that would probably be an unwise move.

Richard Baker: We all want better consultation and we all want more people to feel included in what we do. However, is Parliament itself not a representative citizens jury, with members representing the democratic mandate? The Parliament is a good forum in which to prioritise bills. Members in the chamber are always under the media's scrutiny and that encourages them to raise their game and to ensure that any decision that is taken can be justified. Why can we not have transparency in that way?

Joyce McMillan: You are absolutely right. In practice, it is essential that, as the elected democratic forum of the nation, the Parliament makes the final decision on the bills. There is no suggestion that that should not be the case. However, if the Parliament takes seriously some of the issues that are facing all democracies as we move into a new century, it should take notice of the relative unpopularity of the party system and the dwindling commitment to it on the part of most of our citizens in an increasingly fragmented and individualistic society—people tend to see politicians as careerists who are all the same and who are not open to the words and thoughts of ordinary citizens who do not belong to any party.

Giving a citizens jury a say in such decisions would be an imaginative move. It would create a useful, lively and substantive interface between back-bench members of Parliament and a body of citizens. The citizens jury would be just like an opinion poll group. In terms of opening up the debate, the idea of enabling ordinary MSPs who are passionate about a bill to put their case to a body of citizens, who would then make a deliberative and advisory recommendation about the order of priority, is extremely attractive. It would strengthen significantly the relationship between back-bench members and the electorate.

Such an arrangement would also offer an opportunity for people to see how good some of the back-bench MSPs are. Given some of the coverage that the Parliament gets, there is a widespread negative perception, which could be easily countered if people saw members advocating passionately from the back benches the issues about which they really cared. People

have plenty chances to see Government ministers being passionate, but it is not so common for back-bench members to have that kind of nationwide exposure.

The Convener: Is there not a danger in that any such process could result in the prioritisation becoming a beauty parade, so that the populist measures, such as ones dealing with cuddly animals, would always win favour over some of the more unpopular issues, which might be just as important for the Parliament? In the previous session, I had a member's bill on a small technical issue to do with the University of St Andrews. That would never have gained a vast amount of public support in the sort of process that you describe. Is there not a danger that your process might knock out some of the issues that are more relevant for members' bills procedures in the first place?

Joyce McMillan: Yes. If those bills that were likely to take little time to draft and pass and that were uncontroversial were not filtered out of such a process, they would drop down the list, because people would not be so interested in them. However, there is no reason why the Parliament should not deal with such bills. There would also have to be a stage in the screening process when the MSPs had to do some consultation to beef up their arguments—members would have to be sure that the bills that were going to be put to the jury were within the competence of the Parliament and they would have to know where there would be a serious issue about the amount of time that would be needed to draft and process the proposal.

In that way, not every member's bill would be thrown into the jury process. If we want to prioritise bills that are likely to take a fair bit of parliamentary and drafting time, why not get a bit of imaginative input from people? That is nothing to be frightened of. If there are substantive arguments about why the jury has made a wrong decision, they could be made in Parliament in a robust debate.

I am not suggesting that there should be a snap decision or a three-hour beauty parade of 10 potential bills. I am talking about a substantial and deliberative process, carried out over a weekend, for example, when people really get the chance to hear the advocates of each bill, to take expert advice if they want it and to talk about the complexity of a bill, the time that it might take to go through the Parliament and whether it was likely to have the proposed effect.

One of the most impressive aspects of deliberative consultations in action is the extent to which, although people begin with a snap judgment—such as, "Oh yes, that is about cuddly animals"—almost as soon as they are faced with the responsibility of taking into account all the different factors, they begin to think much more like politicians and to consider the language of

priorities and the religion of politics. Deliberative consultations are an impressive way of increasing citizens' understanding of the political process; they take people out of the couch-potato situation, in which they can just sit, snarl, criticise and say, "That's stupid. Why are they wasting time on that subject when they should be talking about something more important?" People are put in the situation of having to be involved in the act of decision making—on the understanding, of course, that the process is purely deliberative. If such a deliberative process gets some publicity, it is worth doing.

11:15

Richard Baker: I want to follow up on Iain Smith's point. If the process gains publicity and leads to recommendations, they will have a lot of credence in the media and abroad. There are two issues. The proposal is interesting. I know from considerable experience how hard it is to find a representative group of people who have the weight to give such advice. I am interested in a process that would enable you to do that.

I understand that you want to get people who are not voting to vote and to attract more people to the Parliament. However, there must be a balance; it must be recognised that many people still vote for parties, party agendas and manifestos. My main question is about how you would justify a jury as representative and how you would find people who were representative.

Joyce McMillan: I am not an expert in methods of doing that, but it can be—and has been—done. I am not saying that it would cost nothing, but doing something high profile and imaginative that would get people talking about the Parliament's agenda would be an investment. To have a carefully chosen, genuinely representative jury that would represent most of the key elements in the make-up of the Scottish population and that would be able to deliberate for at least two or three days each year would probably involve considerable costs, but there would be massive gains.

Heaven knows, the Parliament has had a baptism of fire; it is coming on stream at a time when representative democracy is under challenge from all sorts of angles. Frankly, I think that if the Parliament does not seize the day and start doing a few really imaginative things and walking the walk in terms of reinventing democracy, it will be missing a golden chance to challenge people and to get representative democracy talked about and revitalised. There is a great deal of interest in the Parliament and the potential for innovation that it offers, not only within, but outside, Scotland. Injecting such an imaginative process into the system from time to

time would be an important contribution that the Parliament could make not only to the general well-being of Scotland, but to the much wider debate about where democracy is going in the 21st century.

Bruce Crawford: Thank you for coming along and challenging us, because I think that we should be challenged. You are saying some very interesting things.

I have three points, followed by a question. First, if the process involved filtering out some small bills, we are talking about not a prioritisation process but a consultative or advisory process for some bills. I am worried about whether the system that you suggest could act as a proper prioritisation process.

My second point is about decibel democracy, which politicians can find difficult to deal with when they are handling an issue of significant public interest. The difficulties that came with section 28 are an example of that. There could be similar controversy in relation to a proposed bill. Even though the people on the jury would not be elected, they would still be known in the Scottish community, would still be lobbied and would still be subject to considerable pressure on particular issues. I am not saying that they would not be able to stand that or that we would not be able to find people of rigour to do the job, but I would be concerned about what results the process might throw up.

My third point relates to consultation. As part of their bill preparation, members are required to follow a pretty extensive consultation process. A citizens jury could have some worth in that process and I will explore that point with you in a minute. A member might have undertaken a consultation process that proved successful and highly supportive of a bill, but that might not be reflected when that bill is put through the mincer of a citizens jury. I suppose that you will ask why that would happen if the citizens jury represented Scotland, but the potential for conflict exists and I do not know how we would resolve that.

I see a role for a citizens jury or panel—whatever we want to call it—in the consultation process. I say that because of my experience as leader of Perth and Kinross Council, which had a citizens panel of 1,000 people. We chose the figure of 1,000 because that allowed the panel to be statistically representative—we still had to involve the right men and women and social groups—and meant that accusations could not be made. Statistically, that figure is considered a sound number to use.

Difficulties might arise if a citizens jury were involved in a prioritisation process, but there may be merit in the suggestion that part of the

consultation on every bill should be a citizens jury examination, before the prioritisation process to allocate time to a bill in the Parliament. Is that a more appropriate slot for a citizens jury than a place in a member's consultation? We could ask the views of a continually refreshed standing body of a considerable number of citizens who are separate from the usual list of organisations such as the Deer Commission for Scotland and the British Potato Council, which are not interested in some of the documents that we send them.

Is the bill's consultation process the appropriate place for that advisory role? Is it your strong view that the best option would be to compare one bill's priorities with those of another? I am not sure whether that is a citizens jury's proper task. I hope that I have explained that well.

Joyce McMillan: I understand exactly what you are saying, but I disagree. With all bills, the Parliament should think about all kinds of different ways to consult the public on measures. I am sure that members do that when they introduce their members' bills and I know that the Executive and committees are interested in that. Such consultation is valuable and is a key and routine part of the Parliament's work. Committees could use citizens juries more than they do. Perhaps they will do that if the climate for committee resources to pursue and deepen their consultations ever becomes more friendly. However, that is not what I am talking about.

I am talking about an annual or biannual process that would invite a citizens jury to talk about priorities. The results would not be binding and every citizen who joined the jury would have to understand that. The jury would not be the same every year, because that would defeat the object. The idea is that a different group of representative citizens should be involved every year, so that people could not be lobbied, because by the time that it was known that they were jury members, they would be gone. The jury would not be a standing body; it would come into being every year to hold that discussion then step back.

I do not think that the jury would be a mincer. The event would be run by people who are interested in deliberative consultation. Some companies and other bodies are deeply interested in such processes and are not interested in mincing proposals, grandstanding to cameras or anything like that. The aim is to enable people to think deeply about a decision, to change their views without incurring an exaggerated penalty and to obtain the advice, consultation and input that they need to make a responsible decision.

I cannot emphasise too strongly the fact that the citizens jury would be advisory. The process should be undertaken with the spirit that we have a democratically elected Parliament and that it is

undertaking the process because it is committed to consulting people more widely. The Parliament will make the final decision and may have reasons why the jury's recommendation cannot be proceeded with, but it will be willing to consider the recommendation and to undertake that imaginative process to develop it. Why not?

Bruce Crawford: I ask you to reflect on the question that I asked Barry Winetrobe. I am trying to find something within the parliamentary atmosphere that is not the process that you suggest but that would allow back benchers a say, for example, a back-bench committee that is elected by the Parliament. What is your view on that?

Joyce McMillan: That would look a little bit like more of the same. The Parliament already has active and well-respected back-bench committees, including this one. Why not just chuck the matter to the Procedures Committee, as it understands better than anyone the procedures and how much time proposals are likely to take? If it was decided to use a back-bench committee, I would say all power to the Procedures Committee. However, I do not think that that system would contribute anything to the process. The reason why Westminster has a rather strange ballot procedure to select private members' bills is to introduce a wild card or a different element. In Westminster, they use random chance because that is the kind of boys that they are; we should choose an imaginative piece of public consultation as an input to the process.

The Convener: As there are no other questions, I thank Joyce McMillan for her interesting contribution. Joyce McMillan and Barry Winetrobe have brought an interesting new perspective to the debate, which I am sure will be useful to the committee when we consider our report. Thank you for your input.

I draw colleagues' attention to the note from the clerk that provides the information that was requested. I suggest that we ask the clerks to draw up an issues paper for us to consider at our next meeting, as a preliminary to a draft report.

Mark Ballard: Paragraph 9 of the note makes the significant point that NEBU has taken issues about proposed bills to the Scottish Parliamentary Corporate Body on only three occasions. The issue of identifying the scale of the problem was mentioned earlier. That information is important in identifying how often the current criteria are found wanting.

Bruce Crawford: That is an important point. Before we ask the clerks to draw up an issues paper that will examine in considerable detail the issues that we have discussed and that will give us a variety of questions to ask ourselves, perhaps

we should ask the fundamental question of how much we need change? I am convinced that there is a need for change, but I am not sure that all committee members have that view.

The Convener: That is one of the issues that the paper will address.

Bruce Crawford: It would be a lot of work to go beyond that, if we decide that nothing needs to be done.

Richard Baker: I take Mark Ballard's point, but I note that the origin of the inquiry was a request from the directorate of clerking and reporting, which had identified an issue. The three proposals that Mark Ballard mentioned would have knocked the entire resources of that department out for a considerable time. I do not want to understate the need to consider the issue.

Karen Gillon: It is interesting that there were 46 bill proposals in the four years of the previous session of Parliament, whereas there have been 33 proposals in the first year of this session of Parliament. That shows the potential problem; in one year, we have nearly reached the number of proposals that were received in four years. That is a serious issue.

The Convener: That is a valid point and one that I was about to make. I am glad that you have done the sums, because I had not.

Mark Ballard: The point is how many of those 33 bill proposals will have the proper consultations that mean that they hit the bottleneck of NEBU.

Karen Gillon: That question was just as relevant in the previous session of Parliament—25 of the 46 bills in the previous session never saw the light of day. However, we now have nearly double the amount of bills.

The Convener: If a third to a half of the proposals become bills, there might be as many as 11 a year, which is as many as the Executive produces. That is an indication of the level of the potential problem.

Karen Gillon: Mark Ballard makes a valid point. One failure in the system might be because members lodge bill proposals even though they have no intention of introducing legislation. Members lodge bills for which they receive a huge amount of publicity without even issuing a consultation document. I am as guilty as anybody else of that. Is there a consultation document on civil partnerships? The proposed civil registered partnerships bill has generated lots of publicity.

11:30

Mark Ballard: The proposed civil registered partnerships bill is a good example of a bill that would have fallen foul of the rule about Executive

or Westminster action by the time that it got to the consultation stage. It is an example of the criteria working, to some extent. It is important to note that although only one variable has changed, almost as many bills have been introduced in the first nine months of the current Parliament as were introduced in the four years of the previous Parliament. We need to identify why so many more bills are being introduced.

The Convener: Let us be clear. We are talking about bill proposals; very few bills have been introduced. We have identified that the introduction stage is the stage at which problems start to occur, in terms of SPCB, NEBU and committee time.

Bruce Crawford: I guess that this is a debate for next week.

The Convener: Yes, it is a debate for next week. We will look at the issues then.

Bruce Crawford: Although we should recognise that there are additional pressures and that it was initially the clerking team that requested the inquiry, we need to reflect in our issues paper the reaction that there has been from the parliamentary clerking team, which has allocated more resources to dealing with the problem. We should then consider the evidence that Paul Grice gave us, which was a bit less forceful.

Mark Ballard: As Richard Baker said, the Commissioner for Children and Young People (Scotland) Bill would have been too much for NEBU. The response was that additional resources were made available to NEBU.

Karen Gillon: NEBU did deal with the Commissioner for Children and Young People (Scotland) Bill. It was NEBU that supported me in drafting the bill.

Mark Ballard: Yes, but I am referring to the action taken in the first bullet point in paragraph 9 of the clerk's paper.

Karen Gillon: I know all the background to the Commissioner for Children and Young People (Scotland) Bill. It was not easy for anyone who was involved, including NEBU staff, to secure the resources that they needed. There were all sorts of other pressures on them.

Bruce Crawford: But they did it.

Karen Gillon: Yes, but would they have been able to do it if it had been a member's bill? There was huge pressure from a parliamentary committee to secure those resources. Given the fact that the initial request for the committee to consider the bill had come from the Executive, the committee was able to lever some kind of pressure that someone would not have been able to lever if they were just Joe Soap trying to get a member's bill through.

The Convener: Those matters will be included in the issues paper for our next meeting. If any member feels that there is additional information that we have not yet received, they should let the clerks know as soon as possible; otherwise we will not be able to take it into account.

Bruce Crawford: Joyce McMillan suggested setting up a citizens jury, but I do not have a handle on whether that is an appropriate thing to do. We have not taken any evidence on the proposal or received any information about how costly it would be. We would need to know in some detail the implications that there would be for parliamentary resources if we were to treat it as a serious suggestion.

The Convener: I am sure that the participation services team, which considers such issues, will be able to give us a ball-park figure for how much that sort of exercise would cost.

Bruce Crawford: That would be useful. We need to know not just how much a citizens jury would cost, but how it could be built and refreshed and whether it would be technically possible. We need to give the matter serious consideration.

The Convener: As I say, I am sure that the participation services team can produce a note on that for our next meeting.

Witness Expenses

11:34

The Convener: Agenda item 2 relates to our next major inquiry, which is into timescales and stages of bills. It is a formal request that any request for witness expenses be referred to me to agree it. Is that agreed?

Members *indicated agreement.*

Mark Ballard: Convener, your letter in the newspapers seems to have been a good way of securing additional witnesses.

The Convener: Yes. We have suddenly received a number of responses, not all of which have been entirely relevant to the inquiry. I hope that my letter will result in our taking evidence from non-usual suspects at a future date.

Mark Ballard: The unusual suspects are the ones that we want.

The Convener: They are non-usual, rather than unusual. I am sure that that is what the *Official Report* will say, anyway.

First Minister's Question Time and Question Time Review

11:35

The Convener: Item 3 is to consider the information that we require for our review of the timing and format of oral questions. If members have thoughts on information that would be useful, they can either express them now or let the clerk know about them soon so that processes can be put in place.

Karen Gillon: I have a couple of comments to make. I am interested in how we will find out the number of members who have requested to ask a supplementary question but who have not been called. I notice that radio is not mentioned in the note by the clerk. More people probably listen to the radio during the day than we acknowledge, particularly when they are on their way somewhere or on their way back from somewhere. It would be interesting to know what the radio producers and companies are saying about First Minister's questions and generally. The producers could tell us what they do and what coverage they have in their bulletins and programmes.

The Convener: Those are valid points. I think that the answer to the first one is that when a member presses their request-to-speak button it is recorded on the Presiding Officer's system. We will obviously check that.

Karen Gillon: But is a record of that kept?

Andrew Mylne (Clerk): We have set in train with our clerking colleagues in other parts of the Parliament arrangements to record that information weekly.

Karen Gillon: Will they record just numbers, rather than names?

Andrew Mylne: Yes.

Karen Gillon: I must remind other members to press their request-to-speak buttons.

The Convener: I suggest that we also explore whether we can get figures on recorded hits to the live webcast of oral questions.

Bruce Crawford: We should ensure that we get the information that we need for television, because it is helpful. The Broadcasters Audience Research Board studies television audience numbers. It has a panel of 1,000 members. They record through a meter in their home when they sit on their couch and what happens when they turn on their television. There are only about 100 members in Scotland. The monitoring system is as sophisticated as it can be in the circumstances.

We have to consider not just how many hits FMQs are getting on the lunchtime news, on the BBC and on Scottish Television, but what the general audience figures are at certain times of day. We have to find out whether overall audience figures are generally higher at 12 o'clock, not just audience figures for "Holyrood Live". Is that information in the note from the clerk?

Andrew Mylne: In paragraph 8 of the note I mention finding out the average viewing figures for news bulletins.

Bruce Crawford: Yes, but that is different from finding out overall viewing figures at a given time of day. There might be 600,000 people in Scotland watching the lunchtime news on the BBC and on Scottish TV on a given Thursday lunch time, but there are a heck of a lot more potential viewers out there, because other people are watching other programmes. We are talking about audience share. The nature of the audience is important. The people to whom I have spoken at the BBC have told me that a lot of the people watching the lunchtime news or "Holyrood Live" tend to be older, because they are the people who happen to be at home at that time. Later in the day, the audience is much younger. We need to understand the age profiles of the audience if we are serious about trying to reach chunks of Scotland that we have not reached previously and pull people into watching oral questions. It might be dry for them—I notice that Karen Gillon is having trouble staying for this item—but there is an issue about trying to increase the market share. The only way that we can consider that properly is by examining the overall audience and studying age profiles, not just the news bulletin niche.

Karen Gillon: I was interested in what you said, Bruce. However, let us say that I am 19 and I get up at half past 1 and put my telly on—I take it that that is what you were referring to when you talked about there being a younger audience later in the day.

Bruce Crawford: I was thinking of young mothers coming home after taking their children back to school after lunch, rather than teenagers who are lying in their beds until later in the day.

Karen Gillon: But are they watching terrestrial television or digital television?

Bruce Crawford: BARB can tell us that. The information is on its website.

Karen Gillon: That would be interesting. I am interested in how we would compete with the omnibus edition of soaps. The afternoon might be young mothers' time to catch up on their recorded television programmes.

Bruce Crawford: I do not think that we will ever compete with soaps. I am trying to work out how

we can give ourselves the best chance of competing. We will never go head to head with some of the big soaps, but there might be opportunities to expand our audience.

The Convener: We should perhaps refer your comments to the broadcasting office, to ask it to discuss them and come back with information if it can or we can discuss them with the Parliament's advisory committee on broadcasting.

Bruce Crawford: I will give Andrew Mylne a copy of some of the notes that I have made and the figures that I have.

Mark Ballard: I refer to the first bullet point in paragraph 8 of the note from the clerk, which is on viewing figures for "Holyrood Live". Given the questions that we had about the variability of the figures, it would be good to get not just the average figures for the 10 past 3 slot, but some time-series data.

The Convener: We did get that for FMQs. The sample sizes that Bruce Crawford was talking about explain the large variations; one more person switching on or off probably makes a difference of 12,000 or 13,000 in the viewing figures. That is an issue to do with how the analysis is carried out, with which the advisory committee can help us.

Richard Baker: What Bruce Crawford said about how BARB collects its data was interesting. We should get people's view on the robustness of the data. We should also hear about how likely age profiles are judged and about audience share. I notice that the note refers to asking BBC and Scottish TV about their coverage of FMQs in news bulletins. Could we ask Grampian Television too?

The Convener: It is down as a member of the advisory committee.

Richard Baker: So will it be asked the same questions as the BBC and Scottish TV?

The Convener: Yes, we can ensure that.

Richard Baker: There is also Border Television to consider.

The Convener: I remind members that on Friday morning at 9.30 we have an opportunity to have a discussion with the Ceann Comhairle and members of the Dáil. Jamie McGrigor and Mark Ballard have indicated that they will be able to attend and I will be there. If any other members are free on Friday morning, they are welcome to come along. It will be an opportunity to discuss with our Irish colleagues some of the issues that we have been discussing. Thank you for your attendance.

Meeting closed at 11:42.

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