

PROCEDURES COMMITTEE

Tuesday 1 February 2005

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2005.

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 Astron.

CONTENTS

Tuesday 1 February 2005

Col.

PRIVATE BILLS	789
SEWEL CONVENTION INQUIRY	816

PROCEDURES COMMITTEE

2nd Meeting 2005, 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)

*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

*Mr Bruce McFee (West of Scotland) (SNP)

Mr Jamie McGrigor (Highlands and Islands) (Con)

COMMITTEE SUBSTITUTES

Robin Harper (Lothians) (Green)

Tricia Marwick (Mid Scotland and Fife) (SNP)

Irene Oldfather (Cunninghame South) (Lab)

Murray Tosh (West of Scotland) (Con)

*attended

THE FOLLOWING GAVE EVIDENCE:

Ms Margaret Curran (Minister for Parliamentary Business)

Colin Miller (Scottish Executive Legal and Parliamentary Services)

Damian Sharp (Scottish Executive Enterprise, Transport and Lifelong Learning Department)

Nicol Stephen (Minister for Transport)

CLERK TO THE COMMITTEE

Andrew Mylne

SENIOR ASSISTANT CLERK

Jane McEwan

ASSISTANT CLERK

Lewis McNaughton

LOCATION

Committee Room 5

Scottish Parliament

Procedures Committee

Tuesday 1 February 2005

[THE CONVENER *opened the meeting at 10:15*]

Private Bills

The Convener (Iain Smith): Good morning and welcome to the second meeting in 2005 of the Procedures Committee. We have received apologies from Jamie McGrigor. I remind colleagues that we agreed at our last meeting to discuss items 4 and 5 in private.

The first item of business is our private bills inquiry. I am pleased to welcome Margaret Curran, the Minister for Parliamentary Business, back to committee. I also welcome Nicol Stephen, the Minister for Transport and, from the Scottish Executive, Colin Miller, the head of the constitution unit, and Damian Sharp, the head of the public transport major infrastructure team. I thank you for coming to give evidence to the committee this morning.

As is our usual practice, we will give you a few moments in which to make introductory remarks, after which I will open up the meeting to questions from members. Obviously, we are particularly interested to hear the Executive's views on the various options for a possible way forward that were set out in the paper that the committee considered in December.

The Minister for Parliamentary Business (Ms Margaret Curran): I will kick off and my colleague, Nicol Stephen, will come in at the end. We will indicate our views in this preliminary part of the session. I appreciate that members want to question us on the subject.

Nicol Stephen and I are both pleased to come before the committee to discuss the next steps in the committee's inquiry into the procedures for private bills. We have been looking at your work and find it very helpful in the development of our approach to the subject. As the committee knows, both Executive officials—Colin Miller and Damian Sharp—are members of the Parliament and Executive group that reported on possible alternative models for handling private legislation.

When I appeared before the committee on 26 October last year—which seems an inordinate length of time ago—we noted that three transport and works-type bills were before Parliament and that several more in which the Executive has a particular interest were in the pipeline.

As matters stand at present, I understand that four transport and works-type bills are planned for introduction in 2005: the rail links to Edinburgh and Glasgow airports; the Airdrie to Bathgate rail link; and the third Edinburgh tramline bill. Although the number of schemes that might follow those is not yet clear, we know that projects such as the Glasgow crossrail and the light rapid transit system in the west of Scotland are under consideration and would also require private bills. Clearly, extreme pressure will be put on Parliament to process those private bills satisfactorily. We agree with the committee about the need for urgency in our consideration of how procedures can be improved.

Following my last appearance before the committee, we were pleased that the committee took up the offer of bringing Parliament and Executive officials together to identify models for managing private bills. We have examined the group's report with considerable interest and are grateful for the work that has been done to support the committee's inquiry. I know that the committee has also had an opportunity to consider the report. I hope that it has helped members' thinking on the subject as much as it has helped ours. Clearly, there is much more detail to be considered as we all work our way through the subject.

I thought that it would help the committee if we were to give you our initial inclination. We favour the first model that is suggested in the report, which is based on the Transport and Works Act 1992. It appears to offer a dedicated process that would reduce the pressure on parliamentary time, although we would need to ensure that the lessons that have been learned from the experience in England and Wales were incorporated into any new process.

We also wish to consider with the committee how to retain the best elements of parliamentary scrutiny of schemes within an order-making process and—significantly—we want your views on that. We know that reliance on the Executive's inquiry reporters could place enormous strain on the system, and further discussions are needed on all that would be involved, including costs and staffing, which are significant factors, in order to assess the implications fully.

As I said, we recognise that if we are to get through the current and anticipated tranches of private legislation, there is much to be done in a very tight timescale. I know that the committee will give great consideration to the matter in its inquiry, and we cannot anticipate the outcomes of that. However, I am happy to give an assurance that, if the committee reaches the view that legislation is required, and if we can all reach consensus on the form that such legislation should take, we will do our utmost to ensure that that legislation goes

through the parliamentary process before the end of the current session. There are, however, caveats to that statement. I would need the agreement of my Cabinet colleagues, and there are other legislative priorities. Nevertheless, I want to indicate our sympathy for such action and our willingness to try to process any legislation as quickly as possible. If the committee took the view that an Executive bill would be preferable to a committee bill, we would give that suggestion serious and supportive consideration.

There is a more immediate need to draw up and consult on changes to the Parliament's standing orders. If those changes were made soon, that would enable us to make the most of the time that is available. We very much welcome the work that the committee is doing and we want to be as co-operative as possible. I will be co-operative, in terms of the parliamentary process, when we have determined the outcomes. Nicol Stephen has a strong portfolio interest in the matter.

The Minister for Transport (Nicol Stephen):

My interest is in ensuring that we drive forward our programme of capital investment in better transport infrastructure. We must get things done and we must get projects delivered on time and to budget. The private bills process plays a vital role in scrutinising projects and ensuring that they are financially sound; however, it can also be a delaying factor if we do not progress bills quickly through Parliament or if a queue develops before bills can enter the parliamentary process. All of that is significant for the transport projects that we are promoting at present.

Everyone is aware that other projects will be presented to Parliament in the next year. For example, the new railways powers that we debated in Parliament—with which some members of the committee have been heavily involved over the past couple of weeks—mean that the Executive will want to pursue more rail projects over the period of this Parliament and beyond. I would strongly support anything that could be done to sort out the issue without legislation. I agree with all that Margaret Curran has said.

We have a procedure that seems to have been founded in the 20th century—perhaps, even, the 19th century. It is now the 21st century and we need to find a 21st century solution. It is incredible that, in the 21st century, the Executive does not have the power to promote public transport projects in Scotland. That contrasts sharply with the full powers that the Executive has over, for example, road schemes in Scotland. It is important that we consider the role of the private sector and developers in relation to all this. It is not necessarily within the remit of the Procedures Committee to consider procedures for that, but we

must be ambitious in seeking to secure private sector developer contributions to major infrastructure projects. That is one of the longer-term issues.

In the longer term, it is important to consider the full range of transport projects. I realise that the committee's inquiry is very much focused on private bills procedure, but the Executive has other responsibilities for all sorts of approvals, some of which I find out about as they happen to be presented to me—as the next one pops out. They relate, for instance, to navigable water orders, harbour orders, ferry-related issues and the congestion charging scheme, for which the approval process is totally a ministerial or Executive process. In relation to rail projects, tram projects and the other private bill projects, which you know about, the process is very much a parliamentary one. I hope that, in 21st century Scotland, at the end of all of this work we arrive at a long-term solution that is logical and sensible and which leads to quicker delivery of such major projects.

I should stop there, but I will first just emphasise what Margaret Curran said about the involvement of the Scottish Executive inquiry reporters unit and the option of a system that is more like a public local inquiry system. That could put severe pressure on the inquiry reporters unit. Such an inquiry system is not necessarily a quicker system, particularly if we were to end up with an overload in the reporters unit. The gearing up of its resources would be a vital part of any solution that included the use of our reporters unit.

The Convener: I thank Margaret Curran and Nicol Stephen for those helpful introductory remarks. Before I open up the discussion to general questions, will Margaret Curran expand on why the Executive prefers the model of the Transport and Works Act 1992 to the other models, in particular the semi-parliamentary model, which seems to have some of the benefits of the TWA approach while retaining some of the benefits of the existing private bills system?

Ms Curran: I will go through a number of issues, and Colin Miller can come in after that. You can then tell us whether we have answered your questions. We envisage a system that involves order-making powers—which would be overseen by the Executive, but which would also undergo parliamentary scrutiny and approval at key points—for the big public transport infrastructure projects, such as tram and rail projects, much as has been described in the officials' report that members have seen. One of the advantages of that model is that it could be extended to cover a number of other sorts of project that are currently subject to procedures for which the Executive has responsibility. That would provide greater

consistency of approach. For smaller projects, we think that it would be sufficient for Parliament to adopt a lighter role that would be broadly similar to its role under existing procedures.

In some situations, an order-making process would help us to meet our objectives for delivering major transport infrastructure projects on time. Ministers would, with appropriate assistance from Parliament, be able to determine timescales relating to the broad policy issues that arise from such schemes. Some of the groundwork has been done; Colin Miller will expand on that. As Nicol Stephen has said, we need to make further progress on some of the detail.

Colin Miller (Scottish Executive Legal and Parliamentary Services): There is an element of horses for courses for the various possible models. I am sure that the committee will always want to bear in mind a number of considerations, including the need for proper protection of the rights of private objectors and the need to streamline the system and make it more efficient—in other words, to make it work. There is also a need for proper parliamentary input.

As regards major transport infrastructure projects that are of national significance, as Mr Stephen explained, the view is that a TWA-style model probably offers the best way of reflecting the various considerations that are involved. At the same time, that might not necessarily be the right model for private bills, at the other end of the spectrum—for example, legislation that Parliament has already passed, including the National Galleries of Scotland Act 2003 and the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Act 2003.

I have already said that there is an element of horses for courses, but it is very much in the Executive's mind that some projects that we know are on the horizon fall into the category of major national infrastructure projects. For those projects, the TWA model might offer the best way to reconcile all the various considerations.

10:30

Karen Gillon (Clydesdale) (Lab): I have a couple of questions. Like you, I am drawn to the TWA model for major transport infrastructure projects. There is an issue around navigation with offshore wind farms. There may be a need for one of the ministers to come forward with a statement of intent to Parliament, so that we do not have to have a private bill for every single offshore wind farm. We will need a private bills process for bills that are of a genuinely private nature, but I do not accept that a railway is a private interest—it is a public interest.

The Minister for Transport makes statements to Parliament, and we all know what the Executive's priorities are. For example, we all know the priorities for rail links, because they have all been put to Parliament. Could we formalise the process so that, at the beginning of each year, you let Parliament know what projects you are promoting?

I am not confident that the reporters unit could deal with the process, so I would need to see how you would beef it up. I have had bad experiences of reporter's inquiries being delayed for more than a year. The point is to streamline transport and infrastructure systems. I have seen at Larkhall how long it can take to get a system on the ground. How would we beef up the reporters unit to ensure that it could cope with the level of inquiries that it may be required to deal with under revised planning guidance, and as a result of changes that we make to systems for transport and works projects?

Nicol Stephen: You might expect the Executive to suggest a procedure that is purely ministerial and which follows the approach that is taken with major roads schemes. However, if the Executive and Parliament work at this collectively, we can reach a sensible solution that continues to involve Parliament appropriately. Parliamentary involvement will achieve two important things, among others. The first is an element of independence from the Executive in terms of scrutiny of proposals, particularly if a scheme is promoted and largely funded by the Executive. Secondly, it will keep the pressure on to ensure that we deliver to a tight timescale, because the parliamentary process would be public.

In relation to transport private bills, there have been hiccups and delays that have not been the responsibility of Parliament. Generally speaking, Parliament is working hard and effectively to consider the private bills that are before it within a fairly tight timescale—certainly within a timescale that compares favourably with the time it can take for the reporters unit to reach a decision, for the Executive to scrutinise it and then for it to reach a final outcome for other transport proposals.

Those two roles are important, so we are not suggesting a purely ministerial process—we are suggesting a joint approach. Several questions then arise. How do we deliver that joint approach and a transport and works-type approach that involves the reporters unit appropriately? How do we gear up the reporters unit to be able to get involved in projects and maintain a tight timescale for it all? Those are the challenges. It would be wrong to go for an approach that involved only ministers; we need to maintain the cross-party approach to the issue, which I think we have.

Certain parties are opposed to major roads projects that we are promoting. However, across

the public transport projects and the private transport bills that are coming before Parliament, there is broad consensus about delivering them for Scotland. There is also broad consensus that we want a better, more streamlined, less cumbersome and less onerous way of delivering approval for transport projects through the private bills process.

Ms Curran: Can I come in on the inquiry reporters unit, to which Karen Gillon referred? All the models have implications for, and require engagement with, the Executive's inquiry reporters unit. Karen Gillon is right about our having to focus on resources and to ensure that we get a turnout from them. I acknowledge that resources are an on-going issue. The unit's resources are stretched at present. I am advised that transfer of some posts from Parliament to the Executive would be necessary to cover the relevant transfer of business, but I cannot go into detail on that. We would have to pursue that matter. The alternative would be for Parliament to set up its own independent expert reporter service, but I think that Parliament would face the same problems because often it is access to the reporters that is important. We face challenges, but they are unavoidable—whatever model is used, the challenges must be faced.

Karen Gillon: I can see some challenging faces behind you, minister, but we will deal with that later.

Ms Curran: I am used to that.

Karen Gillon: I am slightly confused by Nicol Stephen's comments about wanting to keep a parliamentary element within the process. I suggest that that would be a hybrid model rather than a TWA model. I do not know how you could have a TWA model with parliamentary involvement, other than for Parliament to approve general principles, perhaps.

Nicol Stephen: As Margaret Curran said in her opening remarks and in her answer, we envisage a system with order-making powers that would be driven by the Executive, with parliamentary scrutiny and approval at key points for big public transport infrastructure projects, such as tram and rail projects. I think that the officials set out that view in their joint report, so they could probably elaborate on that. I agree with Karen Gillon that there are issues around defining what a big public transport project is, and when we would and would not want parliamentary involvement in it. However, in the process that we suggest for the TWA model, the important thing is that, at key points in projects there would be parliamentary scrutiny and approval.

Karen Gillon: That point is not clear in our briefing paper, which says specifically that the model

“gives almost all responsibility for handling and deciding on the applications to Ministers (rather than Parliament)”,

and that

“Made orders are not subject to any (further) Parliamentary scrutiny ... if (unusually) the Minister decides the proposal is of 'national (or regional) significance’”.

Therefore, your point is not clear, minister. The paper might be talking with a different purpose to the minister, but we are confused because the paper seems to contradict what you said. I am happy with what you said, but it certainly contradicts the paper that I have.

Ms Curran: We are obviously not aware of that. I will ask Colin Miller to clarify, because he was involved in the process.

Colin Miller: Having spoken with Damian Sharp, one of the officials in the group, I think that what we were trying to do was to set out the issues, the options and the pros and cons associated with each of the models. We were certainly not trying to lead the committee or, for that matter, the ministers to any considered conclusion.

An issue that arises for any of the identified models is the proper balance between, if you like, the role and powers of ministers and the role of parliamentary scrutiny and Parliament. It might well be that the model that is appropriate for major national transport infrastructure might not be appropriate for different sorts of private legislation. I think that, in his opening remarks, Mr Stephen was pointing out that, for large projects, it would be especially appropriate to employ a TWA-type model with order-making powers for the Executive. However, that would have to be accompanied by appropriate procedures for parliamentary scrutiny and approval at key points.

Parliament might want a role in deciding what constitutes a major transport infrastructure project in the first place. It was clear from the official group's work that there will always be a need to have a proper opportunity for parliamentary input and approval; Mr Stephen said as much in his opening remarks. The Executive and ministers would not simply take every decision without referring to Parliament or seeking parliamentary approval at different parts of the process.

Mr Bruce McFee (West of Scotland) (SNP): I would like to clear up one area of confusion. The problem for me—and, I suspect, for Karen Gillon—lies in the description of the TWA model, which is the model that you say you favour. According to our papers, the Executive will decide whether a scheme is of national or regional significance. The minister might then refer the matter to Parliament after which the Executive would decide whether to have a public inquiry. The minister can make the order without further reference to Parliament. If

that is the proposal, I would no longer support a broad TWA model, because it would concentrate far too much power in the hands of ministers and the Executive, perhaps at the expense of objectors to a scheme. After all, any centralising of power must be balanced by mechanisms for people who might for whatever reason oppose a scheme.

I am interested to hear whether a TWA model will be adopted. It might be appropriate for infrastructure and transport projects, but I do not think that it would be appropriate for some other private bills.

Nicol Stephen: Just to be helpful, I should say that I think that we all agree on this point. I have reread the description of the TWA model on page 4 of the private bills inquiry report and do not think that it reflects the model that we have suggested this morning. In our proposed model, there would be greater parliamentary involvement and powers would not rest completely with ministers. In my earlier remarks, I wanted to emphasise that we are not looking for an approach that gives the Executive all the power and requires minimal parliamentary involvement. However, we have not yet reached agreement on all this. We need to discuss the matter more with the committee and our ministerial colleagues before we reach a final position. That said, we believe that Parliament needs to be more involved in the process than the model that is set out in the paper would suggest.

The Convener: So, to some extent, it would be a semi-parliamentary model, using orders rather than bills.

Ms Curran: Yes.

Nicol Stephen: Yes.

Mr McFee: I simply wanted to clarify the difference between the model that you were endorsing this morning and the description of the TWA model in our papers. When you said that you endorse the first model, I was thinking, "Horror of horrors."

Nicol Stephen: It is an important point.

Mr McFee: I accept Nicol Stephen's comment that the proposal that he set out this morning is different from the model that is described in our papers.

Ms Curran: Perhaps I should briefly clarify our position. We are simply saying that we favour the first model; we are not saying that issues such as the criteria for major infrastructure projects, how we do all this and so on have been finalised. This is a starting point for us; we are not attempting to impose a model on you without your permission.

10:45

Mr McFee: I accept that it is a rough model. However, I want to be clear about the situation.

Would the principles of a project that qualified for the TWA model first have to be approved by the Parliament? If decisions are not to be concentrated in ministers' hands, what would be the Parliament's role in the procedures for establishing an inquiry and making the order at the end of the process? Would the Parliament have a role in determining whether an inquiry would be held? In other words, is it the Executive's intention that at every critical point the matter would come before the Parliament?

Ms Curran: We would want matters to come before the Parliament, but we would need to discuss the level of detail that would be put to the Parliament. This suggestion comes at a very early stage and we will be influenced by what the committee says about the matter, but I suggest that we would establish criteria and tests that would cause certain processes to kick in. Criteria would need to be established to allow anything to be referred anywhere, whether it would be the Parliament or the Executive that made the decision. It would be remiss of us to provide too much detail to the Parliament—

Mr McFee: In case we could not handle it.

Ms Curran: No. The decision might be straightforward and it might be obvious that certain things would happen. Clearly, a major infrastructure project would be referred and not necessarily the decision but the criteria that were used would be held to public account.

You will probably say that the devil is in the detail. That is the kind of discussion that we need to have. We must consider the details that might lead us inadvertently to make the wrong decision and not use the right parliamentary process. We should focus our energies on such matters.

Mr McFee: Are you saying that as an absolute minimum, in the first instance the general principles would come before the Parliament for approval?

Ms Curran: I think that they would have to, would they not? I need officials who can give me the same advice.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): This might not be the time or the place to go into all the detail. We are talking about the TWA model. In the current process for major transport projects, the decisions that the Executive takes when it makes an order do not come before the Parliament—they are the responsibility of the minister. However, we should remember that ministers—whatever their portfolio—are accountable to the Parliament for their decisions.

We are at the early stages of discussions on the TWA model but, when members of the committee were briefed on the matter, we thought that the

model seemed to offer a more efficient approach to major transport and infrastructure projects. I am pleased that that seems to be the Executive's position. However, I am concerned about some matters. I have every faith in the independence of the inquiry reporters unit—I have been involved from a distance with a number of inquiries in which the reporter was certainly independent and did a very thorough job on behalf of the community—but can the minister or her officials tell me, if they have the information, whether it is normal for ministers to accept a reporter's recommendations? How often do ministers reject a reporter's recommendations after hearing the evidence that is presented?

According to the committee's briefing paper it has been suggested that the model could lead to a lack of transparency. Often when ministers take a decision after a public inquiry, very little information is published to back up the decision and the public are left without an explanation about what led to the decision. Has anyone had an opportunity to think about such issues?

Nicol Stephen: You talked about what happens when the order-making procedure is followed. Currently the order-making process does not include a general principles stage, because there is no bill. We would move away from a bill process to an order-making process. It is up to us to create a new process. Everyone accepts that we will require legislation, at least in the medium term. We might be able to work with standing orders and increased resources to improve and speed the current system, but we will need legislation, so the responsibility for all of us is to create a new procedure that is effective for Scotland in the 21st century. We can go for an order-making process, but we may want to have an initial stage for parliamentary approval and involvement. If members are concerned about a reporter going off for what might be a long period—six to nine months—before producing a final report and about there being no ministerial or parliamentary involvement during that process or before the reporter's findings return to us, we could find a way to involve MSPs or ministers in that process.

We need to think about such matters in the next few weeks. We are not there yet—we are still at an early stage. The most important point to emphasise is that we want to proceed on a cross-party basis and to base decisions on consensus, on what is sensible and on what will work. There is broad agreement that we need to speed the process for such major infrastructure projects, that we need a better process and that we need to deliver the projects. There is no division over that. In transport debates, spokespeople from various parties have more than once made the commitment that they want to become involved in

supporting and helping to introduce a better system.

Comparison with the current system for dealing with reporters' findings and recommendations, whether for road schemes or for planning schemes, is relevant, but I am not sure whether it is necessarily the approach that we will want to follow for the new system for major transport infrastructure projects. The present system is clear. The minister normally follows the reporter's recommendations, but that is not required. The decision to accept, vary or reject recommendations rests with the minister. We want to consider that approach for transport projects. However, that drives the committee to a different system for major transport projects than for other private bills that are of a more genuine private bill nature.

Karen Gillon: We have got that bit.

Nicol Stephen: That is fine. I will stop there.

Richard Baker (North East Scotland) (Lab): Having been a member of the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee, I have a particular interest in the matter. For all that committee's good work, my experience was that having greater parliamentary scrutiny and involvement does not always equate to more thorough or effective scrutiny. That is not because of a lack of work by committee members or a lack of parliamentary resources, but because of the sheer complexity of the issues, some of which people need engineering degrees to get to grips with. That is why members of that committee—including its convener, Bill Butler, who gave us evidence—were in favour of more expert involvement at least and it is why I had few problems with the TWA procedure as described in our paper. However, I am happy to consider a TWA-plus.

The minister proposes parliamentary involvement at the beginning and the end of the process. Am I right in thinking that that would concern the general principles of major projects, particularly national ones? I presume that, at the beginning of a process, we do not want parliamentary involvement that might infringe on a reporter's independence and limit too much the scope of the work in which a reporter engages.

Nicol Stephen: I think that that is right. It is not a general principles stage, but we might call it that. It introduces something new into the order-making process.

Karen Gillon: This new system?

Nicol Stephen: We might well come to call the new system the general principles stage. It is up to us what we create and what we call it. However, it is too early for us to commit. We want to have

discussions with the committee and with the various transport spokespeople to come up with a system that will work.

The independence of the reporter is important, but we also want to ensure that the reporter comes back with findings and recommendations. There must be some element of fair and appropriate scrutiny of the findings and recommendations. As I say, that could come from ministers. In effect, the current process offers that as ministers get advice on the reporter's recommendations from officials. Clearly, the final decision that a minister reaches following a reporter's findings is ultimately subject to scrutiny by the courts. Similarly, in the situation that we are discussing, we would have to create a new process that would be seen to be fair and would be scrutinised by the courts and our legal system but which would be able to ensure that the Executive and the Parliament can deliver these very important transport projects.

Richard Baker: That is a useful elaboration. Some dialogue will be needed on this issue. There should be flexibility in the approach so that we can ensure that account is taken of what the Parliament thinks is important. I know that, once the general principles of the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill had been approved, there was little room for manoeuvre at the consideration stage. I am glad to hear what the minister says about the dialogue, which will be useful.

The second issue is about timescale and resources. The minister said that the Parliament will have to deal with two private bills later this year. We have already heard about the extreme pressures on the parliamentary resources in terms of staffing and members to sit on the committees. Is it hoped that the new procedure and new resources—in terms of staff and reporters—might be in place in time to deal with those bills?

The Convener: I was going to suggest that we consider the wider issues to do with the longer-term or medium-term solution before dealing with any changes that the minister might want to make to the present standing orders.

Ms Curran: That is exactly what I was going to say. We need to think about making changes to the standing orders to enable the Parliament to deal with the immediate challenges, but the way in which we manage the process from this point depends on what this committee's conclusions are.

Mark Ballard (Lothians) (Green): Minister for Parliamentary Business, at the start—

Ms Curran: Is that my Sunday name, Mark?

Mark Ballard: I would call you simply "minister",

but there are multiple ministers present. Margaret Curran, at the start—*[Laughter.]*

Ms Curran: Big Mags, as I am normally known.

Mark Ballard: Earlier, you said that you were looking to learn from the experiences of other Parliaments and from the workings of the Transport and Works Act 1992. In that regard, I am struck by the report of the consultants that were hired by the House of Lords to examine the operation of the 1992 act. It seems to me that the model that you are proposing is more similar to the amendments to the 1992 act that were proposed in the report than to the TWA model that is described in our papers. The consultants' report states:

"Parliament's endorsement of the principle of, and need for, a project of major importance would add weight and accountability to the overall decision-making process".

That seems to back up what Nicol Stephen said, in particular. It also said that

"The parliamentary approval process should provide a full opportunity for all interested parties to make their views known to Parliament so that these can inform parliamentary consideration of the project",

that

"The parliamentary debate of the motion approving the principle of the project should be preceded by more detailed parliamentary scrutiny at which the representations referred to above are considered"

and that

"The parliamentary approval of the principle of the scheme should be followed by consideration of the detail of the scheme at a Public Inquiry."

That seems to me to be quite similar to what you are proposing. Would that be right?

Ms Curran: Maybe. I am not sure which part you are referring to.

Mark Ballard: I refer to the section on parliamentary scrutiny in the MVA consultants' report on TWA orders.

Nicol Stephen: It certainly sounds similar.

The Convener: The report was circulated with the papers for the meeting. It is paper PR/S2/05/2/3.

11:00

Ms Curran: I appreciate that you have the paper before you. Obviously, officials have been looking at what happened in England and Wales, where there have been amendments. We want to find out how effective those amendments were. Our proposals, notwithstanding that some of the details still need to be ironed out, have borrowed from what happened in England and Wales but they are not an absolute copy. They are adapted to our

circumstances. Colin Miller has more of the details.

Mark Ballard: The section on parliamentary scrutiny in the MVA report recommends that

“the benefits of the new procedure should not be confined to schemes of ‘national significance’ in view of the restrictive interpretation which has been placed on that term.”

It continues:

“In the context of transport schemes, we recommend that the new procedure ... should also apply to schemes which are of regional significance.”

I want to try to draw out, particularly from Nicol Stephen, where the line will be drawn between local schemes, which will clearly not be subject to full parliamentary procedure because that would not be appropriate, and national schemes, which will be subject to that procedure. What will happen with regional schemes? Where do you place them?

Nicol Stephen: There will need to be discussion between the Parliament and the Executive on the issue, but if the Parliament expressed a clear wish to be involved in a scheme, I find it difficult to believe, under the model that we are developing, that the Executive would wish to resist that or would seek powers to resist that. However, we need to discuss those issues. If there are to be a number of such schemes, the Parliament will want to take a sensible approach to the volume of schemes that go through parliamentary procedure. It could be that a scheme that is relatively low in value would nevertheless be regarded by parliamentarians as significant in terms of the national interest. Therefore, there should be a power to bring such a scheme into the parliamentary system.

It would not be easy to create rules or regulations to define national schemes, regional schemes and local schemes. There will have to be a process of discussion between the Parliament and the Executive. Hopefully, we will come to a consensus in almost all cases, but if there was a dispute between the Parliament and the Executive, it would be difficult for the Executive to resist the Parliament's desire to scrutinise a particular scheme even if the Executive thought that it was a relatively minor one. The matter needs more careful consideration, but I would have thought that logic would pull us in that direction.

The Convener: I am conscious that we are under some pressure of time and we need to move on to consider some of the more immediate changes to standing orders that we might need to make. Are there any final, brief questions on the wider issue?

Mr McFee: I will try to be brief. Given that there seems to be some acceptance that there will be some form of parliamentary approval of general principles, which will have another name—big Mags's seal of approval, or whatever we want to call it—I invite the ministers to give their thoughts on the requirement for pre-consultation on proposals. If they believe that there should be some form of pre-consultation, particularly on Executive bills, where does that fit into the parliamentary process? Should it take place before or after the approval of general principles?

Nicol Stephen: In any project—whether it is a roads project or a public transport project, and whether it goes through the current order-making procedures or through the parliamentary bill process—there is a requirement on the promoter, in the case of a parliamentary bill, or on the Executive, in the case of major road schemes or other schemes that we promote, to have public consultation. The public consultation tends to have an informal stage and later, immediately before the finalisation of the scheme, a formal stage. It is certainly the case that bills that currently come before the Parliament go through formal public consultation and there is formal public consultation on road schemes at the draft order stage, before we move to final orders. We envisage that that will continue.

Mr McFee: Do you envisage the informal consultation exercise taking place prior to some form of approval in principle and the formal consultation taking place before the final order?

Ms Curran: Not necessarily. It would very much depend on the scale of the scheme. We must design a scheme that is proportionate and ensure that the mechanisms for it are proportionate to the task in hand.

As Nicol Stephen says, we are bound to have various types of consultation. Bills that we introduce go through a formal legislative process and there is often an informal consultation stage before that. There is usually a formal consultation stage before the proposal is submitted to the Parliament. We must ensure that the mechanism is proportionate. As Richard Baker says, we must equip those who make the decisions with the necessary information and we must ensure that they have been given the information that they require.

Mr McFee: That is why it is necessary to get the timing of events right.

Nicol Stephen: As I understand it, in the private bill process—Richard Baker and some other members will know more about the details because they have had direct involvement—objectors have an opportunity to come to give their

views to the committee. That is the stage for formal consultation.

In the order-making process, if there are significant objectors, there is a public local inquiry in front of a reporter. Again, local people and people with a land interest can come to state their case. Sometimes there is no public local inquiry because there are no statutory objectors. In those circumstances, the minister has powers to confirm the scheme. We will want to look at all that and develop a process that is fair. If we are moving towards an approach that involves the reporters unit—either the unit in its current form or a new unit under the responsibility of the Parliament—that would be the stage at which formal objections would be heard, but we would also want there to be an informal objection stage before the proposals are lodged.

Damian Sharp (Scottish Executive Enterprise, Transport and Lifelong Learning Department): I will raise two points. We must consider the issue of consultation by whom. Consultation by the promoter needs to take place before a formal proposal is made, or at least a lot of it needs to take place before a formal proposal is made. One of the weaknesses of the private bill system is that the guidance on what consultation there is with whom is very loose. Much is left to the discretion of the promoter. As the process is new and there are no precedents, that has been a major problem for promoters and it has also had an impact on objectors. The process has not always been got right because everyone was learning as they went along. It would be helpful to establish clearer guidance about what consultation the promoter needs to undertake in the new process.

As Mr Stephen said, there is also an issue to do with the consultation that must be held by the decision-making body. That consultation is traditionally done by the Parliament inviting witnesses to give evidence or by public local inquiry. The two consultations take place at different times in the process.

Karen Gillon: We are in danger of making the matter unnecessarily complicated for ourselves. It seems quite simple to me. I do not think that how we do this is rocket science. We would not be in the position of considering a rail link unless there had been major public lobbying for it, public demand for it and political consultation. Executives do not spend £X million just because they think that it would be a good idea to put a railway from A to B; they are pressured into doing so for whatever reason. We are kidding ourselves if we think that an Executive will suddenly decide to build a railway somewhere. There has usually been a 20-year campaign before we get to that point.

For me, the stage 1, if you like, is what happens in the Parliament every year when we get a transport statement and a budget statement that allocate resources and specify the policy intention. If the question is whether we should build a railway between Lanark and Edinburgh, the public inquiry should look at how that route would run and consider objections to the particular location and operation of the route. The issue should then come back to the Parliament for MSPs to approve the recommendations of the public inquiry reporter or whatever the minister has decided on the basis of that. That is not difficult.

We are in danger of creating a difficult process for something that is quite simple. We should not be talked into having an unnecessary process. I accept that we need a private bill process, but if the Executive states that it wants a rail link between Airdrie and Bathgate and the Parliament votes a budget to allow that to happen, why do we need another complicated process to agree the same thing for a second time? We should let the people get on with their inquiry into where the route should go and what impacts it would have on the community. The issue should then be brought back to the Parliament for final approval of the budget to let the project go ahead.

The Convener: In light of our discussion, without committing ourselves to going down a particular route, I think that it might be helpful if the officials could meet again to work up the ideas that have been mentioned into an outline proposal. Committee members should at least have that before them before making a decision. Are the ministers happy with that?

Ms Curran: Yes.

Nicol Stephen: Yes.

The Convener: Moving on, I want to ask the ministers whether they have any issues to bring to our attention about how the Parliament's standing orders could be streamlined to help the private bills that are in the immediate pipeline. Obviously, we cannot do much about the bills that are currently going through Parliament, but it would be helpful to know whether we can do anything to assist the bills that are due to hit us in the next few months.

Ms Curran: I was going to make that point. It is important that we make some headway on the standing orders because of the immediate challenges that we face. The timescales are quite tight, because we need to build in some time for consulting key players along the way. I am advised that we need all this done and dusted for next May if at all possible.

The Convener: Do you mean May 2005 or May 2006?

Ms Curran: Sorry, May 2005.

When the officials get together, they should also consider the management of standing orders. We need to consider how we can streamline that process so that we can get as much as possible done.

The Convener: Do members have any other questions on that aspect, or are they happy that the officials should consider those issues and report back to our next meeting with recommendations on the standing orders changes and other changes that are necessary to streamline the process? Are members content with that?

Mr McFee: If recommendations to go down specific routes are made, the justification for those should be contained within a paper.

The Convener: I meant to say that the officials should make proposals rather than recommendations, as it is for us to make recommendations.

Are members happy with the suggested course of action?

Members indicated agreement.

The Convener: As there are no other questions for the ministers or their officials, I thank them very much for what has been a useful session. I look forward to further discussions on the subject over the next few weeks and months.

Colleagues, let us move on to consider the other papers for agenda item 1. Members are asked to note the clerk's paper PR/S2/05/2/1, which outlines the evidence that has been taken so far. There is also a note on the remainder of the inquiry—paper PR/S2/05/2/2—which highlights some issues on which we might need to make an early decision. The ministers suggested that they are keen that, if possible, we should get standing orders changes in place before the next set of private bills hits the Parliament, which will probably be towards the end of May. That gives us a fairly tight timetable, which, I regret, may mean that we have to have extra meetings. The annex to the note lays out in detail some of the issues that need to be discussed. It would be helpful if we could quickly go through those papers and raise any comments.

11:15

Mr McFee: I have about 32 notes from the clerk. Are we talking about PR/S2/05/2/16?

The Convener: That is one of the papers; the other is PR/S2/05/2/2. I am now told that PR/S2/05/2/16 is separate from the annex in the first paper.

Mr McFee: Given what the ministers said and the line of questioning, will we go for a TWA model, a semi-parliamentary model or a TWA model with parliamentary knobs on?

Richard Baker: The ministers will clarify that.

Mr McFee: I suspect that it is for us to clarify that.

The Convener: We have asked the officials to consider the TWA-plus model, which would require some involvement by the Parliament at an early stage on the general principles of a major scheme and then parliamentary approval of the final order at the end of the process. I think that that is what the ministers were talking about. In essence, that is a hybrid of the semi-parliamentary model and the TWA model, but using orders rather than bills. That may just be a technical detail.

Mr McFee: I am not worried about what we call it; I was just asking about which of the three models we will go for.

The Convener: We have asked the officials to draw up an outline of how that proposal would work, which we can consider as an option. That option would require legislation, so obviously it cannot be in place by May 2005, which means that we must consider what other changes we might make to standing orders for the bills that are in the immediate pipeline.

The annex to paper PR/S2/05/2/2 shows some of the standing orders issues that we may wish to consider, which include the issues on documentation that were raised in evidence, the issue of whether the number of members involved with private bill committees could be reduced or changed in some way and the issues of objection periods and the preliminary and consideration stages. Those are all standing orders issues that we can consider. Some other issues could be dealt with without changes to standing orders, including fees and the Presiding Officer's determination of what is required in the accompanying documents, such as the environmental statement.

Mr McFee: I do not want to be cynical, but what difference will the fees issue make at this stage?

The Convener: The question is whether the fees as currently set cover what they are intended to cover. Any change will not make a difference to the speed of the process.

Mr McFee: I understand why we might wish to iron out major problems in the process, but I would like to see the justification for any changes. I am not against considering changes and implementing them if they are feasible, but I am wary of changing the procedure to expedite a particular matter, given that we are talking about possibly changing the legislation anyway. My

concern is that, if the changes are about anything more than good governance or making it easier to deal with private bills, we might create unintended consequences by straying into those areas. I would like to understand the rationale behind any changes.

The Convener: Paper PR/S2/05/2/16 outlines the issues of fees and costs under the heading “Issue 1”. Essentially, the promoter’s fees are a matter for the Scottish Parliamentary Corporate Body. Although, in principle, they are intended to meet the costs to the Parliament of the bill, at present they are meeting only roughly half the cost to the Parliament of processing the bill. That is a matter for the corporate body.

The issue of objectors’ fees was raised in evidence to the committee and the question is whether we want to make any recommendation on it at this stage. The view was expressed strongly that the objectors’ fee was inappropriate. However, it is up to the committee to decide whether it wants to make any comments on that issue.

The issue of the consultation of statutory bodies was raised by Scottish Natural Heritage and the Scottish Environment Protection Agency. They are not statutory consultees in the process and the suggestion is that we recommend that they become statutory consultees. That relates to the environmental statement, which does not appear to have to be drafted in accordance with the requirements of the Environmental Impact Assessment (Scotland) Regulations 1999. We might recommend that the environmental statement should be drafted in accordance with those regulations.

Karen Gillon: We need to sort out issues 2 and 3 in the paper—the issues of statutory consultees and the environmental statement. We are in danger of being outwith the laws that we seek to introduce if we do not sort those two issues out.

Mr McFee: The other issues might be considered when a new process is set up. That would be more appropriate.

The Convener: The final issue—issue 4 in the paper—is whether the outline business case should become an accompanying document. We could say yes, it absolutely should, but that would have implications for timescales and other things. I suggest that we consult further the bodies that would be affected—the promoters and the Executive, in particular—on the impact that that change would have on the process, so that we are aware of the implications when we make a decision.

Mr McFee: If the suggestion has come about because of particular pressures that will arise around May—that is my understanding of the

previous conversation—I wonder whether we should consider that issue when the new process is set up. If we are not complying with statute just now, we must change that, and the changes that are suggested under issues 2 and 3 could be reasonably easily made. In an ideal world, the outline business case would be stated up front—there is little argument against that. However, the question is whether now is the time to change the process.

The Convener: I suggested that we might consult so that we could find out whether it is feasible to require the outline business case to be stated up front. If it is feasible, there is no reason why we should not ask for it to be done. We can write to ask people about it now; I am not suggesting anything more than that.

Andrew Mylne (Clerk): I have a couple of points of clarification in response to the questions that Bruce McFee has asked. First, paper PR/S2/05/2/2, which contains an annex of the various standing orders issues that might be considered by the committee, is meant to include a range of concerns that have been raised either in evidence or through the experience of officials in the private bills unit of dealing with bills so far. It is not suggested that it is important that all the issues here are dealt with in the May timescale; they are not necessarily all issues that would particularly smooth the passage of forthcoming bills. It may be a question of prioritising some of them on the basis that they will have a greater impact on the next tranche of bills coming through.

Mr McFee: Did you say that the paper was meant to include those issues?

Andrew Mylne: We have drawn up the list to include as many of the issues that have been raised as we are aware of. Some of them may or may not have a particular impact on speeding up bills coming forward in May.

Secondly, in relation to paper PR/S2/05/2/16, I do not think that it is quite correct to say that we are not conforming to statute on any of those issues; it is rather that the system that we have is out of step with other processes in relation to environmental scrutiny. I do not think that there is any suggestion that what we are doing is unlawful.

Mr McFee: We can find our own euphemisms for it.

Mark Ballard: The three suggestions that would speed up the process come under the heading “Standing Order issues” in the note by the clerk about the remainder of the inquiry, under the subheading “Private Bill Committee (9A.5)”. They are about the number of members on a private bill committee, the rules on who may take part in a private bill committee and the question:

“Should it be possible for a PBC to meet at the same time as the Parliament?”

Would it be possible to change those without long-term or medium-term problems arising?

The Convener: I do not think that changing any of those would have an impact in the longer term. I am thinking of when the decisions on those issues were made. I know about the decision on the number of members on private bill committees, but I am not sure about the current restrictions on MSPs, which I think is a matter for determination by the legal office, rather than one that comes under the standing orders.

Andrew Mylne: That is in standing orders.

The Convener: It is a bit of both: it partly concerns potential conflicts of interest and challenge. The question whether private bill committees can meet at the same time as the Parliament would involve a change to the existing standing order that states that no committee may do so.

Cathie Craigie: We seem to be making this more complicated as we go on. The committee seems to favour a system similar to that which operates under the Transport and Works Act 1992, and we are going to get more detail on that. Many of the more complicated private bills have been to do with transport. We should wait until we have seen the model before we change anything. As we said earlier, let us do anything that has to be done, but it would not be fair to the general public if we simply went and started changing things, whether that involved fees or the different stages of consideration, if they are just going to change again sometime later in the year.

The Convener: Things will not be changing later in the year. A private bill being considered in the current session will probably not be affected by any potential legislation. By the time new legislation gets drafted and goes through the Parliament, it would probably not hit until—

Cathie Craigie: So when would it be—

The Convener: The next session, starting in 2007, would be—

Mr McFee: Would it be as late as that?

The Convener: Legislation might take effect marginally earlier, but not much. It would take at least a year for such a bill to be passed. Even if we agreed today what we wanted, it would still take that amount of time to pass a bill, considering the time it would take to draft it and to go through the whole parliamentary process and so on. New legislation will not affect at least two of the private bills that are yet to be introduced, and possibly up to four bills that might come in later. We need to identify any amendments that we could make to

standing orders to make them more effective and to streamline the process—“ease the passage” is not quite the right phrase—to make it less burdensome on the Parliament and to make more effective use of parliamentarians’ time.

Karen Gillon: A bill does not need to take that length of time, but it can if we want it to.

The Convener: I think it will take that amount of time.

Karen Gillon: We need to establish cross-party consensus on the way forward. If we can do that, we will get any bill through the Parliament quicker than would be the case if there was no such consensus. It can be done if we want to do it—we did it before, with the Commissioner for Children and Young People (Scotland) Bill.

However, there are some complicated issues, as we have seen this morning, which we need to sort out quickly. We need to make some amendments to the current process for those bills that will be introduced in May. In my opinion, the issues that we need to deal with are statutory consultees and environmental impact statements.

We also need to return to the subject of fees. If we are considering a purely private process in future, the fees, if they come from a private interest, should pay the total cost. I am slightly reluctant to alter the arrangements for fees at the moment, given the fact that much of the cost will be coming from local authorities, which has implications. We need to examine that in future and, as a matter of urgency, we need to propose some standing order changes on statutory consultees and environmental impact assessments.

The Convener: I accept those points.

Cathie Craigie: I have no problems with what Karen Gillon says. Such requirements apply to road orders and nobody would dream of submitting one without taking them into account.

11:30

The Convener: Are committee members of the view that we should consider the number of members on private bill committees?

Mr McFee: Are we suggesting that they should have three members, one member or something else?

The Convener: Three, probably.

Cathie Craigie: How could we work with that? I presume that the current number is five members so that there will be a quorum.

The Convener: All members of a private bill committee have to be present; that is the big

issue. That is one of the problems with private bills, as Richard Baker can testify.

Richard Baker: I know where Cathie Craigie is coming from about the need for a quorum. The fact is that the issues are so complicated that, a lot of the time that the committee is questioning and stuff, the clerks are advising on the detail of the questioning. The same goes for gathering evidence. If we can get a cross-party balance, three members would be adequate; with five members, the additional two members only repeat the same knowledge and ability to question and scrutinise.

With the private bills that are coming up, it is questionable whether some parties will even be able to propose members for private bill committees because of conflicts of interest. The Greens have already had problems with that. Any figure from three members upwards would be fine to get a workable committee with cross-party balance.

Karen Gillon: Why not require that a minimum of three committee members must be present?

Richard Baker: Everybody needs to be present, for the sake of objectors and because of the legal process, apparently.

Karen Gillon: Why? That is not the case for any other type of bill in the Parliament, so why do all committee members need to be present at a private bill committee?

Richard Baker: That is what the clerks advised me when I was a member of the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee.

Karen Gillon: But why? Why is that the case and why can we not amend the standing orders to say that there should be five members of the committee and that only three need to be present at any one time?

The Convener: I suggest that we put that forward for our report. We are not making decisions today, but determining what we want to examine. I suggest that we ask the officials group to consider the number of members on private bill committees; how many must be present; whether they all have to be present and the reasons why; and the current restrictions on membership of a private bill committee, which are causing problems in establishing some committees.

Mr McFee: I would not be in favour of changing the rules to allow conflicts of interest.

The Convener: I accept that, Bruce. The present rule is wide. There was a recent case in which a member had to come off the Waverley Railway (Scotland) Bill Committee because he had been a member of a council that had previously

voted in favour of the principle of a Borders railway link. There is an issue with that; most of the parties around this table are in favour of a Borders railway link, so where do we draw the line? We need to check why the current restrictions are in place and whether they are appropriate or too narrowly drawn.

Mr McFee: We need to know the rationale for those restrictions. Presumably, in the not too distant past, members thought that it was a good idea to have the rules as they stand. I want to see the justification for the rules, other than that they simply expedite business.

The Convener: I agree. I am suggesting not that we make changes just for the sake of it, but that we ask the officials group to look into the matter and to explain the rationale behind the existing position and the implications of any change to the numbers of members and the current restrictions on membership.

What about the committees not meeting at the same time as the Parliament? We could consider that too.

Mr McFee: I am relaxed about that.

Karen Gillon: It is a timetabling issue and an issue for all committees. I thought that we were going to consider that later in the year.

The Convener: We are talking about whether private bill committees should be treated as a special case. I am not asking us to make a decision on that; I am saying only that we should consider that as an option.

Mr McFee: It is worth while considering that.

The Convener: That is what I am suggesting.

The next point on the list of standing order issues is on preliminary stage consideration. Perhaps Richard Baker can answer this question from his experience of the process. If private bill committees did not have to give preliminary consideration to objections, what difference would that make to the process at the preliminary stage?

Richard Baker: Consideration of objections was not the biggest draw on our time. Once they were grouped together, they were not the biggest drawback. However, I certainly think that it is worth considering that.

Karen Gillon: From my understanding of what has been said, we have to bring in changes ahead of the next bills that will be introduced. If this agenda gets bigger and bigger, we will not be able to do that.

The Convener: I accept that. I am just trying to focus on what the key issues are.

Cathie Craigie: We discussed the key issues, which are the environmental statement and looking at the make-up of the committee.

The Convener: I am aware that there is time pressure, which is why I wanted to check what the position was. Are members content to consider those issues?

Members *indicated agreement.*

Sewel Convention Inquiry

11:36

The Convener: After that simple business, we move on to an even more straightforward piece of business, which is the Sewel convention inquiry. There are two issues for the committee to consider today. One is possible witnesses from a list of academics and commentators. Information has been circulated to members on the articles and research that the academics have conducted. [*Interruption.*] My apologies; we must also consider agenda item 2, which is to ask the committee to agree to delegate to me responsibility for authorising witness expenses. Can we formally agree that?

Members *indicated agreement.*

The Convener: My apologies for missing that.

Having looked at the information on possible witnesses, I am inclined to recommend to the committee that we invite Professor Michael Keating, Dr Paul Cairney and Professor Alan Page to give evidence, on the basis of the materials that they have produced.

Mr McFee: I would like to hear from Gerry Hassan.

The Convener: My impression was that his material was more political than about the process and therefore was less in line with what the committee is actually considering.

Mr McFee: My view is that we should have him as a witness and that the committee should question him along its chosen lines.

Karen Gillon: I support the convener's view.

Mark Ballard: Given that Barry Winetrobe is writing a chapter for a forthcoming book, we ought to consider him as a witness.

The Convener: The committee agreed at its previous meeting that we would not include Barry Winetrobe on the list on this occasion. However, he is free to submit in writing any views from his research, which would obviously be helpful to the committee.

We need to decide whether to include Gerry Hassan. Bruce McFee has proposed that we include him. I recommend that he is not included at this stage. The question is, that the proposal to invite Gerry Hassan be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Ballard, Mark (Lothians) (Green)
McFee, Mr Bruce (West of Scotland) (SNP)

AGAINST

Baker, Mr Richard (North East Scotland) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Gillon, Karen (Clydesdale) (Lab)
Smith, Iain (North East Fife) (LD)

The Convener: The result of the division is: For 2, Against 4, Abstentions 0.

Therefore, at this stage, we will not invite Gerry Hassan to give oral evidence, although he is free to submit further written evidence if he wishes to do so.

The proposed date for the informal briefing session that was requested at the previous meeting is Tuesday 22 February at 10.15 am. We have made initial inquiries of the Executive and the Scotland Office. I know that Bruce McFee and Karen Gillon are booked on that day. Unfortunately, it is almost impossible to find a date that would suit everybody and still allow us to have the briefing session before 1 March, which is when we start taking evidence.

Karen Gillon: I ask that any presentation papers are circulated, because I will not be here.

The Convener: We will arrange that. Are members content with the arrangements for that session?

Members indicated agreement.

The Convener: That concludes the public part of the meeting. I thank those members of the public who sat through it.

11:39

Meeting continued in private until 12:16.

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, Scottish Parliament, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Monday 14 February 2005

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

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.

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at the Astron Print Room.

Published in Edinburgh by Astron and available from:

Blackwell's Bookshop
53 South Bridge
Edinburgh EH1 1YS
0131 622 8222

Blackwell's Bookshops:
243-244 High Holborn
London WC1 7DZ
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh

Blackwell's 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
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

E-mail orders
business.edinburgh@blackwell.co.uk

Subscriptions & Standing Orders
business.edinburgh@blackwell.co.uk

RNID Typetalk calls welcome on
18001 0131 348 5412
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers

Printed in Scotland by Astron