

PROCEDURES COMMITTEE

Tuesday 6 December 2005

Session 2

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PROCEDURES COMMITTEE

15th 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

CLERK TO THE COMMITTEE

Andrew Mylne

SENIOR ASSISTANT CLERK

Jane McEwan

ASSISTANT CLERK

Jonathan Elliott

LOCATION

Committee Room 4

Scottish Parliament

Procedures Committee

Tuesday 6 December 2005

[THE CONVENER *opened the meeting at 10:16*]

Parliamentary Time

The Convener (Donald Gorrie): I welcome everyone to the 15th meeting in 2005 of the Procedures Committee. The first item on the agenda is the review of parliamentary time. We have a paper to consider on further evidence and information about the organisation of the inquiry. Let us go through that first. We also have papers containing research information for members' guidance.

The first paper tells us about written evidence that we received from various foreign legislatures and proposed visits to them. We are asked whether we want any more written information from other legislatures, bearing in mind the stuff that we have from the Catalan, Estonian, Finnish, New Zealand, Norwegian, Quebec, Queensland and Valencia legislatures. We will visit some of those and speak to others via videoconferences. Does anyone wish to have written information from other legislatures or do we have enough?

Alex Johnstone (North East Scotland) (Con): My thought when I read the paper was that it seems to be an omission not to have contacted other Assemblies in the United Kingdom to see whether we can benefit from their experience of reconsidering parliamentary time.

The Convener: Have we spoken to the Welsh?

Andrew Mylne (Clerk): The data in the paper reflect our choice of Parliaments from around the world that seemed comparable by size, basic make-up and structure—we wanted as much comparability as possible. If the committee is interested in seeing relevant information about how, for example, the Westminster Parliament or the National Assembly for Wales deals with comparable matters, we can certainly look into that.

The Convener: The Welsh do not legislate, which is a major difference, and the Northern Ireland Assembly does nothing at all until people stop shooting one another.

Alex Johnstone: Another thought was that the idea of family friendliness is not necessarily reflected in the experiences of Parliaments in other countries. Although there are significant differences in the way in which other Assemblies in the United Kingdom conduct their business, I

wonder whether they have any comments on the family-friendly aspect of how they order their business. It might be beneficial to us to know that when we consider our position.

The Convener: I do not know who speaks on behalf of Westminster on such issues, because it does not have an equivalent committee.

Andrew Mylne: Both Houses at Westminster have procedure committees. The House of Commons, which is the relevant comparator, rather than the House of Lords, has done a lot in recent years to change sitting hours, partly with a view to making them more family friendly. That has been done as much through the Select Committee on Modernisation of the House of Commons as through its Procedure Committee. I could certainly prepare a paper for the committee with some information about what Westminster has done in recent years to address those issues.

The Convener: That would be helpful, because Westminster has changed and changed back again, to some degree.

On oral evidence, the general view was that the two round-table discussions went well. Karen Gillon had a suggestion about other semi-formal ways of proceeding in order to get views from members. I am not a great supporter of sending around circulars, although I accept that it must be done to some extent. I do not think that the responses fully represent the situation.

Karen Gillon (Clydesdale) (Lab): We do not tend to get a massive response from circulars. I wondered whether there would be any merit in our having a kind of open-door session at one or two of our committee meetings, during which members could come along if they wanted to take part in round-table discussion about some of the issues. I wondered whether that might work as an alternative to having a written circular that nobody replies to. It was just an idea.

The Convener: I thought that it sounded like a good idea. A number of people have strong views—not necessarily the same views—on the way in which the Parliament should go. Although we benefited from the round-table discussions, the members who attended may have felt that they had to speak on behalf of their parties, so it might be useful to get the views of individual members who have thought about the issue a lot.

Mr Bruce McFee (West of Scotland) (SNP): The forum-type idea is good. I suspect that one of the reasons why we do not get a huge feedback from questionnaires is that the questions and answers are static and there is no bounce or feedback from any suggestion that is made. In an open forum, it is possible to get a bad idea off the table in 60 seconds and to hear new ideas in the discussion.

I am not sure what the format should be. It might be good to have an open forum to which members who have a view could come along and express it. If we had to select people, I am not sure how we would do that. Frankly, I would like to have people with opposing views at the forum, as that would allow all the views to be tested. We can debate the structure of the forum, but the concept is sound.

The Convener: We could perhaps discuss the matter with the clerks. We could have a first-come, first-served, queue-up system or give people a five-minute slot. There are various ways of marshalling people. Members could comment on one another's views as well as expressing their own, if they wanted.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): I am content to allow you, Karen Gillon and the clerks to discuss the matter further, convener. However, one thing to take into account is that, unless they have business in Edinburgh, members might not be at the Parliament on Tuesday morning at 10 o'clock. Some thought should be given to the timing of the session. Perhaps later on a Tuesday afternoon, when other committees have finished, would be a good time.

Mr McFee: Other committees meet on Tuesday afternoons.

Cathie Craigie: Yes, but if the session took place at half past 4 or 5 o'clock, that might work. Realistically, unless members have a committee meeting, not a lot of them are about on a Tuesday morning. They are usually in their constituencies.

The Convener: We can explore the issue of timing. Karen Gillon suggested that we might not devote a whole meeting to the discussion but that we could have two sessions at different times. That might attract people.

Karen Gillon: If we gave enough notice, members who had strong views might make the effort to come along on a Tuesday morning, especially if the session were scheduled to start at around 11 o'clock.

Mr McFee: I assume that we are talking about holding these sessions in January. Surely that would give people enough time to work them into their timetables. If the issue is important to them, people will find the time to come.

The Convener: That idea will be pursued. What other suggestions do members have about which other people to invite? We will get written factual information about what Westminster has done. It is slightly frightening, but there is a sort of industry of people who read the minutes of all our meetings, study what we say in the *Official Report* and teach people about it.

Mr McFee: They should be barred immediately on the ground of insanity.

The Convener: Well, we all have our own enthusiasms. Do we want to invite academics or former MSPs, for example?

Richard Baker (North East Scotland) (Lab): One avenue that it might be worth exploring is whether there are any sections of the parliamentary staff who might wish to give evidence, because the timetable of the parliamentary week and the time at which certain events take place has a big impact on, for example, when the *Official Report* is published, which has a knock-on effect on outside organisations that want to read the *Official Report* at a certain time. I am sure that there are other areas of parliamentary work on which it might be appropriate formally to seek the views of staff. For example, we might want to talk to the clerking staff. I float that idea because I am conscious that it is not just MSPs who work here and that there are others for whom the structure of the parliamentary week is very important.

The Convener: Do you think that staff would be prepared to air their ideas in public?

Andrew Mylne: That is something that we could explore. We would need to approach that suggestion with a degree of caution, because staff do not necessarily want to speak on the record.

Richard Baker: That is fair enough. Perhaps we could hear from people informally.

Andrew Mylne: Part of our role of providing a service to the committee is to ensure that we communicate with our colleagues on any proposals that are being advanced, so there is already a mechanism for ensuring that the concerns of staff are taken into account.

The Convener: Perhaps that suggestion could be made when we get to the stage of taking propositions, because there may be some part of the whole machine that would grind to a halt if a particular way forward was adopted. I do not wish to push people, but are there any further suggestions?

Cathie Craigie: I do not think that we need to bring in any other academics or outside individuals. In our first round-table discussion, we heard from people who were involved in the setting up of the Parliament and from people who comment on it at the moment, as well as from some people whom one could call academics. Although they said that they favoured a Parliament that was open, accessible and family friendly, I got the message from them that, at the end of the day, they felt that it was for the Parliament and MSPs themselves to make the decisions. We should base our inquiry on the information that we have received to date and on the evidence that we take from other legislatures and from MSPs; the inquiry should be about us looking at ourselves and at the best way to use our time.

The Convener: Okay. No one is pushing for us to contact groups of people other than those that we have mentioned.

Karen Gillon: No one springs to mind who would bring anything to the table that we do not already have. Perhaps we need to undertake the visits, have the sessions with the MSPs and find out whether anything arises that we would want to develop. In such an inquiry, at some point we might have to accept that there is not an outside solution and that we must just get on with making the decision ourselves.

Mr McFee: That is probably true. We are nearly at the stage at which we have more evidence than it would ever be possible to reconcile. Essentially, we will have to follow one of two models. Either we follow a rigorously timetabled model, which will always be open to criticism, or we opt for a model that is more free flowing, which will be open to different criticism. I suspect that we will have to perform a balancing act. We will have to take a view on the model that we prefer and try to ameliorate the worst of its side effects, but I rather suspect that we will not be able to reconcile all views. I cannot think of anybody who has the magic solution or who has something to say that we have not yet heard. The major difficulty will be in drawing the inquiry together and reaching a conclusion.

10:30

The Convener: That is fair enough.

The next thing that we are asked about in the clerk's paper is our views on videoconferences. We are hoping to have a videoconference with the Queensland Parliament and, later, one with the New Zealand Parliament. The National Assembly of Quebec does not seem keen to have a videoconference, but it will supply further written evidence. Does the clerk have suggestions on particular things that we should ask the National Assembly of Quebec?

Andrew Mylne: I do not think so. The issues are already covered in the comparative paper that has been prepared. We raised the matter simply because we had hoped to have a videoconference with the National Assembly of Quebec, but it offered to provide written evidence instead. We thought that we would ask members about that, but if the committee is content that it already has enough information about Quebec, we are happy to leave the matter as it stands.

Mr McFee: The only thing that I would add is that we should target legislatures that have changed their processes. We should ask what they did before, how they changed their processes and what the effect was. That might indicate the ramifications of any changes that we suggest. It

would be useful to learn from other people's experience. Rather than just asking about current procedures, we should look to those legislatures that have changed their procedures or are considering changing them.

The Convener: I am not sure whether the Québécois have made a change recently.

Mr McFee: I was speaking more generally.

The Convener: Does the written evidence indicate whether the legislatures have made changes recently?

Mr McFee: There is some reference to that.

Andrew Mylne: That is one of the questions that we asked the bodies that are mentioned in the paper. In their replies, some of them commented on that question and some of them did not. I suspect that there is little point in asking the question again.

Mr McFee: We might want to note that, though.

The Convener: It is certainly an interesting line of study.

A visit to Norway has been arranged for two of us next week and a visit to Catalonia is likely to take place in January. There will also be a visit to Finland and Estonia in early March. There is a problem with the proposed visit to the Valencian Parliament, so it looks as if we will not go there. The Catalan Parliament is perhaps the most interesting Spanish Parliament.

I turn to the various issues that arose during the inquiry. At both the round-table discussions, there was a lot of comment on the way in which we deal with stage 3 of bills, which is perceived to be unsatisfactory. The committee considered the matter previously, but there is a feeling that more needs to be done. Do members think that we should include the matter in the overall inquiry on parliamentary time or, given that a lot of people drew attention to it, should it be the subject of a separate review? We could then bring forward some proposals that would fit into our inquiry on the use of parliamentary time.

Alex Johnstone: I ask this for clarification, because I was not present at the previous meeting when the matter was discussed. Is the problem with stage 3 related to business motions and practical timetabling?

The Convener: That is a major part of it. There was a feeling that the arrangements for lodging amendments, especially at the last minute, and the duration of the debate both left much to be desired. The timetable is an element in that and, although it is more flexible than it used to be, it is still not very flexible.

Alex Johnstone: My concern about timetabling is that I have always felt that it was driven by other

priorities of the Parliament, such as the need to have a predictable and reasonable time for decision time. As a result, timetabling is indivisible from issues such as decision time and the family-friendly nature of the Parliament. The issue has to be looked at in that context.

The Convener: We could still end at a predetermined time but have enough time for the overall debate. One, two, three or even more half days could be allocated to the debate on amendments and on the stage 3 motion. If we allowed too much time rather than too little, we would not go beyond 5 o'clock or whatever time people decided that they wanted to finish.

Karen Gillon: I am convinced that there is no procedural fix; it is a political issue. Would it be appropriate for the committee to write to the Minister for Parliamentary Business to explain to her that as part of our inquiry it would be useful for us to see how a stage 3 debate would work over two days? Should we ask her whether she would consider looking early in the new year at whether one of the planned stage 3 debates could be held over two days to see how an extended timetable would work in practice, rather than just in theory? That would give us an indication of whether a two-day debate was better, worse or just the same and whether it would create pressures elsewhere.

Mr McFee: Several issues are involved, one of which is the timetabling of a bill. Stage 3 debates have been crammed into an afternoon—never mind two days—before now. Timetabling a stage 3 debate is a matter for the Parliamentary Bureau to get right. If the bureau is wildly outwith the time necessary, nothing on earth will save us from our predicament, given that our decision time is at a set point in the day's proceedings.

The bureau has to pay a great deal of attention to timetabling debates on a bill, as I am sure it does. Much of the recent criticism concerned amendments to the Licensing (Scotland) Bill that were lodged late. That raises a straightforward question: do we give the Presiding Officer discretion to accept late amendments? If we do, we have to accept that, from time to time, we will get late amendments. If we refuse to give the Presiding Officer such discretion, what else do we open ourselves up to? An ability to lodge late amendments is probably desirable, although we might not necessarily want to encourage it.

There may be a procedural fix, to use Karen Gillon's words. I suspect that the leeway that we gave ourselves when we last looked at the issue and considered the number of minutes that could be added was probably too tight. Perhaps we should look at that again. I agree with Alex Johnstone that that should be done as part of this inquiry, because timetabling, whether for stage 3 debates or for late amendments, impinges on parliamentary time.

There are things that we could do to alleviate the situation. However, if the bureau gets it badly wrong, there is, frankly, very little that we can do other than meet until late, which would resolve the immediate problem but create other problems. We have to give the Parliament a wee bit more room to manoeuvre and to respond to situations as they arise.

The Convener: Standing orders currently allow for the member in charge of a bill to ask that the stage 3 proceedings be halted and carried on another day. That can be requested when, I think, the amendments are being debated and certainly once the end of the amendments has been reached. The full stage 3 debate can be postponed to another day. Is that right?

Andrew Mylne: You are almost correct. The rules allow the member in charge of the bill to move such a motion after the amendments have been completed and before the debate on the motion to pass the bill starts. The member in charge can move that the remainder of the stage 3 proceedings—that is, the debate on the motion—be deferred to a later day, but there is no specific mechanism for interrupting and deferring stage 3 midway through the amendment proceedings.

The Convener: Under the rules, the member in charge of the bill can lodge more amendments for the later day on which the stage 3 debate on the bill takes place.

Andrew Mylne: Indeed.

The Convener: However, no member has ever done that.

Andrew Mylne: The procedure has never been used.

The Convener: In that respect, the standing orders are quite sensible and the Parliament is not sensible in not taking advantage of them.

Mr McFee: The problem is that the timetable for stage 3 amendments is already fixed, so members will have been required to hear all the debate on the amendments and vote accordingly before they could vote on that procedure. The procedure might be great if a major folly became apparent during the determination of the amendments, but members would still have to hear the debate on the amendments and decide on the amendments before they could get to that stage. I suggest that we need some mechanism that provides a little more flexibility for the time that is given to debating amendments. In effect, that is what we agreed to when we last discussed the matter, but we did not get the balance right. In the light of experience, we should provide a little more flexibility.

The Convener: Even though a full day was given to stage 3 consideration of the Housing (Scotland) Bill, there were at least two seriously

pressured periods when speeches were limited to two or three minutes.

Karen Gillon: The important point is to get the timetabling motion right. The problem is that the flexibility is being used to compensate when the timetabling motion does not provide enough time for a reasoned and considered debate. Flexibility of half an hour is okay if the problem that needs to be resolved is small, but flexibility of up to about two hours would be needed if a timetabling motion was completely wrong. However, such flexibility would just result in the bureau abdicating its responsibility to get the timetabling motion right.

Given the need for more time for reasoned and considered debate, I suggest that we should ask the bureau to consider providing longer periods not for the next stage 3 proceedings—which will be next week—but for the first stage 3 that takes place in the new year. We should then consider how that works. Rather than just demanding more time at the end of proceedings if the debates overrun, we should try to fix the problem at the beginning.

Alex Johnstone: Having previously been involved in discussions on timetabling motions, I know that the aim of such motions has never been to restrict debate. For the timetabling motion, an attempt is made to predict the time that each debate will take so that we have a predictable process that will end at a predictable time. It is perhaps easy for us to say that a better job could be made of designing such motions, but that is the objective that they have sought to achieve—even if they have not always quite hit the nail on the head.

The Convener: They certainly have not. No major bill has escaped a serious constriction of debate. In my view, that is not the way to conduct the affairs of a Parliament.

Mr McFee: In response to Karen Gillon, I preface my remarks by saying that nothing will get us out of the hole if the timetabling is wrong, but the bureau still needs to reconsider the timetables for major bills. The convener is absolutely right that serious problems have arisen time and again because the amount of time that is needed has been underestimated. That might be down to a lack of experience or something else—I do not for one moment suggest that the reason is necessarily to restrict political debate—but we need to recognise that it happens.

Flexibility needs be built into the tail-end of the process. No magic wand will cure all our problems, short of moving to a fully flexible system. If we want a rigid or semi-rigid system, we must give ourselves some flexibility at the tail-end of the process because, once the timetabling motion has been agreed to, that is the only point at which issues can be addressed.

10:45

The Convener: Right. Would Andrew Mylne like to comment?

Andrew Mylne: The proposal is to write to the Minister for Parliamentary Business to suggest that a stage 3 in the new year be taken over two days. Are we suggesting that proceedings would be split with amendments on one day and the debate on the motion the next day, or would some amendments be discussed on the first day and some on the second day?

Mr McFee: Let us not be prescriptive.

Karen Gillon: I am suggesting that consideration should be given to having an extended stage 3 debate rather than a constricted stage 3 debate. We should see how that works. We have to say that if we finish early, that is not a problem—if we lose half an hour of the parliamentary day but have a much better stage 3 debate, we must be grown-up enough to accept that. Members could go away for half an hour to do what they have to do and come back to vote at 5 o'clock. Alternatively, given that members are all in the chamber for stage 3, it would not be a major problem to bring decision time forward to half past 4. We must be grown-up enough to accept our responsibilities. Sometimes we will take longer to discuss the issues and on other occasions we will take less time, but it would be better to err on the side of caution and have more time to debate the issues, rather than voting on amendments that we have not even discussed.

The Convener: We have kicked that subject around efficiently, so let us discuss other topics. On the consultation with MSPs, we will pursue our idea about open sessions. We can still do our questionnaire later on if we want, but it would probably be helpful for us to suggest a reasonably specific proposal and ask for members' opinions on it. An open-ended questionnaire is a bit of a waste of time. As for wider consultation, the general thrust of members' comments was that, in a sense, the issue of parliamentary time is our problem. We must solve it and, as we know more about the matter than most other people, we should get on with it.

Mr McFee: I certainly agree with the first two points.

The Convener: The clerk has given us a rough estimate of the timetable that we could follow in order to finish the inquiry by the summer.

Mr McFee: If we are considering issuing a questionnaire to seek the opinion of MSPs as a body, perhaps it would be more appropriate to do so when potential and perhaps opposing propositions have emerged. That would allow us to give a pointer rather than, as you say, asking

open-ended questions. We could put together some proposals and gauge the response to them. The response to the questionnaire would come to us not at the end of the process, but near the end, after we have brought together potential alternative models.

The Convener: I see the inquiry as a two-stage process. We want ideas and blue-skies thinking now. As you say, we have to work up proposals and sound out opinions on them.

Karen Gillon: This is a complete stab in the dark but, when we have two or three proposals, is there anything to prevent us from taking them to the Parliament for debate?

The Convener: No. I do not see why we could not do that.

Karen Gillon: That would give us an idea of members' thinking and their priorities; it would be preferable to trying to second-guess members and producing a report that they will criticise at the end of the process. We should have our forum, produce some ideas and put them to the Parliament. We should say, "Here are the options. We would like there to be some discussion of them." We could then come back and flesh out a set of proposals that could be put out for final consultation before we produce our report.

The Convener: That would be helpful.

Is everyone content that we have discussed item 1 on the agenda adequately?

Members indicated agreement.

Committee Debate in the Chamber

10:49

The Convener: Agenda item 2 is more of a technicality. I gather that under the rules, which I am still learning, the committee must make a formal request to the convener of the Conveners Group for time on a committee day to debate the report on the procedures relating to Crown appointees, which we will discuss later in private. Is it agreed that we should submit such a request?

Members indicated agreement.

The Convener: That makes up for having a long debate on item 1.

As was agreed at a previous meeting, we will discuss items 3 and 4, on draft reports, in private.

10:50

Meeting continued in private until 12:49.

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