PROCEDURES COMMITTEE

Tuesday 8 November 2005

Session 2

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PROCEDURES COMMITTEE
13th Meeting 2005, Session 2

CONVENER

*Donald Gorrie (Central Scotland) (LD)

DEPUTY CONVENER

*Karen Gillon (Clydesdale) (Lab)

COMMITTEE MEMBERS

*Richard Baker (North East Scotland) (Lab)
*Chris Ballance (South of Scotland) (Green)
*Cathie Craigie (Cumbernauld and Kilsyth) (Lab)
*Alex Johnstone (North East Scotland) (Con)
*Mr Bruce McFee (West of Scotland) (SNP)

COMMITTEE SUBSTITUTES

Murdo Fraser (Mid Scotland and Fife) (Con)
Robin Harper (Lothians) (Green)
Tricia Marwick (Mid Scotland and Fife) (SNP)
Irene Oldfather (Cunninghame South) (Lab)

*attended

THE FOLLOWING GAVE EVIDENCE:

The Rev Graham Blount (Scottish Churches Parliamentary Office)
Alan Boyd (McGrigors)
Andrew Cubie
Kelly Harris (Shepherd and Wedderburn)
Iain McMillan (CBI Scotland)
John Park (Scottish Trades Union Congress)
Brian Taylor (BBC Scotland)
Debbie Wilkie (Scottish Civic Forum)

CLERK TO THE COMMITTEE

Andrew Mylne

SENIOR ASSISTANT CLERK

Jane McEwan

ASSISTANT CLERK

Jonathan Elliott

LOCATION

Committee Room 6

Scottish Parliament

Procedures Committee

Tuesday 8 November 2005

[THE CONVENER *opened the meeting at 10:04*]

Item in Private

The Convener (Donald Gorrie): Right, ladies and gentlemen, let us make a start. I welcome everyone to this meeting of the Procedures Committee. I will introduce our guests in a moment, after we have dealt with the first agenda item. As members will have noted, in relation to our inquiry into private bill committee assessors, some of the oral evidence that we hoped to have this week has not materialised for various reasons and various contradictory bits of written evidence have materialised. In fact, another one arrived late yesterday and it will be circulated. I suggest that, at the end of the meeting, we have a private discussion of where we go from here. Obviously, we need an open official discussion at the first opportunity, but we need a private discussion to steer our boat in the right direction now. Do members agree to take item 6 in private?

Mr Bruce McFee (West of Scotland) (SNP): I hear what you say, but I wonder why we should take the discussion in private, given that all the other matters that relate to the inquiry will be taken in public. I do not know what you received this morning, but I read through the submissions and found nothing that needs to be discussed in private.

The Convener: The paper that arrived yesterday was a further load of legal advice from the parliamentary legal people, which is traditionally discussed in private. It would be helpful to have a discussion with them and to deal with the other submissions that have been made so that we can proceed from there in public. A private discussion would be helpful to get the process going.

Karen Gillon (Clydesdale) (Lab): I would be concerned if there were legal advice on the matter that had not been presented to us before now. We were clear that we wanted to see any legal advice in advance of meetings to allow us to consider it before we proceed with the inquiry. Obviously, there are issues to do with the timescale. If the timescale is hindered for any reason, I would be concerned about that. I am concerned that legal advice is being tabled today that I have not had an opportunity to read.

The Convener: The legal advice that was sent yesterday was a response from our lawyers to a document that we received from the Faculty of Advocates. Our lawyers had no opportunity to send it before then, as it was a response to another piece of evidence.

Karen Gillon: Has it been sent to members? I do not have it.

The Convener: No, it is being distributed. It got to the clerk only late yesterday.

Mr McFee: We have legal advice that may or may not be contrary to the advice from the Faculty of Advocates, which will be considered in public under item 3. Apparently, the other legal advice, to which we are not yet privy, will be discussed in private. It is strange that we should treat sets of legal advice differently.

The Convener: With due respect, what you say is not correct. Under agenda item 3, we will take oral evidence from two lawyers, not from the Faculty of Advocates. The advice from the Faculty of Advocates does not come up under item 3.

Mr McFee: With due respect, the paper that I have states:

"Agenda item 3 … Private Bill Committee assessors … Submission by the Faculty of Advocates".

If I have a different paper from everybody else, I would be happy to—

Richard Baker (North East Scotland) (Lab): I have not got that in my papers.

Mr McFee: Well, I have. I have a written report by the Faculty of Advocates, which is marked "Agenda item 3" and which gives specific legal advice that is contrary to what we have heard previously. We may not be interviewing representatives of the Faculty of Advocates today, but the report is marked as "Agenda item 3".

Karen Gillon: I will suggest a possible alternative approach. I appreciate that legal advice from our lawyers has traditionally been discussed in private, which is appropriate, but could we hear the advice on the public papers that have been submitted in private and then go into public to discuss how to proceed, given that advice from our lawyers?

The Convener: Yes. If the committee agrees, we can go back into public after our private discussion of item 6. I am not in favour of discussing issues in private when that is not necessary but, traditionally, legal advice from our lawyers has been discussed in private. It is only fair to them that we adhere to that custom.

Karen Gillon: I suggest that we get legal advice from our own lawyers in private but then move back into public session to discuss the papers before us and decide where we go from there with respect to our inquiry.

The Convener: Is that agreeable to the committee?

Members *indicated agreement.*

Parliamentary Time

10:10

The Convener: Item 2 is a round-table discussion. We welcome, in alphabetical order, Graham Blount, who is from the Scottish Churches Parliamentary Office; Andrew Cubie, who is very distinguished in many ways, but who is here today as a former member of the consultative steering group; Iain McMillan, director of the Confederation of British Industry Scotland; John Park, assistant secretary of the Scottish Trades Union Congress; Brian Taylor, whom we all fear, the political editor of BBC Scotland; and Debbie Wilkie, the director of the Scottish Civic Forum.

We hope to have perhaps an hour and a quarter or an hour and a half of free-flowing discussion—but with only one person speaking at once, which will be quite difficult. The committee has a remit to address particular issues to do with parliamentary time, which the witnesses have been sent. We are dealing specifically with our sitting pattern and with the allocation of time, but we are interested in your views on a wide range of issues. I invite each of you to spend a couple of minutes giving us the main points that you would like us to take on board in our review of how the Parliament uses its time.

The Rev Graham Blount (Scottish Churches Parliamentary Office): I welcome the opportunity to be part of this discussion. I am slightly concerned to find myself sounding rather conservative—with a small c—on this subject, but I believe that the basic sitting pattern of the Parliament works quite well, at least from my perspective and from that of the churches' engagement. I would be concerned were the Parliament to move away from the rule that committees cannot meet at the same time as the Parliament is in plenary session. That would create an undue conflict of interest and could demean one or other part of the Parliament's business.

We would be disappointed were Parliament to move to a two-weekly cycle. Some have suggested having one full week of plenary sittings followed by a week concentrating on committees. I would be slightly concerned that Brian Taylor and his colleagues might be tempted to view that as evidence of the part-time nature of the Parliament, which is often suggested, although I would not accept it to be true. We would not wish to do anything to undermine the credibility of the Parliament. Such an arrangement would be inflexible when it came to any events occurring at the beginning of the weeks when there was to be no plenary session. It would be unfortunate if something dramatic happened and Parliament did not have the opportunity to consider it.

I welcome the interest that has been shown in stage 3 debates and I share many of the concerns that have been expressed about their procedures.

As far as any changes are concerned, most of us who engage with Parliament's business and who try to provide the element of participation that forms part of how Parliament does its business feel that it would be helpful to have more notice of forthcoming business, although we recognise that "events, dear boy" might require business to be changed at the last minute. By and large, the value of surprising the Opposition in debates—whatever Opposition that is—is perhaps overestimated, whereas the value of people being aware of what is coming up is underestimated.

10:15

Andrew Cubie: I, too, greatly welcome the opportunity to take part in this round-table discussion. I was reflecting that it is almost seven years since the CSG presented its report to the then Secretary of State for Scotland. We were given a blank sheet of paper on which to make proposals for the working arrangements of the Parliament. It is a matter of clear reflection just how much the landscape has changed over the past seven years.

One of the four key principles that we identified was that

"the Scottish Parliament should be accessible, open, responsive and develop procedures which make possible a participative approach to the development, consideration and scrutiny of policy and legislation".

The general observation that I make at the outset of my evidence is that, by and large, the Parliament has met that principle. It is a great credit to the Parliament that it has done so. The principle can be seen at work particularly through the committee structure. I have some experience of appearing before committees in Westminster, Cardiff and Belfast—when the Northern Ireland Assembly was sitting—and it is my experience that the Scottish Parliament has been very strong at meeting the CSG criteria of openness, responsiveness and participation. That is tremendously important in a unicameral Parliament.

If I may, I will mention two or three general matters before I turn to the issue of timing. The scale of activity in the initiation of legislation through the committee structure is very important. Indeed, it might be constructive if more time were to be allocated to committees to lead in debates. Another matter is whether committees meet sufficiently frequently outside of Edinburgh. As is clear from our recommendations, the CSG had a strong sense that that was an important element of a participative and open Parliament. I appreciate that the recommendation leads to timing issues for the Parliament.

The issue also bears on the Parliament's consultation processes. I commend page 145 of the CSG report to the committee. Under the heading "Mechanisms to Facilitate Participation in the Work of Parliamentary Committees", members will see the various recommendations that we made. I note with interest that one of them was the co-option of non-MSPs to sit as non-voting members of committees.

It is essential that the Parliament continues to operate on a family-friendly basis. Our early thinking was that the Parliament should respect school holidays, a provision that continues to be met. Members of the Scottish Parliament have the best view of their time allocation. It is important to look at the outputs of activity, which clearly have to balance the considerations of constituency, party, travel time, committee work and plenary activity.

In that regard, I am very supportive of the Procedures Committee's further review. I will be interested in what members have to say about the way in which their time allocation would be spent most usefully. The consideration of outputs is the most important element of that question—probably even more so than the process. In that regard, and as was mentioned in the previous inquiry into parliamentary time, anything that could be done to improve planning would be appropriate, both for MSPs and for the people with whom they deal.

Returning to the work of seven years ago is not unlike returning to an old exam paper. At the time, all of us were steeped in the issues, but I now feel rather less well qualified to contribute to the debate. That said, the committee might find it interesting to revisit the issue of whether it is competent for committees to sit at the same time as plenary sessions take place in the chamber. I suggest that the committee consider the matter by way of a record of attendance at plenary debates. In that way, it would be possible to predict the extent to which the existence of the rule would hold back committee work.

Iain McMillan (CBI Scotland): Thank you for inviting CBI Scotland to attend the meeting. We regard the work of the Parliament and its various committees as being of the utmost importance. We are always very pleased to be invited to give evidence when required.

A few moments ago, Andrew Cubie mentioned the outputs of the Parliament. I echo the remarks that he made. As an organisation, we have a significant interface with the Parliament; we are very interested in most of the legislation that is considered and passed by it. However, we feel that the management of the process is best considered and decided by MSPs and their

officials. We are not part of the management process.

It is important to us that consideration of matters by the Parliament and its committees is evidence based and that the thinking and the results of that consideration are of the utmost quality. The Parliament should consider legislation on the basis of sound evidence. When it reaches the statute book, legislation should be of the utmost quality and should achieve what its drafters intended.

Andrew Cubie mentioned the family-friendly operation of the Parliament, and the Scottish Trades Union Congress submitted evidence on that. The CBI would support a family-friendly working environment. The arrangements that existed in another place were very archaic and did not work well at all. I am very pleased with the general working times in the Parliament.

I would like to make a last point about the work of the committees, although I will not go into much detail at the moment, as perhaps we can discuss it later. From time to time, the notice that we are given by committees to submit evidence and to go to a committee to give oral evidence to support written evidence is quite short. Before the establishment of this Parliament, we had much more time to prepare for evidence sessions at the House of Commons—we even negotiated with the clerks about when we would give evidence.

I would be happy to give more detail if it is of interest to the committee as we move through the discussion.

John Park (Scottish Trades Union Congress): Like everyone else, I thank the committee for the invitation to be here today; it is an opportunity that the STUC welcomes.

We submitted a short evidence paper outlining some general comments. We carried out our own internal consultation, as we do on many such issues. It is fair to say that no strong views came forward from the trade union movement about its engagement with the Parliament.

Resource issues have intensified for the trade union movement over the past six or seven years since the Parliament came on stream. Our level of engagement is much greater than it has ever been. That is because Westminster is quite a bit away and many of the policies that trade unions were pursuing would have been followed to a national level.

We are broadly in favour of the present arrangements on parliamentary time. We are strongly in favour of the broad nine-to-five arrangements that we argued for. That is important not just for people who work in the Parliament or for MSPs; it is important for people who are trying to engage with the Parliament. The times must be acceptable for people who want to come along.

Unison was concerned that a weekly sitting pattern along the lines of the European Parliament might not be suitable for the Scottish Parliament. We felt that such an arrangement was more relevant to the European Parliament, given the great distances that MEPs have to travel.

Having further notice of debates was mentioned earlier. For organisations such as ours, whose resources can sometimes be thin on the ground, that would be very helpful. Our relationship with the Parliament is very much focused through the committees and much of our effort goes into committees. Sometimes, the lead time for submitting evidence can be a little bit on the short side. However we recognise that committees' priorities can change quickly.

The past six years have been a great opportunity for many ordinary trade union members and activists who would never have engaged politically at Westminster. That has predominantly happened through the committee structure, which we are happy with. I am happy to answer any questions that members might have.

Brian Taylor (BBC Scotland): Members must forgive my slight apprehension at being on the other side of the fence for once. I have been a journalist and full-time practising nuisance since I succeeded Chris Ballance as editor of the St Andrews student newspaper more years ago than either of us would care to confess.

There is a different model of democracy operating in Scotland these days. We have moved from the elective model, whereby the people give a mandate to a Government that governs pretty well as it chooses for four or five years, through a consultative model, whereby the people are consulted and the Government either heeds or ignores their advice, to what I think is the beginning of a participatory approach, which involves people taking part not only in the formulation of policy but in its implementation, which a lot of people do not fully realise. That means that the legislators and the people upon whom their doings are inflicted must both take some responsibility for the legislation. I think that that model requires there to be a conduit of information between the Parliament and the people. If I am allowed one plug—and I will probably take several—BBC Scotland is one of the principal conduits that are involved in shifting that information.

With regard to the broadcasting implications of parliamentary timetabling, you would hear a different view from different BBC editors. Although "Holyrood Live" accounts for several hours a week of live television coverage of the Parliament,

coverage is also provided by "Scotland at Ten", "Politics Scotland", the "Politics Show", "Reporting Scotland", "Newsnight", "Good Morning Scotland", "Newsdrive", "Newsweek", "Sunday Live", Radio nan Gaidheal and BBC online. As well as that, the Scottish Parliament is covered for several hours a week on the BBC Parliament channel and is also dealt with on Radio 4's "Yesterday in Parliament". There are umpteen outlets and it is possible that each of the people who are responsible for those programmes will have different opinions about timetabling and business.

As Iain McMillan said in another context, it is explicitly not our role to tell MSPs how to conduct their parliamentary business. If we did, you might then reasonably come back to us if you felt that we had guided you the wrong way. However, every decision has a consequence and it is, perhaps, reasonable to share with you what we believe would be the broadcasting consequences of certain timetabling changes.

For what I am sure were good reasons on the part of the principals involved, First Minister's question time was moved from the afternoon to the morning. However, that has substantially reduced the audience for our live television coverage to a quarter of what it was. That does not mean that it was a wrong decision or that you necessarily want to change that; it is simply a consequence of what has happened.

On radio, on television and online, we have covered committees substantially; we are, perhaps, the only people who cover committees substantially. We would have concerns about the implications of there being a week entirely dominated by committee meetings and a week entirely dominated by plenary sessions. That would lead to the impression of there being an in-and-out Parliament with a bizarre sitting pattern. Further, it would not give us the blend of news that we would seek, especially during the committee-only weeks.

Regarding the advance notice that is given, I would say that our prime concern is news and current affairs. Therefore, we regard topicality and relevance as being extremely important in the debates and question sessions. We would have grave concerns about debates having to be scheduled several weeks ahead. I cannot see how, in that circumstance, they would be topical for us or relevant to the people of Scotland.

With regard to the issue of the committees and the chamber sitting at the same time, I am told by those who know more about these things than I do that that would pose us technical problems. Apparently, although we can monitor all the committees, we can record only two channels simultaneously. If the chamber is sitting, that means that we can record only one committee at the same time. That might cause us some problems. I also think that there would be reporting problems as, like it or not, the focus would be on the chamber. We would have to divert resources if we were to watch the committees as well.

I am happy to join in the committee's discussion later.

10:30

Debbie Wilkie (Scottish Civic Forum): The Scottish Civic Forum is strongly supportive of the principles of the consultative steering group. Some of the discussion relates to people's ability to be able to participate in the work of the Parliament.

In general terms, we would be opposed to changes that made it less easy for people to participate and that might diminish the pluralism in the Parliament. Much of the feedback that we had from our members and others is that people welcome the quality of debate that participation and pluralism enable.

Although I note Brian Taylor's point about topicality, because the Scottish Civic Forum works with small community-led groups that might operate with a voluntary committee and no paid staff, we know that advance warning is crucial for many people. Iain McMillan mentioned how difficult it is for the CBI to turn around evidence. We can multiply that by 20 for small community-led groups that work without paid staff. Given the Parliament's commitments to being participative, it would be a matter of concern if participation were diminished further.

We have strong concerns about committee and plenary meetings happening simultaneously. We would be concerned that the quality of debate in committee and plenary might be diminished and that the legitimacy of decisions and votes taken might be diminished.

The Convener: Thank you—that was helpful. If we look at the questions that were set in your exam paper, is it fair to say that everyone agrees that the current sitting pattern is okay by and large, or is that a misrepresentation? One member raised as a possibility the question of committee and chamber meetings happening at the same time but, on the whole, the feeling seemed to be against that. Does anyone wish to discuss that further?

Richard Baker: Beyond the technical reasons that Brian Taylor outlined for not having committee and plenary meetings simultaneously, Debbie Wilkie mentioned her concern that votes might be affected. Would it make a difference if there were a clash with a stage 3 plenary session rather than with a normal plenary debate? As Andrew Cubie said, the normal plenary debates are not well

attended sometimes, so that might be a good reason to use some of that time for important committee business and to give committees some flexibility to take extra evidence. We feel that committee schedules are sometimes very pushed.

The Convener: Does anyone from the visiting team wish to respond?

Andrew Cubie: The observation that we all made is that you and your colleagues are best able to judge the scheduling demands. However, my proposition is certainly not to diminish in any sense the power of the chamber, but simply to consider occasionally that such a combination of committee and chamber activity could take place at the same time. I appreciate Brian Taylor's point, but I am sure that technology might in some way overcome that problem in this brave age.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I thank everybody for their written evidence and their statements this morning. From some of the comments, we might be forgiven for getting the impression that we could close the inquiry now, as everybody seems to be quite happy.

One of the matters that troubles the committee a wee bit—it is something that we will have to look at in detail—is that the sitting patterns of the Parliament can become difficult at certain times of the year and we are stretched to deal with the business that we have to get through. That is the case in April and May in particular, when we are rushing to pass legislation. Does anyone have any views on whether we could alter the sitting patterns? One downside of that could be that we might curtail committee time even more.

Alex Johnstone (North East Scotland) (Con): My comment is based on the experience that I bring with me from other committees. There have been times when it has been necessary for committees to do things that they otherwise would not have done, such as meeting at lunch time or after 5 o'clock. Although I am sympathetic to the idea that committees should not meet at the same time as plenary sessions, I know of incidents when that has been almost unavoidable. I would be interested to know what other members would think if we decided to go down a road that did not mean that it was the norm for committees to meet during plenary sessions, but that gave an opportunity for the Parliament, perhaps through the business motion, to grant permission for committees to meet at the same time as plenary sessions in emergency circumstances. All the restrictions that we have touched on would apply.

The Convener: What do the visitors who are on the whole against committees meeting at the same time as plenary think of the idea of that being possible occasionally?

Brian Taylor: I can see the force of the argument; my points were purely technical and practical. Andrew Cubie is right that we can get round anything—we do it on a daily basis. I hear a number of members saying that practical obstacles are being placed in the way of parliamentary scrutiny and parliamentary work and I would observe that those are far bigger problems than a few obstacles for Her Majesty's BBC.

The Rev Graham Blount: I would be sympathetic to Alex Johnstone's suggestion. My only concern would be the ease with which an exceptional and emergency provision can become a matter of routine, so that the business motion almost every week has tagged on to it permission for committees to meet at the same time as plenary. I would be happy to accommodate that as an emergency position if there were some proviso to ensure that it did not become a matter of routine. I am sure that it is not beyond the wit of the committee to find such a proviso.

I appreciate Cathie Craigie's point about seasonal pressure. I am aware that such pressure is felt, but I am not quite sure why that should be. We inherited the idea from the CSG that a bill that does not complete its progress before the summer recess—or the end of the parliamentary year—does not automatically fall but is picked up where it left off. I am not clear whether the extra pressure that seems to be felt in May and June is just a matter of tidiness and that MSPs want to get the thing over and done with so that they can feel a sense of satisfaction when they go on their holidays. We all feel that, but that should not generate the kind of pressure that MSPs feel; there are other times when the pressure is not on. I would have thought that the way in which the parliamentary year is structured—without taking into account the artificial break—would mean that there is a way round that without an undue change to the sitting pattern. I suggested in our written evidence an occasional, marginal extension of the day to 7 o'clock, again as a matter of exceptional practice, particularly in relation to stage 3 debates. I would find that acceptable.

Karen Gillon: Your point is well made, Graham. We are under no pressure to carry legislation over, except in the world of real politics, where we are under substantial pressure to get things finished. I am quite sympathetic to the view that the final two weeks before the summer recess could be dedicated to plenary sessions to allow us to debate bills at stage 3 in greater depth. One of the criticisms of the Parliament is that we do not allow sufficient time for stage 3 debates. If we are realistic, in those last couple of weeks the committees sometimes do not have legislation to consider and committee agendas can be quite light—some committees may not meet in the last week. In the last two weeks before the summer recess, there is scope for us to have plenary sessions only.

Something that frustrates me as a back bencher—Graham Blount mentioned it earlier—is that we do not receive sufficient notice of motions and amendments, either for Executive debates or Opposition debates. I am not suggesting that we should be told miles in advance, but I would like to leave the Parliament on Thursday knowing what I am going to be debating the following Wednesday. I want Brian Taylor to have his spontaneity and I want the issues discussed to be current, but I want organisations to be better able to brief MSPs on the issues that are being debated the following week. In plenary, we are taking decisions that impact on Scotland. I would like our briefings to be better and I would like to have time to consider the briefings. I do not want to be reading a briefing for the first time as I am sitting in the chamber waiting to vote. Would advance notice be attractive to outside organisations?

John Park: I will come back to what Karen Gillon said, because we have done some work on the matter recently, but first I will say that the work of the committees is important. As Iain McMillan said, the issue is outputs, about which we will have to be guided by members. More time will be required to consider certain topics. If a mechanism could be put in place to allow for that, we would be supportive. I do not see any conflict—we would have to use resources to have people attending debates and committees, but we would not be in every day. We would be engaged, but not that engaged, if you know what I mean.

I turn now to Karen Gillon's point. Recently, I have taken a different approach to how we work with the Parliament. Last week, we attempted to brief MSPs on a debate. To meet timescales, e-mails can be useful, but they are not always read. I have been told that it is important to give people paper copies. They are easier to read and people get informed a lot more quickly.

Any extra notice of debates would be helpful to organisations such as ours that are involved in general campaigning and want to engage with MSPs on particular issues.

Mr McFee: I want to talk about motions for debate. The subject matter might be made known a week or even a fortnight in advance, but when we see the motion for debate and the amendments, we often wonder what relevance they have to the original subject matter. It is not much help to be told a week in advance that there will be an Executive debate next Thursday on education. We say, "Well, great—but any particular steer on which part of that subject we might be looking at?" The Procedures Committee should consider the timing for when motions have to be lodged, as the motion gives a wide focus on the subject to be debated.

I have been a member of the Scottish Parliament for just over two years, but the issue of stage 3 timings never seems to go away; it comes up constantly, although it might be more acute at the tail-end of a parliamentary year.

I understand what people have said about family-friendly policies, but we sometimes have to think about the real world outwith the Parliament—although I do not want that to be taken in a way that it is not meant to be taken. When a committee needs more time, we always assume that it has to be taken from the Wednesday afternoon or the all-day Thursday of the plenary sessions. Why can we not use Mondays or Fridays?

Karen Gillon: There is constituency work to do.

Mr McFee: I know that people have different surgery arrangements. However, at the risk of being very unpopular with my colleagues, I will say that during the 15 years that I served as a councillor I worked full time and I did other things in the evenings and at weekends in relation to surgeries.

I want to throw the issue open for discussion, because I think that it might provoke a response—I can see that it has already provoked one from Karen Gillon. I realise that there are timetabling difficulties in getting all the members of a committee together at particular times, especially at short notice, as invariably is the case.

Perhaps we are looking at the matter the wrong way when we just think that time for extra committee work should be taken during the Parliament's plenary sessions. I would not like to go down the route of constantly having committees meeting then. I know that that has already happened, but once the precedent is established the practice will be employed regularly and we will see the overlap on more and more occasions. Perhaps committees should look a bit further forward at the time that they will require and pencil in days for extra committee meetings outwith the Wednesday afternoon and Thursday periods that are used for the plenary session.

10:45

Karen Gillon: In the light of Bruce McFee's comments, and at the risk of incurring the wrath of my colleagues, I would like to distinguish between constituency and list members. I left my house at 8.45 am yesterday and got back at 10.45 pm and I have no idea where I could have found another point in the day when I could have attended a committee meeting. If we want to operate in a vacuum, we can meet on Mondays and Fridays. That is fine. I work at weekends and I do not have a problem with working at weekends if my constituency demands that of me, but on a Monday and Friday one of the key elements of my work is taking soundings from the people whom I represent on the legislation and policies of the

Parliament. If the only people whom I am going to speak to are the people who are invited to the Parliament, the legislation that we pass will be all the poorer for it. I hold my constituency time dear and I try to use it as best I can.

I am interested in the issue and I think that Graham Blount is right to say that there are occasions when we will have to meet until 7 o'clock in the evening—with appropriate notice, people can make those arrangements. However, I have two small children and I came into this Parliament because I believed that it was different from Westminster. If I wanted to sit from Monday morning till Friday night, I would go to the House of Commons and work in that kind of environment.

Are we serious about continuing the good work that we have engendered? It was either John Park or Iain McMillan who said that the family-friendly nature of this place is not just about the people who sit in the Parliament but about the people who engage with it. If we move to evening sittings, people will have to work outside that time. People work at night, but they have to do that for a reason and I would be cautious about our cocooning ourselves away from the people whom we represent if we were here from Monday to Friday.

Cathie Craigie: I agree. People in the communities that we represent like the access that they have to MSPs and the fact that we are about in the constituency on Mondays, Fridays, Saturdays and Sundays. We are also available in the evenings, when people can bring problems to us or we can go and speak to various community groups. Bruce McFee seemed to suggest that committees do not use Fridays and Mondays, but they do—they even use Saturdays as well. When a committee is handling a particularly big piece of legislation and wants to go out to meet people in places other than Edinburgh—that is something that Andrew Cubie mentioned—a lot of us want to take that opportunity to gather round-table evidence in an informal way. People do not always want to do that regularly, but committees meet outside the usual times in certain circumstances.

I thought that the remit for our committee was, basically, to say that the parliamentary week starts at 9 o'clock on a Tuesday morning and ends at 5 o'clock or 7 o'clock on a Thursday evening; I thought that we were going to curtail our review of the parliamentary timetable to those hours. However, I am willing to be corrected if that was not the remit that we set ourselves.

The Convener: I am advised that that is correct.

Debbie Wilkie: I have some sympathy with what Cathie Craigie has said. Our experience of taking debate to people around Scotland is that the opportunity to speak to MSPs in the early evening, for example, is extremely valuable for people who may be involved in a particular issue but are not professional policy officers and who would not necessarily be able to come to a committee meeting in Edinburgh during the working week. From the point of view of encouraging broad participation and debate on the work of the Parliament, I am sympathetic to the idea of retaining that facility, which would mean that MSPs would not be trapped in Edinburgh throughout the working week.

The Convener: The clerk's paper contains some questions about the allocation of time. We have dealt thoroughly with the one about giving more notice of topics and motions for debate, for which there seems to be strong and unanimous support. Related to that is the suggestion that committees should structure their work so that people who give evidence have more notice of when they will be asked to appear.

One of the questions is about how much chamber time is allocated to Executive debates and how much of it is allocated to Opposition debates. Related issues include the proportion of time that is spent on legislation rather than on debates and the opportunities that individual MSPs have to raise issues that are of particular concern to them. Do any of our visitors or any of the people to whom they speak have thoughts about those matters? Chris Ballance is not a visitor, but he is welcome to speak.

Chris Ballance (South of Scotland) (Green): I do not want to leap in before our visitors; I simply want to add an extra issue for them to consider. In its third report in 2003, our predecessor committee considered members' business debates. The clerks have helpfully given us a list of some of its recommendations, one of which was that one of the members' business slots could be moved to an earlier time, which would put a stop to the rather disorderly situation that ensues just after 5 o'clock, when 123 MSPs walk out of the chamber just as members' business is beginning. Another suggestion was that the number of members' business debates could be increased to raise their profile. I just wondered whether we could add those issues to the questions that the visitors consider.

Brian Taylor: My concern is always for topicality and news. I cannot help it; I have been a journalist for too long to get out of that habit. I acknowledge that there can be a dilemma because there is a contrast between what is in the public interest and what interests the public. If the Parliament was to focus on the latter, it would be debating the future of Alex McLeish and Graham Rix. [*Interruption.*] If Karen Gillon and Cathie Craigie want to debate that, I can probably guarantee them that the story would get on "Reporting Scotland", but that is by the by.

I will not try to tell the committee what to do about the allocation of time but, as a journalist, I think that far too much time is given to Executive business, most of which is on the motion, "Is virtue a good thing?" As a consequence, the bulk of such debates are bland and anodyne. The idea of having committee-led debates is excellent. Although the work of committees often offers superb material that is topical, relevant and challenging, it is often sporadic, bitty and difficult to pull together in a news report. During committee meetings, a little bit of evidence is given, then there are some questions and then the committee moves on to something else. A committee-led debate would give committee members the opportunity to take a sounding in the Parliament on an issue that had arisen from a consultation or in discussion with one of the groups that frequently give evidence.

Collectively, we in Scotland are in danger of forgetting what the Parliament is for. It is for holding the Executive to account, for making the law and for ventilating issues that are of concern to the people—rather than the Government—of Scotland. I think that that final point has been lost.

Andrew Cubie: I fully support what Brian Taylor said, although in much of this discussion it is hard for those of us from beyond the Parliament to understand the nature of the mischief. For example, we do not know whether committees and their conveners are frustrated that topics that are of interest to them cannot be discussed adequately in debates in the chamber, although my sense is that that is the case. I do not want always to sound like the historian by saying what things were like when we were putting all the arrangements together in the consultative steering group, but there was a clear understanding that the committees would have a prominent role in the Parliament's work. If that was the case, there would be ample chamber time for debating committee propositions. Like Brian Taylor, I urge that attention be paid to achieving proper balance in the use of parliamentary time.

Iain McMillan: I assume that the first question on the allocation of time in the clerk's paper is there because concerns have been raised on the issue. The question is important, particularly with respect to committee reports and inquiries, a good example of which is the Enterprise and Culture Committee's business growth inquiry, which concerns us all and will—one hopes—support the Scottish Executive's top priority of raising the Scottish economy's long-term growth rate. It would be a great shame if that committee's report was not aired, challenged and thoroughly debated in a plenary meeting of the Parliament. Perhaps findings that are contrary to current public policy would be discussed.

The Rev Graham Blount: Everybody says that a lot of excellent work is done in committees and, notably, in committee inquiries, but I return to what Iain McMillan said about output—the output of an excellent piece of committee inquiry work is not always obvious from the outside. It seems to me that there should be a mechanism so that the norm is that, if a committee conducts a substantial inquiry, whatever output it is important to feed into the wider process will be fed into a plenary session.

John Park: I will add a practical example to what has been said. On 14 September, there was an Executive-led debate on the tendering of Caledonian MacBrayne services. Prior to that debate, the Local Government and Transport Committee had carried out a detailed inquiry on the issue, which involved many external contributors. However, there seemed to be no way in which the inquiry could dovetail into the debate. The committee's inquiry would have provided information for members for the debate, but where it fitted into the political process was not visible to those of us who had participated in it. We would like such matters to be considered a little more.

The Convener: I want to pursue what Chris Ballance said and cheat slightly by introducing another possibility. It has been pointed out to me that 10-minute rule bills, which enable members to raise issues, represent one way in which Westminster's procedures are possibly better than those of the Scottish Parliament. Such bills never get through, but debates on them are more substantial than members' business debates. If there was such a process in the Scottish Parliament, substantive issues could be raised and debated during the 9-to-5 day and perhaps the Executive or a committee would take note of what had been said and pursue a proposal if it seemed to be well supported.

Are there any other mechanisms through which members could pursue issues more vigorously? It is understandable that members' business debates are often on local issues—that is fine, as such issues are an important part of our work—but how can members focus on general national issues more solidly than they are allowed to do in members' business debates? Members are never allowed to tell the Executive to do anything in such debates, so the debates tend to be a bit anodyne. Do visitors or colleagues have a view on that?

Brian Taylor: I want to pick up on what Chris Ballance said about members' business debates. Those debates are often far better than the main debate of the day, but they miss the main radio coverage and threaten to miss the main television coverage.

Perhaps members' business debates could be promoted from the later slot to one earlier in the

day if the motion attracted signatures and support from members of other parties. If a motion had to attract 10 signatures, a major party could simply corral 10 people to sign it, but the Parliamentary Bureau could consider promoting the debate to an earlier slot if a member who had proposed it had to get support from other parties.

I heard what you said about 10-minute rule bills, but I covered Westminster for six years and they were completely ignored.

11:00

John Park: Having had some experience of 10-minute rule bills at Westminster, I think that we would support the introduction of a similar mechanism in the Scottish Parliament. It is a good campaigning tool, which allows MPs and interest groups to form relationships around specific campaigning issues. I am not sure whether it would have more teeth than a members' business debate but, if it did, that would be beneficial.

Karen Gillon: Is a 10-minute rule bill voted on?

The Convener: I think that it is.

Karen Gillon: And is the vote whipped?

The Convener: I think that it can be. The Government can ensure that the bill is not passed. Members who use the procedure are sort of flying a kite.

The Rev Graham Blount: In my experience, too many members' business debates are a bit motherhood and apple-pie-ish. People like me feel very good when something close to us—even our organisation's week in the year—gets a bit of extra publicity and when a succession of members get up to say how wonderful our organisation is. However, I am not terribly sure that that is a good use of parliamentary time. There seems to be a reluctance for members' business debates to touch on controversial issues. I wonder whether that is too great a reluctance.

Karen Gillon: A potential solution would be to change the nature of members' business debates. I am not convinced that having a debate in which a whipped vote is taken would change anything. The benefit of members' business debates is that members can explore their thoughts and ideas without having to vote on a motion. There is more potential for blue-sky thinking.

Perhaps we should use the members' business debates for purposes other than having motherhood-and-apple-pie discussions or saying that something is a terrible disease that we really should do something more about, although we do not know what we should do about it. Members' business debates have become a question of what disease we will talk about this week or what national day it is—if I dare say that, as someone who has just had a members' business debate on a national day. Nobody stays unless they have a particular interest and we all fall into the trap of having a debate just because the subject is worthy.

Rather than a member lodging a proposal for a member's bill on something that they have not thought through and which cannot do what it says on the tin, perhaps—if we want a serious debate—they should discuss the issue in members' business debates, when we can consider how to take the issue forward and where the consensus lies. There might also be the opportunity to move the issue on to a committee from there. That is just an idea. I am interested in how members' business debates are perceived from the outside.

The Convener: What you suggest would be very helpful. We would probably have to convert the Parliamentary Bureau, which, in my view, has totally subverted and debased the idea of members' business debates. We would have to take the bureau on. I do not think that a vote is essential, but we should be allowed to talk about important and controversial issues.

Mr McFee: If a member wants their motion to be selected for a members' business debate, the written or unwritten requirements seem to be that there must be a degree of consensus on it and that it must have wide support across the political spectrum. That is why we get the kind of debate that has been mentioned. We would need to change the rules of engagement, whether by persuasion or some other mechanism. Attendance at members' business debates is—with a few honourable exceptions—very low, as the debates tend to be of a constituency or local interest and about something on which everybody agrees anyway.

Karen Gillon: I am interested to know how the outside organisations think we can improve the kind of discussion that takes place in members' business debates. Such debates should not be about legislation, Executive business or non-Executive business; they should be about members putting forward ideas and trying to initiate legislation, but in a more considered way than has perhaps been the case in the past.

Andrew Cubie: Without turning that around, I think that what happens in members' business debates must sit to a fair degree in our elected members' hands. Members are not short of opinions, or of the ability to access civic society's and others' views. I suggest that if the Parliamentary Bureau is involved, that is very much a matter for elected members to address. The principles that apply, to which all of us from other organisations have referred, allow quite a lot of flexibility in applying pressure to have the issues

to which Karen Gillon referred raised properly. Those of us from outside Parliament expect it to be possible for controversial issues to be developed. The procedures are an internal matter.

The Convener: That is helpful.

Chris Ballance: In relation to what Bruce McFee said, the rules are that a subject must either be local or have cross-party support.

Mr McFee: That leads to the same outcome.

Karen Gillon: Does that have to lead to the same outcome? Are not there issues on which the consensus throughout Scotland is that we need to do more? Back benchers from all political parties could consider that. Before we can introduce legislation, some issues in the business community or in civic society must need wider debate. We have been guilty of not debating such issues widely enough and of becoming politically entrenched before we have had decent debate.

The Convener: That is a battle with the Parliamentary Bureau for another day.

Karen Gillon: I am interested in hearing whether there are issues that are worthy of further consideration out there.

John Park: There is probably a role for elected members, and for bodies such as the STUC to work more proactively with elected members, to identify subjects that could be developed. We react to much of the business that takes place in Parliament, as opposed to sitting down to take a more strategic view.

One issue that appeared on my radar only recently is the proposed Forth road and rail bridge, which was discussed in a members' business debate last week. That involves massive issues and there is no broad consensus on the way forward, although it is understood that the matter must be dealt with. Such issues are important and it is good that they are debated. That is the only debate that I have seen promoted recently.

Iain McMillan: I have much sympathy with the questions that Karen Gillon poses. It is right for a legislature to have in place procedures that allow members to raise issues such as those to which she referred, although I do not know how space would be created for that or what procedures would be involved—I am not a parliamentarian. As I said in my opening statement, those are matters for people who understand such issues and who work with and manage them day to day.

Issues that require legislative correction rarely arise in the world of business. I am not saying that it never happens; it does, but business is, by and large, minimalist in its approach to legislation, to be honest. We like to be left alone to get on with what we are good at, which is creating wealth and employment for our shareholders, stakeholders and the country.

Brian Taylor: My point arises from the discussion about whether a debate must be general or about legislation. The Scottish Parliament has got the balance right between legislation and open debates, in a way that Westminster has not. The CSG went down the road of suggesting that members' bills should be serious proposals rather than simply a way to ventilate matters because of the possibility of public disquiet and confusion. Westminster members introduce 10-minute rule bills and private members' bills knowing for certain that those bills have not the faintest chance of getting within 100 miles of the statute book, but that is not generally understood by people whose hopes may have been raised. They will think that the issue is not simply being ventilated but addressed in legislation.

It would be an error for the Scottish Parliament to go down the road of pretendy legislation or of holding members' business debates on subjects that might be turned into mock legislation. On the other hand, as Karen Gillon said, there may be subjects on which the gap between legislating on that issue and ventilating it is small. When a member raises an issue, he or she is not saying that they have the solution or that the solution is necessarily legislative. As Iain McMillan said, it may simply be worth ventilating the issue and putting the question to the Executive in a different fashion. The balance is still too heavily in favour of Executive-led debates and Executive-led time, however.

Debbie Wilkie: I want to reinforce the point that Graham Blount made about taking a risk-averse attitude to controversial issues. As Brian Taylor said, the focus is still too much in favour of responding to the Executive's agenda. We hoped that one of the strengths of the Scottish Parliament would be that it would take the opportunity to debate issues that are more controversial. I, like others, am not sure whether I am in a position to suggest the appropriate procedures that would be needed to achieve that, but such debates would enhance Parliament.

The Convener: We are trying to get through reasonably quickly—

Karen Gillon: Is consensus emerging on whether reports on committee inquiries should be debated in Parliament? I am not sure whether witnesses know about the bidding process under which committees bid against one another for plenary time. Sometimes, by the time a committee has secured a debate, the inquiry report is slightly out of date. When a committee has produced a report, should time be allocated within a

reasonable period for the report to be debated in Parliament and progressed as a result?

Witnesses *indicated agreement*.

The Convener: Good. Thank you. I suggest that we run together the third and fourth questions in the section on the length of time for debates. Should we have fewer but longer debates and should we have fewer but longer speeches? What do witnesses feel about that? It can be argued that, at Westminster, MPs go on for far too long whereas, at Holyrood, MSPs do not go on for long enough.

Iain McMillan: The answer would depend on the subject matter and the degree to which an MSP knows the subject. It is neither right nor relevant for a member who is not on top of a subject to speak on it for a long time—indeed, to do so is a waste of time. On the other hand, if an MSP has knowledge and understanding of a subject or experience of an issue, it is right and proper that the member be given more time. I accept that it is difficult for Parliament to manage that—who should make such judgments, for example—but tensions between the depth and width of the debate could be resolved in that way.

John Park: I broadly agree with Iain McMillan. The STUC would like fewer debates, but with more time given to the members who participate. For example, one of my colleagues attended a debate last week. He left the Parliament a bit deflated, despite having a keen interest in the subject of the debate. He felt that the debate did not go on for long enough and that members were not given enough time to speak, particularly after the opening speeches. There should be fewer, but higher-quality debates, and more time should be allocated to them.

The Rev Graham Blount: It is difficult to categorise debates—the phrase that I will use is debates of different sorts. It is difficult to say that a debate of one sort should have a particular time allocation and that a different allocation should be given to debates of another sort. The question is slightly more subtle that that, but it should be possible to distinguish one sort of debate from the other.

The 5 pm decision time sometimes causes problems. A debate must last until 5 pm, but there are occasions when the debate does not justify the time that it has been allocated. I am not entirely sure how that sort of thing can be predicted, however.

When there is time pressure, our preference would be still to allow a reasonable time for each MSP. That would cut the number of people who speak, rather than cutting speeches down to three or, on occasion, even two minutes, which I do not think is acceptable.

11:15

The Convener: Time is getting on. I invite all our witnesses to air any matter that they feel has not yet been adequately aired: those comments can be constructive, destructive or they can be bees in people's bonnets. We will then wrap things up.

Iain McMillan: I mentioned at the beginning the amount of notice that is given to witnesses who are asked to attend committee meetings. I know that we have covered that in response to some of the committee's questions. There is also the question of having different options for dates for giving evidence. Another issue is the amount of written evidence that is submitted to committees.

I will contrast two things to try to illustrate the two ends of the spectrum. I have given evidence to the House of Commons Scottish Affairs Committee on a number of occasions. Written evidence would be requested some months before the inquiry in question. When oral evidence was requested following examination of the written evidence, a number of possible dates were given so that people could co-ordinate their diaries.

On the last occasion when I gave evidence to the Scottish Affairs Committee, the meeting lasted three and a half hours and the questioning was extremely probing and thorough. I have found that witnesses at Scottish parliamentary committees are sometimes given as little as 10 days' notice for submitting evidence in writing and we are given one day and one time when the committee is due to meet. On the day of the committee meeting, I have given evidence, with other individuals giving evidence on the same subject. Overall, time has not been available to go into the issues and to explain the detail.

I am not saying that the Scottish Affairs Committee's procedures offer the best solution. One could argue that the House of Commons committees give too much time for people to submit written evidence, and that they go to too great lengths to try to co-ordinate people's diaries. I am certainly not inviting any of the committees of the Scottish Parliament to give me three and a half hours with them, but members can appreciate the contrast that I am making. There should be room somewhere in the middle to give people more notice and a choice of dates, and perhaps to go into matters in more detail and with greater thoroughness.

John Park: We have been coming to the Parliament and engaging with it, but the next stage is to widen the engagement of individual trade union members and other unions. Without talking about the location of the Parliament, some of the facilities around it make that quite difficult. If people are to be brought together for a committee

meeting, they will come along and will want to have a discussion, but there might be two or three different people giving evidence at one time. We have used some of the facilities of the Scottish Civic Forum. I do not know whether other organisations also face this problem, but the geography of the Parliament sometimes makes it difficult to get people together for those useful discussions. Also people might, quite naturally, be nervous about coming to give evidence to parliamentary committees. I am not sure whether other groups face similar problems.

The Convener: Are you talking about provision of space?

John Park: Yes, it is a matter of space. We are talking about resources, space and meeting opportunities. It is not always appropriate for people to go to the Tun, for example. We are talking about the existence of facilities around the Parliament that might help people to engage better.

Brian Taylor: My colleagues have reminded me that I should not leave without lodging the customary BBC whine about the standard of broadcasting, in particular the sound and pictures from committees. Broadcasting is fine from the chamber, but I am told—I can see it for myself—that broadcasts from committee room 1, where the light is behind the committee, can sometimes white out the member who is speaking, which is a serious problem. The sound is not always clear because sometimes mikes are left open so that one can hear mumbling in the background.

I would like to address a couple of matters that were discussed earlier. The point that I made about Executive debates being bland and dull applies equally—perhaps not to the same extent but in some manner—to debates that are led by the formal Opposition parties; they can be just as dull. Perhaps debates should deal with issues of public relevance, and perhaps the test of that is cross-party support on members' business and debates being committee-led. That opinion is derived from evidence from public people.

The problem with speeches is not their quantity or duration, but their quality. Perhaps the convener could set a test: there is a splendid BBC programme called "Just a Minute" in which one is allowed to carry on only as long as one does not hesitate, deviate or repeat. In my experience, hesitation in speeches—although none that have been made by members of the committee—is endemic, and repetition is pretty well what they do. They propose a point, they say what they have said, and then repeat what they have just said. They then emphasise it for the benefit of those of us who have difficulty in understanding the language. Members could speak to the subjects more quickly. Perhaps they should be given extra time—as long they were not hesitating, deviating or repeating.

The Convener: We will certainly pass that on.

Debbie Wilkie: I would like to make a point about speeches. I have empathy with the Rev Graham Blount's point about a great many two-minute speeches not being helpful, but I would be concerned about Iain McMillan's suggestion that people should be judged on the basis of knowledge. One wonders how such a judgment might be made. The Scottish Civic Forum is very supportive of the degree of pluralism in the Scottish Parliament.

We would be concerned to ensure that all MSPs have an opportunity to make speeches and to contribute to debates. We would be delighted to welcome the STUC to the Scottish Civic Forum premises but, unfortunately, they are likely to disappear at the end of next month because of our funding situation. However, we would be delighted to provide space for the STUC so that it can prepare for committee meetings.

Andrew Cubie: I would like to make a general point of encouragement. Consultation is a fundamental element of power sharing. Power sharing also means that when committees reach conclusions after consultation, the more that can be fed back to those whom they consulted the better. I would apply that particularly to the work of the Procedures Committee and what might flow from it.

Parliament requires esteem, but there are people who are very eager, when the opportunity arises, to find a reason for not giving it esteem. Therefore, the fullest explanation of changes in procedure would be helpful to the wider community. That has to do with what "family friendly" means. I strongly support the concept, but it is easily converted by some people into, "Well, you get home at 5, unlike the rest of us who may work until 7 or later." I would encourage the whole process of communication.

The Rev Graham Blount: I would like to pick up on what John Park said about the time organisations have to consult their members internally and therefore, one would hope, to give better quality evidence. Time constraints put the onus on one or two people to put their heads together to draft evidence. However, if decent amounts of time were given, a much wider range of expertise could be tapped into, which would allow organisations to offer better-quality evidence.

It is all about the way in which evidence is taken. I welcome the attempt this morning to try to change the format—physically and otherwise—of evidence sessions. That has been quite helpful.

There is a place for giving someone such as Iain McMillan and people from the Executive a decent and fairly intensive going over on their evidence.

John Park: As long as we can join in.

The Rev Graham Blount: There are also occasions when it would be more appropriate to have a slightly longer timeframe with a diverse group of people sharing with committees, as in this meeting. It would be good if committees could be more imaginative about doing things in different ways for different occasions, depending on the kind of evidence and on who is giving it. We do not want people to be unduly intimidated. Some people will not be so practised in giving evidence as Iain McMillan is, for example, and they might feel intimidated because they fear that they could get some sort of intensive doing over.

The Convener: That is a constructive point on which to end. Without taking a vote, I think that everyone would agree that this morning's format has worked quite well and that it is suitable for particular occasions. I thank witnesses for the constructive ideas that they have produced. Please let us know if you have any arrière-pensées on the subject.

Brian Taylor: I have those every day, Donald.

The Convener: Indeed. Life consists of failing to ask the right questions—I have spent many years doing that. Do think about the meeting on your way home on the bus. If you wish, you can then contact the clerk to say, "You really should do something about X." That would be helpful.

The session has been very good. I appreciate witnesses giving up their time to help us. We will go on to grapple with the problems that we have discussed, but I would now like to grapple with some coffee for four minutes. We can grapple with the rest of the agenda after that. We will resume promptly at half past 11.

11:26

Meeting suspended.

11:34

On resuming—

Private Bill Committee Assessors

The Convener: We welcome to give evidence Alan Boyd, a director of McGrigors, and Kelly Harris, an assistant at Shepherd and Wedderburn. The committee wished to hear from the witnesses because they are from two law firms that submitted very interesting written evidence. I will allow both witnesses to emphasise what they think are the main points in their evidence, and then we will ask questions. We start with Alan Boyd.

Alan Boyd (McGrigors): Thank you, convener. I will briefly summarise our written evidence. We have one main concern, and a number of subsidiary points have occurred to us through our involvement with clients in the private bills procedure.

Our main concern is about parliamentary competency, particularly in so far as the interim solution is concerned, which is the amending of standing orders until primary legislation can be introduced. Having had the benefit of looking at other papers and considering the matter further since we submitted our evidence, my concerns about the interim position have amplified. I reached my view because of the particularly well-focused argument in the written submission from the Faculty of Advocates.

I find quite compelling the logic that the faculty employed. The standing orders regulate the proceedings of a committee, and the term "proceedings" is defined in the interpretation section of the Scotland Act 1998. Committees or sub-committees comprise MSPs—not a mixture of MSPs and lay people or other advisers. Therefore, as a lawyer, I reached the conclusion that the Parliament might find itself in difficulty from a legal challenge if it went down the route of attempting to amend standing orders to allow assessors.

My first subsidiary point is that much private legislation contains provisions that deal with the extinction or diminution of private rights—for example, the power to take property by compulsory purchase. It is therefore important that any changes to the process ensure that the rights of individual objectors are clearly taken into account. It is recognised that it is legitimate to have a parliamentary process to allow, in the interests of society at large, the compulsory acquisition of property. However, checks and balances are built into the existing system. The Human Rights Act 1998 is superimposed on the whole framework now, of course, so if assessors are to be appointed it will be very important that the rights of objectors to be heard properly are taken through the amended procedure.

Secondly, we suggest that many significant problems arise not at the consideration stage but prior to that. I do not quite know how this would be managed, but we have suggested that it would be useful if an assessor could be involved to assist in the negotiating out of most objections before the consideration stage, so that the committee would be left to deal only with objections of real substance.

Our third point follows on from that. We believe that, as matters stand, promoters have no incentive to negotiate following the serving of the initial notification. Certainly, our experience of some of the transport private bills is that the promoters were unwilling to come to the table. They promoted bills with significant powers of compulsory purchase, but were quite happy to leave the committee to do the inquiry. We feel that that has not proved satisfactory. There have been very long committee hearings and promoters have been negotiating at the last minute because the committee instructed them to do so and made it clear that it expected real negotiation to happen. However, we are in the early days of private legislation and matters might improve as promoters of bills begin to understand how parliamentarians wish to proceed.

An interesting little point arose during the Edinburgh tramline bills process regarding flexibility in committee procedures, because it became clear that the standing orders leave little room for flexibility. The position that was drawn to my attention is that, between the promotion of the bill and the taking of evidence, there was a significant amendment to traffic movement along Princes Street, which became, in fact, a one-way system, with significant alterations in the type of traffic that could use it. That had a consequential effect on the terms of some objections, but the committee felt that, because of the way in which the standing orders are drafted, it could not allow written submissions to be amended, albeit that the background scenario had shifted. My plea to this committee is that, if the standing orders on committee procedures are being considered, room be given to flexibility, where possible.

Our final point results from promoters' unwillingness to undertake meaningful consultation in an attempt to negotiate out major objections at an early stage. Objectors have incurred unnecessary expense in preparing for committee meetings that sometimes did not take place because of an 11th-hour settlement. Objectors have had to spend on legal advice money that would have been better spent on other things, to be honest. Do not get me wrong—my job as a lawyer is to advise my clients, which is how I earn my living. However, I like to give my clients advice that will be of practical benefit to them, rather than indulge in firefighting because we have no other option.

We have suggested that, as the committee reviews the procedures, it should consider sanctions to prevent parties from delaying meaningful negotiation. Perhaps the ability to award objectors expenses against promoters that fail to fulfil their obligations properly might be sufficient.

That was a summary of the evidence that we submitted.

The Convener: That was helpful.

Kelly Harris (Shepherd and Wedderburn): I will focus on three points that arise from our submission. The first is about legality and the ability to amend standing orders in the proposed way. I read the other submissions and paid particular attention to that of the Faculty of Advocates. We recognise fully that whether standing orders can be amended in the suggested way is arguable. The best people to advise the committee on the issue are the Parliament's lawyers, as they have the most experience in the matter.

No one can say whether such amendment would give rise to a legal challenge. Ultimately, in law, there will never really be a right answer until a judge says what his decision is. The legality of the process is a risk, but it is small in the light of the deference that judges tend to show Parliament. It is obviously imperative that every objector should be able to be heard fairly, but whether they are heard by a committee or an adviser to the committee is another question, which is open to argument either way.

We were asked in particular whether the proposed amendments would save time, and we address that point in our submission, as do the Society of Parliamentary Agents. The proposal would not necessarily save time during private bill proceedings. The three private bills that are in progress have taken substantial time. I read the *Official Report* of the committee's previous meeting, at which it was said that much of that time related to the inexperience of the people who were involved and, in particular, to the promoters' stance of not consulting earlier in the process. Given that many of the costs related to private bills fall to promoters, they will in future be more aware of their obligation to consult early. I hope that that will speed up proceedings.

As for whether the proposed amendments would save time, people would again have to learn a new process for the three bills that are to be introduced before the legislation changes. As the process would be new, that would slow proceedings. Whether the proposal would save time for the

three bills involved is also a point for debate. No one has an exact answer, but the answer will not definitely be yes.

11:45

Our submission discusses the availability of people to undertake the role of assessor, which was on the agenda of the committee's previous meeting. The Executive's submission was that the Scottish Executive inquiry reporters unit would fulfil that role. We address the point in our submission when we raise our concerns that the unit may not have the capacity to undertake the work. Although I have read what the inquiry reporters unit said in the submission that it made to the committee about its ability to take on the work, our practical experience tells us otherwise. I think that the total number of reporters in the unit is 17, of whom the most experienced seven to 10 reporters are probably best placed to undertake this work. However, of those, at least seven face retirement in the next year to 18 months. The issue for the unit is one of its internal capacity.

There is also the issue of perceived independence. Clearly, the inquiry reporters unit is, in fact, independent. However, there is a serious argument that that is not the case. There were a few legal challenges on that point earlier this century, and the Executive admitted that the unit was not independent of the final decision maker.

Whether those issues can be overcome is another matter. The practicalities are probably best addressed by the Executive. We recognise that a large number of people operate as freelance reporters at the moment. It may be that that system would operate more effectively for the Parliament.

The Convener: Thank you. I will pick up one point before I invite my colleagues to ask questions. Both of you, either in written or in oral evidence, talked about the value of getting an assessor or similar person involved earlier in the process. You also spoke about the evident reluctance of promoters to come to the table to negotiate.

The advice that we have been given is that a railway—let us say—belongs to the promoter and not to the Parliament until a bill is introduced. It is therefore quite hard for a committee of the Parliament to appoint an assessor before the Parliament is involved in the process. I take your point that the earlier that controversial issues can be settled, the better. Do you have any practical suggestions to make on the subject? Some advice on how we could achieve that would be helpful.

Alan Boyd: I think that the term of art is "front-loading the obligations". I fully take your point; the issue is a difficult one. As I said, I am very concerned at the substantial costs that some objectors have incurred. The Edinburgh tramline bills are a good example, because of the complexity of the legislation and the fact that the promoter is trying to put a substantial infrastructure project through a combination of residential and business areas in an old city. People have been quite adept at objecting for a range of reasons.

There is one common thread, which is that for each set of objections that we, as a firm, have resolved, we have persuaded the promoter to move quite dramatically from its starting point. The promoter started out by drawing a red line around an area and seeking the compulsory purchase powers to do what it wanted—that was that. However, at the end of the day, we have a detailed agreement for an area that is not the whole area that the promoter wanted to take. The promoter has made several concessions and provided a number of extra undertakings by way of the parliamentary process.

If there had been consultation up front—in some cases, there was absolutely no consultation—and if some impetus had been put on the promoter, a lot of fear, concern and expense would have been avoided. The question is a difficult one to which I cannot provide an easy answer—if I could have done, I would have been able to write the textbook and retire tomorrow.

The Convener: Thank you. That was very helpful.

Kelly Harris: On compulsion, there is probably very little that the Parliament can do. Clearly, the Parliament is a gateway. If the promoter's case is to be heard, a private bill needs to be introduced in the Parliament, and if a promoter is to introduce a private bill, it has to meet certain technical requirements that are set out in the standing orders.

It is arguable that it would be possible for a requirement for a consultation period to be put into the standing orders. There is an extent to which consultation happens at the moment, as a promoter must go through a notification process. It is also arguable that one could add a requirement that a certain amount of negotiation has to take place before introduction, so that, for a private bill to be accepted, it would have to go through such a process. That suggestion is off the top of my head; the matter would best be considered by people with more experience.

Karen Gillon: Your evidence has confirmed two points for me: first, there are as many legal opinions as there are lawyers—perhaps more; secondly, the present system does not work and is not effective.

I am not sure how, given the three bills ahead of us, we can deal with your point about early intervention—the bills are about to be drafted and are probably about to be introduced. Much of the pre-consultation work should have gone ahead already, although that probably has not happened.

We will need to feed your points into the consultation on the proposed transport and works bill so that we can ensure that the new process—because what we are discussing is obviously an interim process for three private bills that are pretty far down the line—addresses the concerns that you have raised.

My question is about the use of the inquiry reporters unit or buying in expertise. I am pretty open to the committee choosing either of those two options. A private bill committee could decide, using a process of competitive tender, who would be the best assessor. What could the private sector bring to the process?

Kelly Harris: If the assessor's role is to be as suggested in the Executive's submission, what you are looking for in an assessor is someone who can hear a case fairly, clearly and in a well-organised way, almost like a judge. There are a large number of people, particularly in the specialist fields of mediation and arbitration, who have experience of running such a process. In this case, we are looking for a fair and transparent process, no matter who undertakes it.

An assessor must be able to run the inquiry process; whether they require experience of a particular area depends on the nature of the private bill. Some bills would benefit from someone with experience in, for example, the rail industry and, in those cases, consideration should be given to appointing a person with a particular expertise. Whether that will be a person who was involved in the rail industry in some capacity—such as a chief executive—or whether it will be a member of a transport users group who had gained particular experience would have to be decided.

The private sector has some of the skills that you are after, but some of those skills can also be found in the public sector. Appointing assessors is about identifying experienced individuals who can undertake the work, and then thinking about the process of appointing the right person.

There is also the question of how the outside world perceives the independence of an appointment. There are many people who have the substantial experience and skills that an assessor would need but who are not necessarily in the inquiry reporters unit. However, I recognise that a substantial number of the reporters would also do the job very well.

Chris Ballance: I am not sure that I will get much further, as I may be asking for the easy answer that the witnesses say does not exist. However, I am interested in the issue of negotiating out objections. If we can do that, we are guaranteed to speed up the progress of private bills and make a big difference. At the moment, a negligible number of objections are being negotiated out. It would be very much easier for us if you could suggest a way in which we could encourage a promoter to have meaningful negotiations with objectors before the process starts. I am open to any suggestions.

Alan Boyd: I will offer two thoughts. It is a difficult issue because we must consider what sanctions could be brought to bear. Perhaps the only real sanction would be a financial one. In other words, if the private bill committee reaches the view that the promoter of the bill has not acted reasonably and diligently in negotiating with objectors at the appropriate time, the committee—or the Parliament, if needs be—should have the power to order the promoter to meet the financial costs incurred by the objectors as a condition precedent on the bill making progress.

The second possible route might be to make it clear to promoters that if it becomes apparent at consideration stage, which is when the committee gets the chance to identify the problems, that there has been no meaningful negotiation, the bill will be put into storage, if you like. The procedure could be suspended for a period of, for example, six months to enable the promoter to go away and do what it should have done earlier. That solution would involve a non-financial penalty.

Those are two options. The private bill committee could penalise the promoter and say, "If you do not do this we will hit you where it hurts: your pocket." Alternatively, the committee could decide not to make progress with the bill and the promoter would have to go away and consult to the committee's satisfaction.

Richard Baker: I want to posit the suggestion that perhaps not be much more can be achieved by involving an assessor than we have achieved under the current process.

I cannot speak for the Edinburgh tramline bills, but my experience from having sat on the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill Committee is that a significant effort was made by the promoter and by the clerks to the committee to ensure that attempts were made to resolve objections before they got to the parliamentary process. However, many objections do not go away, whatever the promoter does to assuage the objectors' fears. It is inevitable that objectors will wish to press their point. That causes a pinch point at the consideration stage. Very few levers can be used to try to change that.

With the greatest respect, I suggest that the levers that Mr Boyd suggests could lead to a bill being thrown out entirely. A six-month delay to the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill would have put up the cost of the project hugely and might have made it economically unviable. I am playing devil's advocate and asking whether much progress can be made through the use of such levers, however desirable they might be.

Alan Boyd: If a promoter knew that failure to enter into significant and meaningful discussion might have the effect of making the whole scheme unviable, that would, to my way of thinking, provide a sufficient incentive to enable negotiations to take place. We acted for certain objectors on the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill, which was different from some of the other private bills. It had less significant effects on property rights than the tramline bills have or, I suspect, parts of the two airport rail link bills will have. They will be much more intrusive as far as property interests are concerned than either the Waverley Railway (Scotland) Bill or the Stirling-Alloa-Kincardine Railway and Linked Improvements Bill.

Richard Baker: The kind of penalties that you talk about might incentivise promoters to address some of the objections, but they would certainly incentivise objectors to continue with their objection and to try to get the whole project thrown out by default.

Alan Boyd: But if the private bill committee holds, as such committees have done, a diligent and penetrating inquiry, those matters will be flushed out—particularly as a result of the written objection procedure. It will be clear when objectors are, if you like, flying a kite and when there are significant and reasonable grounds for objection.

12:00

Mr McFee: There are two issues: whether the interim measures are legal and whether they are desirable in the circumstances in which the Executive is considering using them—that is, for the two proposed airport rail link bills and the Airdrie to Bathgate railway bill. The Executive has intimated that it favours the committee's recommendations, which the Faculty of Advocates has questioned. Do you think that the Parliament has the authority to delegate the part of the process in question to a third party?

Kelly Harris: I would say that the Parliament probably has the authority to do so as long as the assessor process is more akin to the adviser process that currently exists in which someone hears evidence and provides advice. It is imperative that the fundamental responsibility for making decisions remains with the committee. However, at the committee's last meeting, some difficulties were raised. If objectors refuse to take part in the assessor process and demand to be heard by the committee, it would not be helpful to try to prevent them from being heard. Whether doing so would be legal becomes too technical a question.

The Faculty of Advocates has considered what the Scotland Act 1998 allows the Parliament to do and what that means in reality. There are clear arguments for making a statement in the United Kingdom Parliament on the extent to which the Scottish Parliament can regulate its procedure through its standing orders. We are talking about a matter of statutory interpretation—the issue is open to argument either way—and, unfortunately, I do not think that there can be certainty. That would depend on whether anyone challenges the amendments to the standing orders and what a judge would find.

Alan Boyd: Leaving aside the longer-term solution and amending legislation, I am inclined to the view that an attempt by the Parliament to amend its standing orders to allow assessors to act is beyond the powers that were conferred on it by the Scotland Act 1998. I have been persuaded by the arguments that the Faculty of Advocates has made, which I attempted to summarise in my opening comments. There are concerns about the risk of a challenge if the Parliament were to proceed in the way that has been proposed.

Let us consider how assessors proceed in planning inquiries. They hear the evidence and then issue their part 1 report, which is, in effect, a summary of the evidence. That summary is circulated among the parties, which have an opportunity to correct matters of fact so that the assessor or reporter will end up with agreed evidence on which he or she will make their recommendation to the Scottish ministers. The Scottish ministers will then make a decision, after which there is still the possibility of an appeal to the Court of Session under planning law, compulsory purchase law or whatever.

I understand that, if the Scottish Parliament adopts the assessor process, the assessor will go away, hear the evidence and then compile his or her report, which will be considered by the bill committee. That committee can then adopt or not adopt the recommendation. However, I do not see any opportunity to give grounds for challenge in the process and so am seriously concerned about the implications of the Human Rights Act 1998. As Kelly Harris said, the Executive has got into certain difficulties over the reporters' impartiality. However, those concerns were set aside, partly because there was an appeal to the court.

I am concerned that, if a private bill grants compulsory purchase order powers on the basis of evidence that is heard only by an assessor without any rights of appeal, that could drive objectors into court to mount legal challenges because they would feel that they had nothing to lose. The credibility and standing of the Parliament would suffer as a result. After all, the Parliament makes the law of the land and it should ensure that that law will not be overturned by courts. If courts begin to overturn the law, we will face a very unhappy situation.

Karen Gillon: But the process will be no different from the current one. At the moment, a committee hears evidence and makes a decision; objectors have no right of appeal, except through judicial review. That will remain the only recourse for objectors.

From what I hear, you appear to be suggesting that we cannot have a parliamentary standards commissioner, who, after hearing all the evidence, makes recommendations on which the committee bases its decisions. Indeed, not only are you suggesting that the post of standards commissioner—the legislation for which has been agreed to, given royal assent and enacted—is illegal, but you are suggesting that any process established under any transport and works act that involves an assessor would be illegal and that it would also be illegal to use assessors or committee reporters if they are not MSPs.

As I said, under the current process, people have no right of appeal. However, with the proposed process, they could appeal to the committee to be heard if they did not think that their objection had been dealt with fairly.

In response to Richard Baker, you mentioned two sanctions that could be put in place. However, what if the committee did not agree with the objector? You suggested a sanction under which consideration of a bill could not proceed for six months if an objection had not been dealt with. However, if the committee did not agree with the objector, the objector would have the right to go to court and ask why the bill had not been suspended for six months.

Alan Boyd: On your second point, I am not suggesting for a moment that the committee should simply agree with objectors. In fact, if the procedure were front-loaded, many objections would not be lodged, because the natural process would allow any concerns to be negotiated out.

Of course, like anyone who makes law and has to decide between conflicting opinions, the committee has to make up its mind. I am not suggesting that objectors should receive any favours; I am simply seeking equality of arms.

I listened carefully to your point about the standards commissioner. The difference is that private bill committees deal with legislation and the Scotland Act 1998 sets out clear rules on what is within the Parliament's powers with regard to the passing of legislation. I accept your comment, because I see no difference between us on the matter. My doubts arise from the narrower issue of how the Parliament is required to operate standing orders on the making and passing of legislation.

Karen Gillon: But the assessor would not make or pass any legislation. The committee would do so based on the evidence that it received, in the same way as it has to make decisions based on its interpretation of any evidence, wherever it comes from.

Alan Boyd: The committee would read the evidence but would not have a chance to cross-examine any party.

Karen Gillon: It could if it wanted to. If the committee were not convinced of something, there would be nothing to prevent it from inviting parties back.

Alan Boyd: That is a subtlety that I had not appreciated; I did not appreciate that the committee would have that power. If it was made clear that the committee could exercise that power, that would get round the difficulty.

Mr McFee: We are told that the proposal is a temporary and expedient measure. However, it may not speed up the process, because it is aimed at the wrong part of the process. There will not be preliminary hearings before bills are drafted because bills are already being drafted. Furthermore, if objectors were given the right of appeal, could we not end up with the process taking as long as before?

Alan Boyd: My many years of experience of planning and other inquiries lead me to doubt what the real time saving might be. There is no doubt that there could be savings as a result of the reporter or assessor being able to sit for five days—a full working week—to hear a block of evidence. Clearly, committees cannot do that.

However, resource issues arise. I am worried that taking reporters away from the planning process might impact on the length of planning inquiries. The lead-in time for such inquiries can be quite significant as it is, so we might be strengthening one part of the system but weakening another.

I have sat through many parliamentary committee meetings at which objections were dealt with and—were it not for the legal difficulties—I would be entirely sympathetic to what you are trying to achieve. If you can truncate the whole process, everyone will be happy. The

objectors should be happy, the promoters should be happy and, of course, the long-suffering committee members should be happy.

Karen Gillon: May I clarify one point? I say to Bruce McFee that I never suggested a right of appeal. It would be for the committee to determine whether it required to take further evidence. That would not be a new appeal stage—indeed, I would not support such a stage, because it does not exist in the current process. However, if the committee is not convinced by the evidence that it has, or if there is some dubiety, it could hear more evidence.

Alan Boyd: I do not think that I suggested a right of appeal.

Karen Gillon: No, it was my colleague.

Alan Boyd: I was highlighting the difference between the reporter's role when acting as an inquiry reporter under planning legislation, where there is a right of appeal, and the reporter's role when acting as a committee assessor. As you say, there is no right of appeal in this case, but you could build in the opportunity for the committee to hear evidence directly from particular objectors.

The Convener: From your experience of helping objectors, do you know whether, if the committee decided to hear objectors A, B and C, objectors X, Y and Z would also demand to be heard and would think that their human rights had been breached if they were not heard when other people were?

Alan Boyd: I think not, because that is the way that committees work just now. There have been 100-odd objectors for each of the tram bills, but the committees will hear from only around two dozen witnesses. That corresponds with what happens in planning inquiries, which can be dealt with by written-submission procedure without the need for a formal hearing. It is not the hearing that is important; the critical point is the perception that the decision-taking body takes people's objections into account, no matter whether they are lodged in writing or heard orally.

12:15

Mr McFee: That has opened up a reasonable line of argument. Let us assume that the assessor has all but dismissed a group of objectors, perhaps by devoting only two lines to them in his or her report. On what grounds would the committee not hear those objectors? Would it not be open to the objectors to take the issue further if the committee, without having seen any part of their evidence, simply decided not to hear them?

Alan Boyd: Ms Gillon gave the answer to that some time ago, which is that judicial review is always an option in relation to proceedings of the Parliament, although whether the objectors would succeed is another matter. I do not want to get too technical and start talking about Wednesbury reasonableness but, if the committee was seen to be acting unreasonably by, for example, not observing the rules of natural justice, there would be grounds for challenge. However, that procedure is available under the existing process and I do not see how the introduction of assessors would alter that.

Mr McFee: The issue is not just about whether the proposal is possible legally. Would criticisms and the risk of challenge be magnified because the Executive, while not being the promoter, would in effect be seen to be promoting the bills and because the measures, we are told, would be temporary? Might that colour a court's view?

Kelly Harris: The risk might increase, although I do not know whether the increase would be substantial. The fact that the process has been changed simply for three specific bills may raise questions among objectors about the fairness of that process.

The Convener: As we have no further questions, I thank the witnesses for their evidence, which has clarified many points. We are much obliged. The committee will come to a conclusion in due course.

Crown Appointees

12:18

The Convener: We now move to matters that are not quite so onerous. For agenda item 4, members have a paper on procedures that relate to Crown appointees. We have to respond to the Justice 1 Committee on the issue. A draft response has been circulated, which has five bullet points and two options that relate to the subsidiary issue of annual reports of the Scottish public services ombudsman. Option A is for the status quo and option B is to say that, in due course, the committee should seek to remove through legislation the Parliament's right to interfere with those reports. Do members have any strong views? I am inclined towards option B, but I am not too fussed. Also, is the rest of the draft response okay?

Mr McFee: I apologise for missing the previous meeting, but I had a death in my family and could not be here. The issue is probably not up for discussion now, but I must be honest and say that I do not concur with the conclusions that the committee reached at that meeting in relation to non-competitive reappointments. I just want to place it on record that I am extremely unhappy with that conclusion, but that is for another day. Given that the decision has been taken, I think that there is merit in option B—to indicate that we wish the provision to be removed at a suitable opportunity.

The Convener: If no one else has any comments, we will go with option B and accept the draft response. Is that okay?

Members *indicated agreement*.

First Minister's Question Time

12:20

The Convener: The next item concerns a letter from the Presiding Officer about what happens if a member who has the right to ask a question of the First Minister is ill. Three party leaders are involved now—originally, there were two. The Presiding Officer suggests that the rules be changed to specify that somebody else can be substituted for the missing member. At the moment, he does that de facto by giving additional supplementaries to the deputy leader on other questions, but he thinks that it would be more satisfactory if the rules were changed to make the situation clear.

Karen Gillon: Forgive me for not having my copy of the standing orders with me, but what does rule 13.7.4 say?

The Convener: It says:

"When a question is taken, it may be asked only by the member who lodged it."

Karen Gillon: I do not see why the rules should be changed to suit the leaders of political parties if they are not to be changed to suit other members of the Parliament. If the party leader who lodged the question is not available, they cannot ask the question, in the same way that, if I was not available for a question that I had lodged, I could not ask it. Flexibility existed to allow the Presiding Officer to call Annabel Goldie, as he did, and she got the supplementary questions to which she was entitled. That is how the rules should stay; we should not change the standing orders.

Mr McFee: A mountain is being made out of a molehill, to be perfectly honest. Karen Gillon might or might not be pleased to know that I agree with her entirely: if we change the rule, we must change it for everybody. There have been occasions on which the member who lodged a question that has been selected for themed question time or the latter part of First Minister's question time was, for whatever reason, not in the Parliament to ask it and members who wanted to ask supplementaries on the back of the question could not have them heard because the original question could not be asked.

The first three questions at First Minister's question time are a lot of nonsense: "What did you have for breakfast this morning? When are you meeting the Prime Minister? When next will you polish your shoes?" They are almost irrelevant as questions, other than that they perhaps give the First Minister a chance to announce where he has been that week. We do not need to change rule 13.7.4, as the Presiding Officer can substitute two supplementary questions, which, in effect, is what

we would have had in the first instance—two supplementary questions to a non-question.

If we are going to change the rule, we should change it for everybody. I could make a far better case for excluding the first three questions at First Minister's question time from the suggested provision and including all other questions.

The Convener: It is worth examining whether rule 13.7.4 could be changed for everyone. We should examine that.

Alex Johnstone: I have a point for Bruce. We saw the system work extremely well in recent weeks, when Annabel Goldie came in with supplementaries on the first question and got a share of the debate. There was no objection to the way in which that happened but, had the questioner from the Scottish National Party been absent, the order of the first two questions would, in effect, have been reversed. Would Bruce be content with that situation?

Mr McFee: I am not sure that that would be the effect.

Alex Johnstone: We cannot start with a supplementary.

Mr McFee: I suppose that we would have to take the supplementary second. I think that in such circumstances, which are unlikely to occur, that would be acceptable. I cannot speak for my deputy leader, but I think that to amend the rule for one set of circumstances, but to exclude everybody else, would not be a good idea. The issue is equity; either the rule change is done for the whole questioning process, or it ain't done at all.

The Convener: Can we agree to ask the clerk to write a paper for us on the question of amending the rule for all members?

Cathie Craigie: No. We considered the matter at a previous meeting after the Presiding Officer wrote to ask us to consider it and we decided that we would not amend the rule. We have a fairly new procedure and members are given plenty of notice for lodging their questions. There will be times when we must deal with an emergency situation, but it is not the end of the world if a member misses a question and has to resubmit it at a later date, even if they have prepared supplementaries. That is the way things are.

In his previous letter to us, the Presiding Officer was not specific about the proposed change being for First Minister's question time and we said no to his request. This time he has been specific but, as members have said, there is already adequate cover. First Minister's question time ran smoothly last Thursday even though a member who had lodged a question was not there. I do not think that we need to take the matter further.

Karen Gillon: I think that there is a bigger issue for us, which is that members are not lodging the questions to which the draw entitles them. The number of questions that are not lodged is beginning to alarm me. However, if members are not taking the process seriously, that is a matter for them. We have enough work to get on with without getting into another inquiry and taking evidence on question time. There is no clamour at my door from Labour back benchers saying that question time is a problem. An issue arose about First Minister's question time, but I think that we have dealt with it. We should just put the issue to bed and say, "Thank you very much, George, but on this occasion we have to agree to disagree."

Chris Ballance: I felt that the system worked fine last week and I have no particular problem with it.

The Convener: Right. Is anyone in favour of acceding to the Presiding Officer's request?

Members: No.

The Convener: Okay, the committee does not accede to his request.

We will consider item 6 in private.

12:28

Meeting continued in private.

13:35

Meeting continued in public.

Private Bill Committee Assessors

The Convener: The committee has discussed the best way forward in dealing with the private bill issue and we have decided to invite the Scottish Parliamentary Corporate Body to our next meeting to give oral evidence again. There will be a fuller briefing so that the SPCB can respond. In addition, we will correspond with the Faculty of Advocates to clarify apparent inconsistencies between its most recent submission and its previous one and members will receive a private briefing from the private bills unit.

Also, we hope to start considering a draft report at our next meeting. If there are other proposals for questions that we should ask the inquiry reporters, who sent us their written evidence, those should go to the clerk fairly smartly.

This has been a very long meeting. Thank you for your patience.

Meeting closed at 13:36.

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