

# **PROCEDURES COMMITTEE**

Tuesday 10 January 2006

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2006.

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

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by Astron.

---

# CONTENTS

Tuesday 10 January 2006

Col.

|                         |      |
|-------------------------|------|
| PARLIAMENTARY TIME..... | 1291 |
| CROWN APPOINTEES .....  | 1301 |

---

## PROCEDURES COMMITTEE

### 1<sup>st</sup> Meeting 2006, 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:

◇Neil Laurie (Queensland Parliament)

◇Siwan Davies (Queensland Parliament)

◇by video link

#### CLERK TO THE COMMITTEE

Andrew Mylne

#### SENIOR ASSISTANT CLERK

Jane McEwan

#### ASSISTANT CLERK

Jonathan Elliott

#### LOCATION

Committee Room 1



## Scottish Parliament

### Procedures Committee

*Tuesday 10 January 2006*

[THE CONVENER *opened the meeting at 10:17*]

### Parliamentary Time

**The Convener (Donald Gorrie):** Good morning—or is it good evening for our witnesses? I am not sure.

**Neil Laurie (Queensland Parliament):** It is good evening here in Brisbane.

**The Convener:** My name is Donald Gorrie and I am the convener of the Procedures Committee. Thank you very much indeed for giving your time to help us. As a new-ish Parliament, we are trying to improve the way in which we do things and to learn from other people. We have received some interesting material from you, which we would be happy to clarify. Perhaps it would be best if you kicked off by setting out some of what you see as the most interesting aspects of the Queensland Parliament that work well for you. We will then ask questions. One of our colleagues has just become a father and is not here; another is caught in traffic problems but will be here later. I invite you to give a resumé of what you think are the most important aspects of the way in which your Parliament works.

**Neil Laurie:** I thank the committee for inviting me to address it. I am more than happy to discuss such things as procedure. It is important that, in the hurly-burly of parliamentary debate and parliamentary development, we never lose focus on ensuring that our procedures are the most efficient and the best that they can be. Far too often, parliaments tend to be too conservative in experimenting and in adopting changes. I am pleased to be able to talk to a committee that is interested in finding out things and perhaps making recommendations for change or experiment. We can all learn from one another when it comes to such things.

I am aware that some briefing material has been provided to the committee, but I will start by emphasising the context of the Queensland Parliament. By that, I mean where Queensland has come from historically, which will enable the committee to understand the context of how we have changed our standing orders and procedures over the years and what has led to those changes.

We are a relatively young Parliament by some standards, but a relatively old one by others. The Queensland Parliament was established in 1860.

We became a unicameral Parliament with the abolition of the Legislative Council, the effective date of which was 1922. For most of the 20<sup>th</sup> century, the Queensland Parliament operated as a unicameral Parliament that was dominated by Governments with very large majorities. Minority or coalition Governments of various parties were a rarity, rather than a normal feature of the Parliament.

In the 1980s and 1990s, a few significant events occurred. In 1989, there was a change of Government after 32 years. That change was preceded by a commission of inquiry that found corruption in the police force and some elements of Government and led to an era of reform in Queensland generally. As a result of the inquiry, the fallout from it and the 1989 change of Government, we started the 1990s on a reform bent, which involved the reform of Parliament to some extent. The committee system, which had fallen into an abyss after the abolition of the Legislative Council in 1922, was re-established. We started to reform some of our procedures, especially our financial procedures, in the mid-1990s, by introducing bodies such as estimates committees to review expenditure and the budget. During the latter part of the 1990s, we had two periods of minority Government, with independents holding the balance of power. That was a catalyst for some of the changes that were made to the routine and procedures of the house.

Today I sent your committee clerks an article that appeared in *The Parliamentarian* in 2001, entitled “Enhancing Scrutiny: Police corruption allegations lead to parliamentary reform”. I apologise for sending it so late. The article, which I hope that members of the committee already have or will have at some point in the future, outlines the background to the impetus for change in the early 1990s and some of the changes that were made to the committee system and internal procedures, such as question time and the allocation of business time in the Queensland Parliament. However, for the past three parliamentary sessions, we have had Governments with a substantial majority, which impacts a little on the impetus for change.

The Standing Orders Committee in Queensland is an interesting committee. Traditionally, its membership has included the Speaker, the Premier, the leader of the Opposition, the leader of Government business and the leaders of all parties. It is a very high-level committee. Unfortunately, because of its composition, it does not meet as a normal parliamentary committee would. I suppose that that compounds the issue when it comes to changing standing orders. Any changes tend not to emerge from the normal committee process, as I understand is the case in Scotland.

**The Convener:** Thank you. That was a helpful kick-off. I also thank you for the article, which has only just been circulated. I have started to read it and it looks very interesting.

I will kick off with a question, after which my colleagues will pick up on other matters. Perhaps the most striking difference between the two Parliaments is that the Queensland Parliament sits for only 40 or 50 days in the year. Your debates also seem to go on for longer—sometimes into the evening. The way in which you manage your business is of interest to us. Is there a demand for more or shorter sitting days, for example? Any information on those areas would be valuable to us.

**Neil Laurie:** From time to time, calls are made for more family-friendly hours—that is the catchphrase that is most commonly used. Changes have been made at the periphery to try to get such hours. The constant issue that we live with is our geography: Queensland is probably half the size of Western Europe. Given that some members live a great distance from Brisbane, we are caught in a trap between sitting for fewer hours but more often, which would involve a lot more travelling, or sitting less often but for longer hours.

Fifty per cent of our members are from outside the major city of Brisbane and have to travel to the city and stay overnight. Ultimately, we have found ourselves in the position of sitting less often but for longer. That is a bit of an inevitability, given the geography of Queensland.

**The Convener:** Thank you. My colleague Alex Johnstone will put the next question.

**Alex Johnstone (North East Scotland) (Con):** I have a question on attitudes to family-friendly working. I understand the geography of Queensland and how it relates to sitting times. Have you done anything else to try to encourage younger members, and women members in particular, to enter Parliament? If so, what success have you had?

**Neil Laurie:** I believe that most of the activity in that regard has been at the party-political level and not at that of the Parliament itself. We have one of the highest rates of female membership of any Parliament. The percentage of female members at the moment is about 40 per cent.

The age range of our members is also fairly evenly distributed at the moment. Certainly, it is younger than it was in the past. The gender composition has also changed dramatically from that of the past. It is a well-regarded fact that the demographics of our membership has changed dramatically, especially over the past two to three sessions. We now have a lot more women

members, more young members and more members with young families.

10:30

**Mr Bruce McFee (West of Scotland) (SNP):** Good evening, and, if it is not too late, I wish you a good new year.

**Neil Laurie:** Thank you.

**Mr McFee:** From the briefing paper that you sent to our clerks and from what you have said today, I understand that a number of changes have been made, including changes that were made a few years ago. What are the main pressures on parliamentary time for you?

**Neil Laurie:** The pressure lies in finding a balance between the time given for Government business—so that enough parliamentary sitting time is allocated to get necessary Government legislation through—and the time given for all the other functions that Parliament has to undertake. I give lectures from time to time and one thing I like to emphasise to students is that Parliament should not be viewed simply as a legislature, because it is so much more than that. Parliament does not exist simply to pass legislation. In the Westminster system, it is there to provide a Government and to ensure that that Government is held accountable and has its actions scrutinised. It is there to ensure that the people, through their elected representatives, have a voice—whether that voice is used to air grievances or to raise matters for debate.

The challenge, and the source of friction, for parliaments in the modern age is to keep up with the ever-increasing demand for work on legislation—whether that be the passing of bills or the reviewing of delegated legislation to ensure that it is appropriate—while retaining enough time, resources and energy to discharge the equally important roles of scrutinising, airing grievances and debating.

**Mr McFee:** I notice in your briefing paper that you have no official Opposition party business and rely instead on private members' business. How is that done? Are there formal debates? Are votes binding?

**Neil Laurie:** There are a number of aspects to private members' business. There is probably an even split between private members' bills and formal motions that private members present and debate each week. In Queensland, when we talk about private members we are really talking about non-Government members; I cannot recall the last time a back bencher from the governing party introduced a private member's bill.

**Mr McFee:** How much time is set aside each week for private members' business?

**Neil Laurie:** Last year, about 14 per cent of our business was set aside for that. Approximately one hour a week—on the Wednesday—is for a private member's motion. About three hours a week are for private members' bills, if there are any on the notice paper.

**Cathie Craigie (Cumbernauld and Kilsyth) (Lab):** Good morning—or good evening—Mr Laurie. Thank you very much for your briefing paper and statement. I note from the paper that committees of your Parliament can sit at the same time as the full Parliament sits. That is very different from the way in which we operate here. MSPs have resisted such a move because, as you pointed out earlier, they want to be able to have their say in Parliament. How do members of the Queensland Parliament deal with their committee business and still have the time to get involved in parliamentary debates? Are substitutes allowed if a committee member has an interest in certain parliamentary business?

**Neil Laurie:** I should emphasise that, although our committees tend to conduct business during sitting weeks and are able to meet while the house is in session—and we should bear it in mind that members must return to the house if there is a division—they do not necessarily meet at the same time that the house is sitting. For example, committees might deal with the various routine matters that arise, such as accepting incoming correspondence, agreeing outgoing correspondence and setting agendas for inquiries, at their regularly scheduled meetings each sitting week. Most committees meet when the house adjourns for lunch; indeed, those meetings are almost like working lunches.

If a committee wishes to conduct a public hearing that will last only a day or to discuss reports, it will try to schedule such items during a sitting week, because members will be in Brisbane. However, those meetings will probably take place on the Friday of the sitting week. The house sits on Tuesdays, Wednesdays and Thursdays; party business and other such matters are usually conducted on Mondays; and many members who are on committees will stay in Brisbane to meet on the Friday. I do not want to give you the impression that our committees regularly meet, conduct business and have hearings while the house is sitting, because that is generally not the case.

**The Convener:** How satisfactory is your treatment of legislation? Unlike the House of Commons in London, we do not have a revising chamber. As a result, some aspects of our bill procedure work very well, while others do not. Given that the Government has a considerable majority in your Parliament, do you think that, under your system, bills are adequately

scrutinised? Perhaps that question is somewhat unfair.

**Neil Laurie:** I will try to tiptoe around it.

The system for scrutinising legislation has advanced considerably in the past 15 years, and I am reasonably satisfied that our processes for legislative scrutiny identify the major issues on which the house must decide.

Under our current system, when Government bills are introduced, they sit dormant on the table for two weeks, which is the minimum period for which they must remain on the table without requiring a suspension of standing orders. However, because of sitting patterns and other matters, most legislation sits on the table for four weeks, six weeks or even longer. During that time, the Scrutiny of Legislation Committee scrutinises the legislation in accordance with criteria set out in the Legislative Standards Act 1992, which we often refer to as our reverse bill of rights. Like a bill of rights, the act sets out basic principles; however, it does not have the enforceability of a bill of rights.

The Scrutiny of Legislation Committee's real function is to identify issues in legislation—anything from poor drafting to a contravention of fundamental legislative principles, such as those on self-incrimination or the acquisition of property without fair compensation. The committee then reports back to the Parliament prior to the legislation being dealt with and highlights the issues in the legislation that need to be considered. It is then for the house to make a policy decision as to whether the legislation should be passed in that form or whether it should be altered to reflect previously agreed fundamental legislative principles.

We have an adequate system in place to identify issues in our legislation. At the end of the day, a decision has to be made, based on conscience and party-political lines, as to whether the legislation should be passed. We have very good processes in place that make sure that those issues are identified and flagged up so that everyone can be in no doubt that they have to be addressed.

**The Convener:** Thank you. That is helpful.

We have fewer problems with big political issues than with several members from across the party lines feeling that a particular part of a particular bill is not sensible and will not achieve its objective. That is more of a pragmatic or technical issue. Do the members of your Parliament have enough time to articulate such arguments? Are amendments to what the minister originally proposed often carried?

**Neil Laurie:** In most cases, enough time will be available, and enough processes will be available, so that major issues can be picked up and people can then make judgments on them. Amendments are regularly made to legislation. On most occasions, the amendments are moved by the ministers in charge because they have been prodded by the Scrutiny of Legislation Committee, for example. The committee will pick up on a defect or an ambiguity in the legislation and the minister will respond, in the main, by moving amendments to clarify or remove the offending issue, to mitigate it in some way or to set up some safeguards; that is all reasonably common.

At the end of day, most of the debate comes down to die-in-the-ditch policy issues, when non-Government and Government members simply do not agree on the policy background to the legislation. However, most of our legislation goes through with bipartisan support, as I am sure yours does.

**The Convener:** I have a question on a detailed point. Is the time given in the chamber for discussing those things satisfactory? If a row blows up on a particular point and time has not been allowed for it, are you flexible enough to allow a proper debate to take place?

**Neil Laurie:** Yes, in the main, although exceptions will arise every so often, when legislation is rushed through or expedited in some way for whatever reason. However, in the main, there is more than sufficient debate on legislation in our chamber.

I am of the view that we spend too much of our time debating legislation on which we all agree rather than undertaking some more of the scrutiny that I think the Parliament should do.

10:45

**Mr McFee:** On the procedures that you adopt when determining legislation, when you get to the final amending stage of a bill, how long do amendments have to sit on the table before being accepted for debate?

**Neil Laurie:** That is a little bit of an issue. Sometimes, amendments can be lodged at very short notice. We have set periods for the time that legislation sits on the table before being debated again, but we have no minimum periods for amendments. They can appear and be moved at literally the same time during consideration in detail. That is an issue from time to time.

**The Convener:** I would like to pursue that line, although I realise that it is unfair to lead you into making judgments. What is your perception of the use of time in the chamber? Is the time allowed for speeches acceptable to most members? Is the

time allowed for Opposition debates generally acceptable? Are the procedures satisfactory for Government supporters who are not ministers? Do any of those issues cause wrinkles at the moment?

**Neil Laurie:** No, although it is very difficult to make an absolute judgment call about that. Government and non-Government members and ministers will have different views at different times. Usually, the same members have very different views, depending on whether they are in or out of Government. They always take a different view depending on what part of the cycle we are in.

Generally speaking, we spend a great deal of our time on legislation, most of which is Government legislation. That is a necessity; it has to happen. Most legislation is like machinery. Some years ago, a former member told me that parliament—he was talking not just about the Queensland Parliament, but about the institution of parliament in general—was being hampered by the amount of legislation and the amount of debate on it. I must say that, on reflection and with the passing of time, I think that that is correct. We spend an awful lot of time on legislation on which there is really no disagreement. Members will debate such legislation for a long time, and there are now more prepared speeches than debate. From time to time, one must wonder about the value of such debate compared with the value of some of the other things that the Parliament could be doing.

**The Convener:** I would like to pursue that a little further. You say that the committees are now much more vigorous than they were a few years ago. Do they get enough time to debate their proposals in the chamber or are there other mechanisms to allow that? If there was a widespread feeling that X was an issue, would a debate be provided to discuss it?

**Neil Laurie:** Unfortunately, perhaps our committee system is a little bit divorced in many respects from our operations in the house. That may be a product of our not having the select committee system that, I understand, is more common in United Kingdom experience and in jurisdictions such as New Zealand. Instead, we have a very subject-specific committee system. Our committees do not really shadow departments, for example, or reflect our Government portfolios; instead, they have particular areas of responsibility. Our committee system is a little bit too divorced from the operation of the house in that respect. That is an unfortunate by-product of the structure of our committee system in Queensland.

The end result is that what committees report eventually makes its way into the house. Under



the legislation that set up the committee system, the Government has a responsibility to respond to committee reports within three or six months. The Government will say either that it adopts the report or that it does not. Even though we have time set aside to debate motions on committee reports, it is reasonably rare to have such debates or for the motions to be moved. As I said, we do not have a close connection between the operation of our committees and the operation of the house.

**Siwan Davies (Queensland Parliament):** That has changed recently with the introduction of project-specific select committees, a recent example of which is the Palm Island Select Committee, which the Government was keen to establish. Time was made available for the debate of that committee's report. I suppose that that reflects the fact that the topic was one of debate in society generally in Queensland and therefore more relevant to a wider audience.

**The Convener:** Do you have the sort of debates that we have, possibly rather too often, in which the Executive lodges a motion saying, "Aren't we running education well?" and the Opposition lodges an amendment saying, "No, you're making a complete mess of it"? The alternative is that the Opposition lodges a motion saying, "You're making a mess of education," and the Executive lodges an amendment saying, "No, we're doing very well."

**Neil Laurie:** Our Wednesday night private member's motion is always of that nature. The non-Government members usually move a motion saying, "The Government is making a mess of X," and the Government moves a motion saying, "We're doing great things." That is in essence what happens on a Wednesday night.

**The Convener:** Does the Government initiate self-congratulatory motions setting out new policies?

**Neil Laurie:** We have had a couple of instances this year of the Government moving motions supporting its actions. The more predictable and more common procedure is for the Opposition to move negative motions that the Government turns into positive motions. I would not say that it was common for the Government to move such motions.

**Siwan Davies:** Here, a state Government might move a motion to criticise the federal Government—such things go on in Queensland, too. For example, a Labour state Government might congratulate itself and criticise the coalition federal Government.

**The Convener:** You have covered a lot of ground and have given us a good seminar on how the Queensland Parliament works, for which we are obliged to you. We will read the interesting

paper that you sent us and ponder what you said. In due course, we will produce some proposals and send them to you, for your interest. We wish you the best of luck in the coming year. Thank you very much indeed for your time. I also thank the people who have worked the technical wizardry, which has been exceptionally efficient today.

**Neil Laurie:** Thank you for the opportunity.

**The Convener:** I think that we should have a quick coffee break.

**Cathie Craigie:** Can we get "Neighbours" on the telly?

**The Convener:** I suspend the meeting for 10 minutes, so that we can have a longer coffee break than usual.

10:54

*Meeting suspended.*

11:05

*On resuming—*

**The Convener:** Richard Baker has sent his apologies. He is now the proud father of a girl called Catherine, who weighs 8lbs and seems to be doing well. We wish Richard a rapid learning of the procedures relevant to looking after a baby.

**Mr McFee:** And a note of sympathy to the good lady might be in order, too.

**The Convener:** She did well.

Karen Gillon has sent a message saying that she is having problems getting transport here today.

Notes have been circulated about our visit to the Norwegian Parliament and about our videoconference with the New Zealand Parliament, which we will consider. I feel that the session that we have just had worked extremely well. We are grateful to the people who set it up—both the clerks and the technical people. We can chew over what we have been told.

## Crown Appointees

11:07

**The Convener:** Our next item is on the procedures relating to Crown appointments. There is one major issue that is still outstanding and it is encapsulated in the letter that I sent on our behalf to the Presiding Officer and in his response. It relates to our idea that, in addition to an assessor to assess the conduct of interviews and ensure that everything has been done correctly, there should be an independent assessor who would report to the Scottish Parliamentary Corporate Body on how well people seeking reappointment had done their job.

The reply from the Presiding Officer sets out the difficulties from the SPCB's point of view. The SPCB feels that it would be difficult to find suitable people. It has been in touch with the commissioner for public appointments on the matter. The letter sets out the difficulties with pursuing the suggested policy as the SPCB sees them. We were keen on the policy, and wished to demonstrate that reappointment would not simply be a foregone conclusion and that there should be some genuine scrutiny of how well the person had done the job.

We can either stick to what we proposed, whatever the problems might be, and say that there should be a second assessor to assess how well the person in post has done their job, or we can accept the SPCB's argument that, although the idea is a good one, it is not a practical one, and not pursue the matter. There might be a third possibility: we could try to ensure that the person's performance of his or her duties is properly scrutinised in some other way. I would be interested to hear colleagues' views.

**Mr McFee:** I put on record again that I am not in favour of the system that has been advocated, in whatever form. This is the kind of ridiculous argument to which we end up being reduced. I am extremely concerned about the contents of the reply from the Presiding Officer. I find it hard to believe that nowhere in this country are there people who can assess the performance of an individual in any particular post. Such assessment happens in industry every day of the week and it occurs regularly in personnel departments. I do not accept that there is no one in Scotland who can carry out that role. I am not at all in favour of going down the road that has been advocated. I would rather that matters were settled by open and competitive interview for the posts rather than by the reappointment procedure. It is barking mad not to assess the performance of an individual who holds a post before reappointing them, but that is in effect what we are being invited to do.

The process of reappointment is inferior to competitive interview but, if we are going to go down that route, there has to be some assessment of how an individual has carried out their job. What other criteria are there? That their face fits? That they have not ruffled any feathers during their time in office? That they go to the right club? If their performance in the job will not be assessed, on what basis will the SPCB's decision be made? The response to the convener's letter begs more questions than it answers, which is one of the reasons why the committee, or indeed the Parliament, should not be going down this road. The end result of this is that every attempt at impartiality and every attempt to ensure that the process is transparent will be planed at until there is nothing left and we are giving people not five-year appointments but 10-year appointments. That will be the problem if we go down this route and that has been my objection to the process from day one.

**The Convener:** As I understand it, the Presiding Officer is setting out the reasons why the SPCB thinks that what we propose would not work. He is not saying that the SPCB would not take account of the performance of the person in the job. Presumably it would be assessed in some other way.

**Mr McFee:** In what other way? That is the question that is left open. What is the process?

**Alex Johnstone:** Just to qualify what I am going to say, I say that I feel some sympathy for the line that is taken in the Presiding Officer's letter. However, I am concerned about assessment. From reading between the lines to some extent, it appears that, as no one is qualified to make the assessment, the corporate body will make it on its own—supposing that it is qualified to do so. I have sympathy with the position that is taken in the letter, but I share Bruce McFee's concern about recommending a process of reappointment that does not contain any form of objective assessment. I am not sure that the case has been made in the letter that there is an alternative to what we proposed.

**Cathie Craigie:** I agree with Alex Johnstone. The committee wanted to ensure that anyone who is going to be reappointed has been carrying out their job properly. There will be a remit for the job. It will not be so difficult to find someone who is qualified to make the assessment that all the boxes have been ticked and that the person has demonstrated their ability to carry out their role on behalf of the public. We have to engage a bit more in conversation with the Presiding Officer, to let him understand what the committee is looking for. Before we can make a decision, the convener should share that information with the Presiding Officer and report back to the committee.

11:15

**Chris Ballance (South of Scotland) (Green):** I tend to agree. I find it difficult to believe that there is no one at all in Scotland who could make a meaningful assessment of how a commissioner had carried out his or her role. I agree with Cathie Craigie that we should engage in further conversation about that.

**Karen Gillon (Clydesdale) (Lab):** I thought that we could resolve the issue by correspondence but, given the views that have been expressed around the table, I realise that we cannot do that. It would therefore be appropriate for us to invite the SPCB to come back to the committee so that we can explore matters a bit further and come to a conclusion one way or the other. We will have to make our decision and present it to Parliament, but it would be useful to have that dialogue to test some of the arguments in the letter and to allow us to be confident about the decision that we make.

**The Convener:** Should we ask the SPCB formally to come and give evidence on that specific point? The alternative is to have a more private meeting with the SPCB, but if we are trying to be transparent we should probably do it in public.

**Mr McFee:** The Presiding Officer's response is a dog's breakfast and it has been apparent from day one that pursuing the route that has been pursued would result in a dog's breakfast. The Presiding Officer was the one who initially wrote to the Procedures Committee. It would have been clear in his mind and in the minds of members of the SPCB which way they wanted to go on the issue, and it is clear from the letter which way they want to go. They want the SPCB to take the decision and they do not believe that there is a role for some form of independent assessment. This is the sort of ridiculous situation that we get into when we go down the reappointment road, which is why it is always safer to go back to open and competitive interview; if the individual who holds the position is the best candidate, they will get the job again.

I suggest, in opposition to what you suggest, convener, that we finish the whole question of reappointment and go back to a procedure to ensure that there is competitive and open interview. Otherwise, it is just a question of whereabouts on the slippery slope we pitch our tent. That is the danger; there is no compromise position. No matter what we decide today or in the next couple of weeks, there will be an erosion over the years of the whole principle of independent assessment, which will result in the nod-in, the shoo-in and the wink of an eye being given to somebody's reappointment. That is what will happen. I urge you to throw that nonsensical response in the bin where it belongs and to get

back to proper, open competition for all these posts.

**The Convener:** I think that the committee has already decided on that point.

**Karen Gillon:** Nice speech, nice rhetoric, nice press release, but we have gone through the process. If we can move forward on independent assessment, I think that that is the right route to take. Bruce McFee and I will disagree on that and I do not want to get into a big debate about it again. Ultimately, any appointment is for the Parliament to make. Bruce McFee can make innuendo and comments about nods and winks and slippery slopes, but it is for the democratically elected members of the Parliament to endorse any appointment on a vote. That is our role and responsibility. As I have said from the beginning, there should be some independent assessment of the job. I support the convener's position.

**Alex Johnstone:** As an addition to what has been said, I would like to say something that I could have said the last time that I spoke. My concern is that if we do not have any form of objective assessment in the process, that just takes us one step closer to the potential embarrassment of having the character of a candidate assassinated on the floor of the chamber. As Karen Gillon pointed out, the opportunity exists for us to do that, even within the procedure that we are talking about. However, ensuring that we have objective assessment as part of the process will prevent political parties or individual members from making attacks on candidates in the chamber, which none of us wants to happen.

**Cathie Craigie:** Again, I agree with Alex Johnstone, which is worrying me. Please put my name-plate in a different position on the table for next week's meeting. Bruce McFee is wrong to say that the Presiding Officer's response is a dog's breakfast. When the committee gets through this piece of work, we will suggest great improvements. Karen Gillon and Alex Johnstone were right to remind us that the appointment process is open and democratic and that the Parliament will make the final decision. It would be wrong to suggest that things could be done otherwise, such as with a nod and a wink.

I am happy to accept the suggestion, convener, that we bring back representatives of the SPCB for further discussion on the matter, if that is what you wish to do.

**Mr McFee:** I am clear about which way the vote will go, which is fair enough. Karen Gillon said that an appointment would be a matter for members when it goes to the chamber. I agree that that is technically right. However, on what assessment and on what basis will members make their

decision? It is not a matter of members simply nominating an individual for a particular post. Section 21 of our draft report states that only a member of the selection panel may, by a motion, recommend the nomination of an individual. Therefore, it is not simply a matter of an MSP nominating any individual he or she wishes. We will be relying on a selection panel and it is possible that it might not have an objective assessment of a candidate that it wished to reappoint. Would members be happy if that went through without any form of objective assessment?

**Cathie Craigie:** We are not suggesting that.

**Mr McFee:** It is a possibility.

**Alex Johnstone:** I think that we have found common ground on this.

**Mr McFee:** Well, it will be interesting to see what happens if the common ground develops a little bit further. Anyway, I shall leave it at that because it is clear what the Procedures Committee's feeling is on the matter. However, I suspect that we might be back in a similar position shortly.

**The Convener:** We are proposing that we invite the SPCB to come and give evidence on the specific issue of the form of assessment of a person's performance. Is that agreed?

**Members** *indicated agreement.*

**Mr McFee:** I oppose that.

**Cathie Craigie:** You can vote against that now if you want.

**Mr McFee:** If you wish to note my objection to the process, convener, that is fine and we will not bother going to a vote.

**The Convener:** You have already objected to the whole process. The difficulty you might find is how best to run what you find is an unsatisfactory process. Are you opposing our invitation to the SPCB?

**Mr McFee:** I just do not think that we should proceed down this route at all. I think that I made that clear in what I said. However, if you are going to do it, then at least this gives a modicum of—

**The Convener:** So in fact, on this particular point, you agree.

**Mr McFee:** I think that we should halt the process—full stop. Otherwise, we end up in this ridiculous situation.

**The Convener:** That has already been debated and dealt with.

**Mr McFee:** Fine.

**The Convener:** So we will write to the SPCB. Is there any point now in the next item on the agenda?

**Karen Gillon:** The final item was to move into private session to discuss our report, but you are right that there is now no point in doing that, given that we must pursue the matter with the SPCB before we come to the report.

**The Convener:** That is the one major sticking point. In the light of the decision on item 2, we cancel item 3 and end the meeting.

*Meeting closed at 11:24.*

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

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

The deadline for corrections to this edition is:

**Thursday 19 January 2006**

#### PRICES AND SUBSCRIPTION RATES

##### OFFICIAL REPORT daily editions

*Single copies: £5.00*

*Meetings of the Parliament annual subscriptions: £350.00*

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

##### WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

*Single copies: £3.75*

*Annual subscriptions: £150.00*

Standing orders will be accepted at Document Supply.

Published in Edinburgh by Astron and available from:

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

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

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

**Blackwell's Scottish Parliament Documentation**  
Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

**Telephone orders and inquiries**  
0131 622 8283 or  
0131 622 8258

**Fax orders**  
0131 557 8149

**E-mail orders**  
[business.edinburgh@blackwell.co.uk](mailto:business.edinburgh@blackwell.co.uk)

**Subscriptions & Standing Orders**  
[business.edinburgh@blackwell.co.uk](mailto:business.edinburgh@blackwell.co.uk)

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

[sp.info@scottish.parliament.uk](mailto:sp.info@scottish.parliament.uk)

All documents are available on the Scottish Parliament website at:

[www.scottish.parliament.uk](http://www.scottish.parliament.uk)

**Accredited Agents**  
(see Yellow Pages)

and through good booksellers

Printed in Scotland by Astron