

PROCEDURES COMMITTEE

Tuesday 6 June 2006

Session 2

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PROCEDURES COMMITTEE

10th Meeting 2006, Session 2

CONVENER

*Donald Gorrie (Central Scotland) (LD)

DEPUTY CONVENER

*Karen Gillon (Clydesdale) (Lab)

COMMITTEE MEMBERS

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

COMMITTEE SUBSTITUTES

Murdo Fraser (Mid Scotland and Fife) (Con)
Patrick Harvie (Glasgow) (Green)
Tricia Marwick (Mid Scotland and Fife) (SNP)
Irene Oldfather (Cunninghame South) (Lab)

*attended

CLERK TO THE COMMITTEE

Andrew Mylne

SENIOR ASSISTANT CLERK

Mary Dinsdale

ASSISTANT CLERK

Jonathan Elliott

LOCATION

Committee Room 4

Scottish Parliament

Procedures Committee

Tuesday 6 June 2006

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

Interests

The Convener (Donald Gorrie): On the positive side, we welcome Robin Harper, whom I will shortly invite to declare interests. On the negative side, Cathie Craigie has unfortunately been kept away by a family bereavement. Karen Gillon is coming, but will be a little bit late.

I invite Robin Harper to declare any relevant interests.

Robin Harper (Lothians) (Green): As far as the Procedures Committee goes, my relevant interest is that I am convener of three cross-party groups and treasurer of another, all of which is in my register of interests. I have no investments other than unit trusts. I own no land, but I do own a house and I am a member of countless organisations. That should cover it.

The Convener: Thank you.

Parliamentary Time

10:19

The Convener: Item 2 is our review of parliamentary time. Today we have four papers in all—three from the clerks and one from me—which set out a number of aspects of this complicated issue. We have discussed some of them at what one might call both the small and big ends of the subject. Today we will discuss how time is divided between the different categories of business. The question whether we need more time is for another day; we will focus on various aspects of how the time that we have is, or could be, used.

I suggest that we go through the papers as they are numbered. We will deal first with paper PR/S2/06/10/1, which is called, “Types of business for debate”; then with paper PR/S2/06/10/2, which is called, “Special cases of Parliamentary business”; then with paper PR/S2/06/10/3, which is called, “Interpellations”; then with the note from me. We will go through the papers not line by line but subject by subject. There are questions at the end of each paper, which we will probably cover in the discussion.

The first page of paper 1 is factual. From paragraph 7 onwards it deals with subject debates—which I think are quite a good thing, although I am interested to hear colleagues’ views—and gives us useful information about how often they have taken place so far.

Robin Harper: Subject debates offer a huge opportunity to explore subjects in depth but, if they are Executive debates, they come with only a week’s notice, which I think is pretty poor. If we want to get the best out of a subject debate we should get at least a month’s notice of it. That way, we would get high-quality debate. Hitting people with subject debates with only a week’s notice will never get the best result. We should get a month’s notice if we are serious about them, although one sometimes suspects that they are intended just to fill time.

The Convener: That is a constructive idea. I get the impression from the people who decide these things that they are reluctant to tie themselves down about what will happen in a month’s time. The Executive could certainly make known its intention that in the next six weeks there will be a subject debate on grass, or whatever.

Mr Bruce McFee (West of Scotland) (SNP): Yes. The other important point on subject debates is that there is often no motion and amendments; the question that we must ask is whether such debates draw anything out. If I recall correctly, the paper goes on to say that there have been 16

subject debates—14 from the Executive and two from independent members. We are asked to consider whether they should be encouraged. It is unlikely that Opposition parties will take up the opportunity to have subject debates—although the independents did—because, given the number of half-day slots they have per calendar year, they would have to give up what they might see as a fairly large opportunity to put a specific case.

If subject debates are to be used more widely, perhaps they could replace some of the motherhood-and-apple-pie debates that we get from time to time. I support Robin Harper's worthwhile idea: if we want to go into a subject in depth and, more important, to engage with people outwith Parliament, greater notification of a debate would be useful. I suspect that Opposition parties will not, however, take many opportunities to have subject debates, given the paucity of time that they have.

The Convener: I accept that entirely. Paragraph 12 suggests that committees could consider holding subject debates. That is a constructive idea, because committees have a vested interest in having a serious discussion about something, which the Executive does not always have.

Mr McFee: That point is well made—I should have alluded to it. It would be an idea to have committee subject debates. We would have to free up time for that. Although the slots for committee debates are not always taken up—one of the papers highlights that—time would have to be made available for committees to engage in subject debates.

The Convener: Would it be fair to say that the general view is that subject debates perform a useful purpose, but that it would be helpful to take them more seriously and to have earlier notice of them for research, and that it might be particularly useful for committees to consider holding such debates?

Mr McFee: And, potentially, the Executive.

The Convener: The Executive holds such debates already, but it could do so more often.

Robin Harper: Yes—it could give us more notice.

The Convener: The subject of notice of motions arises later, but the proposal on that is much more modest than Robin Harper's suggestion.

We move on to chamber stages of bills and stage 1 debates. Some of our previous discussion has been about how to involve more MSPs who are not members of the relevant committees in those stages of bills. Karen Gillon made a suggestion, which I have replicated in my little paper on bill procedure, that there could be a briefing after stage 2 for stage 3. There could also

be a briefing when the lead committee has finished stage 1 and before the stage 1 debate.

Mr McFee: There is a stage 1 report, which one would have thought was a long briefing.

Robin Harper: Indeed.

The Convener: On a recent bill, I objected because the lead committee's stage 1 report was available only the minimum legal time before the stage 1 debate, but it is a fair to point out that there is a stage 1 report.

Mr McFee: It depends on whether members have been maintaining an interest in the bill, or have had the time to do so, throughout the stage 1 deliberations. If they are to be asked to read a pretty weighty report plus the evidence, a few days will not allow them to do it justice. There is nothing at stage 2 to say what the effect of the stage 2 deliberation has been until the bill as amended is published.

We are discussing the paragraphs on stage 1 debates. The question is whether, if members had longer to digest the material, more members who were not involved in the relevant committees would participate in stage 1 debates. In my experience, the whips go round looking for people who are on the committees to fill the speaking slots in stage 1 debates.

Robin Harper: The problem is that committee members will rightly have their shot first. Other members know that in the limited time that is given to stage 1 debates they have little chance of getting to speak. Therefore, they will not be in the chamber on spec and will probably not request to speak in the knowledge that they might not get called. How many members who are not on the lead committee are called in a stage 1 debate? It is two or three at most, so we cannot deduce anything from the fact that there are few members at stage 1 debates except that they know that they are unlikely to be called. They are likely to be there only if they prefer to be at a debate rather than to read about it.

The convener made a point about stage 1 reports appearing only a few days before stage 1 debates, but it is the other way round. Because of the pressures that exist, there is a tendency for the Parliamentary Bureau to say that we will have the debate as soon as the report is ready. Members always know when the report will be ready, so it would always be possible to give a week, but the Executive would probably point to the pressure of time and say that we have to pass a lot of legislation. The only answer to that is to take things in general at a slightly slower pace.

10:30

Richard Baker (North East Scotland) (Lab): There is certainly a very good case for members

to receive informal briefings at stage 1—after all, many members would like to take part in stage 1 debates. However, smaller groups are often unable to get anyone other than their member on the lead committee into the debate, whereas larger groups such as my own can have three or four chances to speak.

Moreover, although some members would like to speak in stage 1 debates, they feel that they do not have the depth of knowledge to do so. It is essential to have an informal briefing at some point in the process; too often, the weight of committee work means that members cannot focus on legislation that other committees are considering.

Given the pressure that bill teams are under, particularly in the period after stage 2 and before stage 3, it might be easier for the Executive to provide informal briefings at stage 1. If we can bring members up to speed at that point, they will find it easier to keep track of bills' progress after stage 1. I imagine that other members might have different ideas.

The Convener: If informal briefings were offered but no one went, we would at least have tried to do something about the situation.

What underlies the whole matter is Robin Harper's point that the Executive has set itself a very ambitious programme of legislation. Because it is constantly under pressure to speed things up, it is very unhappy about giving members another week to read reports and so on. I am not sure whether we can persuade it on this matter. That said, one advantage that we have over Westminster is that our bills do not fall at the end of the parliamentary year; they can be in progress for the full four-year session, so the Executive might not be under so much pressure. We might be able to push it.

Before I move on, I note that Richard Baker has indicated his support for an informal briefing, and we should point out to the Executive that it imposes an excessively tight timetable on itself.

The next section of the paper deals with stage 3 proceedings, which constitute probably the main area of disagreement with the system. Recently, stage 3 proceedings have been under so much pressure that the Presiding Officer has had to limit members to two-minute or three-minute speeches or has kept saying, "Please be brief, Mr X," and so on. Although that is not the Presiding Officer's fault, it does not create the right atmosphere for legislating. We need to take a more relaxed approach to stage 3.

We have already touched on the suggestion that a whole day or more than a day be set aside for stage 3. A subset of that is the question whether we should separate the debate on the motion to

pass the bill from the debate on stage 3 amendments. Obviously, one affects the other. What do members think about the timetabling of stage 3? Should we urge the Parliamentary Bureau to be more sensible and to allocate a lot more time?

Alex Johnstone (North East Scotland) (Con):

In the stage 3 debate last week, debate on a group of amendments was extended and the Presiding Officer said that six or seven members were not called to speak, which is obviously a problem. Regardless of whether members agree with amendments, it is important that any member who has something to say on amendments be given the opportunity so to do.

I would like to see such problems being overcome through additional flexibility. We have already seen very good examples of how the additional flexibility that has been available to the Presiding Officer has produced results in recent debates. I wonder whether there is a potential connection with the proposal to separate more regularly the stage 3 debate from the debate on the motion to pass the bill. I do not think that it is particularly problematic to deal with the two debates together, although it limits the time that is available for flexibility when we are debating amendments. If the stage 3 proceedings on amendments were to stand alone, the Presiding Officers would be more inclined to add the necessary 30 or 40 minutes to the debate time, which would exceed the time that is currently available, but would allow everyone to have their say.

Mr McFee: That goes to the heart of the matter. We still have to take the fundamental decision about whether we should continue to operate according to rigid decision times throughout the day to try to finish at 5 o'clock. That question underlies the situation. We need to decide on whether to allow continuation of debate almost until it is exhausted or whether to maintain a boundary time—plus or minus half an hour—by which we must finish. We will have difficulties getting business into a particular framework until that decision is made.

If we were to have the debate on the motion to pass the bill on another day, we could add perhaps half an hour or three quarters of an hour to the end of stage 3 proceedings, which I suspect would be used up. That would be taken into account by the Parliamentary Bureau when it timetables business. If we are going to maintain a set decision time and a set time by which we want to finish, we have to ensure exceptionally good scheduling of stage 3 debates, which means that the Parliamentary Bureau needs to have a reasonable insight into what will happen during proceedings.

I agree with Alex Johnstone that if we are to maintain a rigid system, we must have additional flexibility or we will be asking for trouble. We still have to answer that fundamental question.

It is disgraceful that we have voted on entirely new motions on which there was absolutely no debate—I am thinking of stage 3 proceedings on the Licensing (Scotland) Bill in particular, when a trail of ants would go to the table at the back of the chamber to pick up the latest entirely new amendment as it came in. Some of those amendments were voted through without debate.

Another proposal in the paper is on when the last date to lodge amendments should be, but the Presiding Officer retains discretion to accept last-minute amendments, which is what happened during stage 3 of the Licensing (Scotland) Bill, so that proposal would not have made a blind bit of difference to the outcome.

I do not like the rigid 5 o'clock finishing time. When we meet in plenary session for only one and a half days a week, it inhibits debate and imposes an unbelievably tight restraint on parliamentary business—then we wonder why it does not work. The imposition of a rigid timetable on business is what is fundamentally wrong with the system.

Robin Harper: In the seven years of the Parliament, very few stage 3 Executive amendments have been withdrawn or defeated and very few Opposition amendments have been accepted by the Executive at the last minute. Surely stage 3 should be seen as the time when that could happen as a result of debate and the Executive's having listened to argument in the chamber. Otherwise, the whole thing is just a formal process and it is immaterial whether the ants' amendments are debated because it is of no import.

I would prefer that more time be given to debating amendments than to the final debate. The debate to pass the bill takes place when everything is done and dusted, but if there is a possibility of an amendment being defeated or accepted at the last minute, it should be given its best chance through proper debate.

Alex Johnstone: At what is perhaps an even shallower level than what Robin Harper suggests, some parties have at times voted for or against amendments to the surprise of the majority of members in the chamber. It is important that those parties should always be given the opportunity to explain their decision. Not being allowed to speak often leaves us exposed.

Richard Baker: Bruce McFee referred to the pinch point in the Licensing (Scotland) Bill. Things have improved a bit since then and since some of the committee's recommendations have been in place and rules have been changed. I am not

saying that we are in a perfect world, but the flexibility that has been given to the Presiding Officer means that there have been fewer rushes and similar situations—to which Alex Johnstone referred—in which a significant number of speakers are not afforded the opportunity to speak. I agree that members who want to speak should have the opportunity to do so.

In a sense, it is logical for the debate on the motion to pass the bill to follow the stage 3 amendments debate. At the moment, the Presiding Officer uses a bit of flexibility with timing of that. Although we recommended that the stage 3 debate should have an hour, I agree with Robin Harper that time should be spent on amendments rather than on the debate on the motion to pass the bill. The flexibility to go into that time has been productive. However, as Bruce McFee rightly said, the Parliamentary Bureau has a job to do to agree on the appropriate amount of time for the bill. It would be ideal if the bureau could be more generous with the overall time. We will come back to decision time later, but obviously that would raise wider questions.

Mr McFee: During the Animal Welfare (Scotland) Bill, the Presiding Officer seemed to be reluctant to use the full 30 minutes. I am trying to remember whether we ended up using just 10 of the 30 minutes. I can understand why, if we have reached 20 minutes, there is a reluctance to use the final 10 minutes because if something goes awry, there would be no more leeway. We might want to have a wee look at that and see whether the full 30 minutes were used. My recollection is that the time was not used.

The Convener: The clerks have been doing some homework on this. My recollection of the Animal Welfare (Scotland) Bill is that the 10 minutes was used, but not the 30.

Mr McFee: That is right.

The Convener: We can certainly look into that.

As I see it, members agree that we are still not getting enough time for stage 3 proceedings, that the Presiding Officers are under pressure, that some members are not called to speak, that a lot more are given just two or three minutes to speak, and that there is an atmosphere of discouragement such that members do not apply to speak who might otherwise have wished to. Several members feel that, as a point of principle, everyone who wants to speak should be called. That should be the aim.

The question of the finishing time of 5 o'clock is important and has come up in other debates. Do we need to sort the matter out now?

Andrew Mylne (Clerk): It is up to members whether they wish to discuss the subject. The

point was covered in the papers for the previous meeting, but nothing has been finalised, as I understand it. Members are always entitled to come back to such issues.

10:45

The Convener: If we are to have a plan A and a plan B, plan A is to consider whether a definite closing time is a good thing or we want to change that, and plan B is to question whether, if we stick with a definite finishing time, we can achieve the best possible result that will produce flexibility. Plan B also encompasses the possibilities of separating some bills' stage 3 debates on amendments from the debate on the motion to pass the bill and, above all, of giving more time for stage 3 debates.

Robin Harper mentioned that the Opposition hardly ever has successful amendments. I am a negotiator at heart and I believe that success is more likely to be achieved if more time is given for the construction of amendments and so on. The Executive is more likely to accept an amendment if it has been modified after negotiation than it is to be convinced by our oratory in debate. In a democratic system, the oratory in debate is important, but we should allow time for proper negotiation, including within groups. Groups are not monolithic bunches of sheep. Members have views and can negotiate within their own groups. A longer period for lodging amendments would be helpful, although that is a separate issue from the length of the debate.

Mr McFee: That is a wonderful idea, but I am not sure whether we are geared up for it at the moment. The Executive might come back and say, "Instead of making that 3s 6d, can you make it 2s 9d?" I have some sympathy with what the convener suggests, but I am not sure how it would work in practice.

Karen Gillon (Clydesdale) (Lab): If we think that the way to resolve this is to have more time between stages 2 and 3, we are kidding ourselves. The way to get the Executive to change its position is for members to be involved in a bill at stages 1 and 2, to convince the committee of their arguments and to force the Executive into a position at stage 3. If members come to a bill at the end of stage 2 and try to get provision included at stage 3, it will not happen because other members will not be receptive to it. Members have to convince others throughout the process.

What still happens is that members come to stage 3 too late. I am guilty of it myself. You sit down at the stage 3 debate, look at the amendments and go, "Oh, I never really thought about that." You never think about something unless you have been lobbied on it. Ken

Macintosh is a case in point. His amendment to an education bill was successful at stage 3 not because of a big debate beforehand but because all of us sat down and decided that what he was saying was right and that what the minister was saying did not add up, so we voted for the amendment. Bills change, but they change between the committee report at stage 1, and amendments at stages 2 and 3. There are generally more changes between stages 1 and 2 than there are between stages 2 and 3.

The Convener: It is not an either/or situation, but I take your point.

Mr McFee: The convener was putting forward an idea that has some merit, but I wonder how it would be accommodated within the existing system. I do not see the space for the Executive to get back to individual members; for example, if I lodged an amendment at stage 3—even early doors—I would not envisage the Executive coming back to me and saying, "If you tweak that a wee bit we'll vote for it." In reality, would that ever happen? Perhaps that is something we could take a closer look at.

Karen Gillon: If you had been involved in the principle from the start of the bill—

Mr McFee: Sure. We were talking earlier about how we could involve more members.

Karen Gillon: That should happen before stage 3. The Executive might not let you lodge an amendment, but might just lodge one that would do the same.

Mr McFee: I take that as given.

Karen Gillon: And that is just the SNP.

The Convener: I accept Karen Gillon's point for times when we are trying to force something through the walls of Jericho, which are pretty solidly built. However, there are crumbling bits of wall and if a member blows their trumpet at the right time, they can sometimes get agreement on an amendment. Members of the relevant committee may not have supported the proposal, but may have sympathy for it. There is scope for negotiation.

Mr McFee: Joshua had slightly longer than the time that is allocated for a stage 3 debate.

The Convener: Life was more leisurely in those days.

We should make the psychological but important point that some people, especially those who are involved in the management of proceedings, think that, if a debate finishes slightly early, that is as big a disaster as when we do not have enough time to discuss a bill properly. I totally reject that. It is a much bigger disaster if we do not discuss a bill properly. If we finish slightly early, that is a minor

inconvenience and not a disaster at all. Often, when suggestions about timings are made, we are told, "Oh, but we might finish early." So what?

Alex Johnstone: I seem to remember that, in the first session of Parliament, motions to take decision time early were moved rather more regularly. That seems to have been absent in this session.

The Convener: Out of the past 15 stage 3 debates, the clerks have identified only two occasions on which the consideration of a bill has finished early. The issue is not a big deal, but we could stress that point.

Mr McFee: Alex Johnstone raises a reasonable point. I would far rather occasionally have business finish early than have members silenced on the same number of occasions because not enough time is available. If we had to choose between the two, I know which one I would choose. We sometimes get an embarrassing five or six-minute silence when business collapses and the Presiding Officer suspends the meeting until decision time—that does not happen only with debates on whether to pass bills.

Karen Gillon: That does not happen when I am the closing speaker.

Alex Johnstone: We should remember that some deputy conveners of committees have filled in enormous gaps in debates.

Karen Gillon: Indeed.

Mr McFee: Apart from Karen Gillon's ability to speak slowly when required, surely to goodness we could have another mechanism to get rid of that embarrassing two-minute silence and bring forward decision time. That would help to make business more seamless than it is at present. I know that probably only about five folk watch the Parliament, but it is embarrassing when members have to wait for 5 o'clock and sit and chat about what they are doing at the weekend.

Alex Johnstone: We must remember that, although it is inevitable that we sometimes have important and close votes, for which party business managers have to rush round to ensure that everybody is there, those are rare occurrences in the Parliament. Business managers should have the opportunity to prevent an early vote, should they think that there is some danger.

Karen Gillon: If we finished two minutes early, the business manager could speak on the business motion to prevent a suspension. They could talk about what is coming up in the week ahead, rather than simply say, "Formally moved". I am not being funny—that would be better than suspending business.

Mr McFee: Yes—suspending business is dreadful.

Karen Gillon: It makes us look stupid and unprofessional. Somebody should do something to ensure that we finish on time, if the gap is only two or three minutes. If we finish 50 minutes or an hour early, that is a different issue, but I am not convinced that we should suspend business for two or three minutes. We should find a way in which to fill the space.

Alex Johnstone: It is surely not beyond the wit of the business managers to formulate a short debate at the end of the day.

Karen Gillon: Of course it is not. As a Parliament, we need to grow up. Throughout this inquiry, I have not been convinced that there is not enough time in the parliamentary year for us to do what we have to do. The manner in which we create our timetable may leave insufficient time for debates that we want to be longer. There are numerous occasions on which stage 3 debates should take place over two days—and if business finishes early, it finishes early. A mature democracy should accept that. After that happened a couple of times, the press would get sick of reporting it and would move on to something else. They may not even report it at all.

The more important thing is that we should have full and frank debates on contentious issues at stage 3, so that views can be expressed. The business managers should get together and sort this out. We have all been talking about these issues for far too long. It is not a procedural fix but a timetabling fix that is required. The business managers need to get on with it and make a decision.

The Convener: There seem to be many strong views on this issue, and I will invite the clerk to discuss the mechanics of it with colleagues.

The division bell that we have introduced in recent months should assist with the point that Alex Johnstone raised about the whips wanting their voting fodder to appear at the right time. When the bell rings, people know that something is coming up. It may be that a different mechanism will be required if there are a spare two or three minutes before decision time.

If we get the flexibility that we seek, we will be able to discuss a bill over a day and a half. However, if we do not use the whole of the last half day, it may be that a members' business debate could be slotted in. I do not think that it would be too difficult for the member whose debate it is, the minister and the few people who are interested in it to be made aware that a spare slot for the debate may be available, depending on the timing of the stage 3 debate.

Right. We have had a constructive discussion about stage 3, with a lot of agreement. The clerks will come back with ideas on what they think we have been saying.

I missed the committee's arduous study of oral questions and I sense some reluctance to embark on the issue again, but I am open to suggestions.

Mr McFee: We have another paper coming up on interpellations. If we decided to consider interpellations, we would have to revisit oral questions, because there could be crossover.

Alex Johnstone: That covers what I was going to say. Let us not reopen the issue unless other decisions force us to.

Robin Harper: It is not that I want to reopen the issue, but at the end of this parliamentary session, just under a year from now, it might be worth finding out how content people are with the current system. I find with the ballot system that people end up with a question that is nowhere near their own speciality. As a result, their supplementary question does not always have the edge that they would like.

Alex Johnstone: That is a skill that we can all develop.

Karen Gillon: Surely, the point of question time is not to ask questions on a speciality but to ask questions as a member.

Robin Harper: Yes.

Karen Gillon: It would depend whether the question was party political or was from you as a member.

Robin Harper: In the past, I always lodged parliamentary questions the answers to which I was particularly interested in because I had been following the issue for a considerable time. I did that rather than move into somebody else's territory, which would mean that I would have to consult them and say, "Right, what are we really on about here?" Perhaps others are perfectly happy with the ballot system—perhaps I am still getting used to it.

Karen Gillon: If only I had the option of having a speciality.

Mr McFee: I commend the paper on interpellations to Robin Harper. For the issue that he raises, he may find interpellations to be a far better vehicle than the current system—depending on the type of interpellations we had and how the system was constructed. More important, if we decided to go down the road of interpellations, they could open things up.

We have to take First Minister's question time out of the equation, because that is the Punch-and-Judy section. However, with the others—

especially themed questions and perhaps general questions—we could go into more issues in greater depth through interpellation. We will come to that later. All that I am saying is that there is a crossover. If the final decision is that we do not need to change the number of hours for which the Parliament sits, we will certainly need to reallocate those hours.

11:00

The Convener: It is suggested that we should not reconsider oral questions unless our other decisions compel us to.

The next heading in the paper is "Debates on legislative consent motions". We have just changed the rules on that, so I do not think that we can comment until we see how the rules work.

The next heading is "Ministerial statements and debates". People, including me, have raised the issue that, often, more members want to ask a question about the statement than the Presiding Officers can find time for; then we move on to some boring debate in which nobody wants to speak. There should be more time for some ministerial statements. Obviously, it is difficult to decide in advance whether a ministerial statement is important or dull—the minister will never say, "I am about to make a dull statement"—and to forecast how many questions there should be.

In addition to the desire for more questions is the related issue of whether it is sensible to separate the statement from the questions or to have the statement and the questions on one day and the debate—if there is one, which happens occasionally—on a different day. It seems peculiar that we follow the Westminster tradition that, other than to the Opposition spokespeople, the minister's statement is made available only when he or she stands up or sits down—it is one or the other, but I cannot remember which. We have to sit and listen to the statement and then ask questions, but sometimes we are not quite sure what the minister said. We could ask much better questions if we had time to read the statement.

Do members have views on those issues?

Karen Gillon: We should separate the statement and the questions. The current system is inherently unfair to back-bench members because they do not see the statement in advance. The system does nothing for proper scrutiny.

Mr McFee: I agree. Members have to listen to the statement and then try to get a question in, but the situation is even worse than that because everybody knows that the lists of potential questioners are submitted before the statement is even made. As a back bench, one's prospect of asking a question is remote.

Alex Johnstone: I am inclined to disagree about separating the statement and the questions. Often, the Presiding Officer says at the outset that questions will be taken after the statement and that there should therefore be no interventions. That is an important part of the structure. If members have issues that they want to raise or if there is something that they did not understand and that they want reinterpreted, an opportunity comes along at the end of the statement to deal with that.

Occasionally, statements have been scheduled for longer than initially seemed necessary. On those rare occasions, we have had some extremely good sessions in which a large number of people have been able to ask questions and we have been able to develop areas and perhaps stray into the area that might be covered by interpellations. I prefer questions to be taken immediately after the statement. If necessary, perhaps the right way to go is to ensure that the statement is made available in writing to members before it is delivered—perhaps that would help to inform the debate. However, I think that the system of statements and questions has a fluidity and spontaneity that other things that we do in the Parliament do not have.

Mr McFee: Alex Johnstone describes a situation that happens rarely, which is that the statement does not take long so the Presiding Officer has to search for a member to ask a question. On the majority of occasions, the statement takes a fairly reasonable length of time and the only people who get to ask a question are those who submitted their name the day before. They know what question they will ask, which may or may not bear some relation to the statement that has been made. Unless extra time is made available, the chances of a back bencher being chosen by the Presiding Officer to ask a question are remote, because their party may have submitted four other names in advance.

Alex Johnstone: The specific occasion that I remember was a statement that was made some time ago, when the issue of bird flu first became topical, before there had been any cases in this country. The time allocated was perhaps generous, so after the statement a large number of members asked questions. We got to the point where the only members left with questions to ask were those who knew what they were talking about. That is unusual.

The Convener: I accept that it is useful that there are no interventions when a minister makes a statement. If questions on the statement were timetabled half an hour later, members could reasonably be asked to restrain themselves. The Executive would have kittens about the common-sense suggestion that we could be given the

statement half an hour early because it thinks that we would all rush off to do a piece for telly.

Mr McFee: Such a statement would already be with the media—it would be at the *Daily Record* the night before.

The Convener: In democratic theory it would not be.

The chances of getting the Executive to accept earlier distribution of the statement are probably fairly slim, but there is no harm in trying.

Mr McFee: It is a courtesy.

The Convener: It is a courtesy to the spokespeople on the matter concerned.

Alex Johnstone: The courtesy could be extended.

The Convener: It is worth exploring the issue. Do we want to say that statements should be debated more often? It is currently fairly rare to have a debate on a statement. We do not want to say that all statements must be debated, because some of them are about very technical issues, but we could give the Executive a push in the direction of having more debates on statements.

Alex Johnstone: That structure has been used by the First Minister himself on a number of occasions. A statement has been made and a debate has ensued. That is a more acceptable way to deal with an important subject than to have questions after a statement. The format has been extremely successful when it has been used and the option should be considered more often.

The Convener: If there is not a debate on a statement, the questions tend to be preceded by the questioner setting out his or her party's stall and then asking, "Do you agree?" Those are not really questions at all. If there was a debate, that might make such an approach less likely and the questions might be actual questions. However, that may be wishful thinking.

In general, we think that there should be more debates following statements. Is it correct to say that most of us feel that there should be a separation?

Mr McFee: Between the debate and the statement or between questions and the statement?

The Convener: The debate and the statement should certainly be separated. There is perhaps a slight disagreement about the separation of questions from the statement.

Karen Gillon: I would be happy for there to be no separation if members were given the statement in advance. If there was a level playing field, I would have no problem with the statement

and the questions being taken together. My difficulty is that back benchers have to sit and listen to the statement, make notes as the statement is being made and then try to ask a question on the statement. In contrast, other members have seen the statement, have had researchers pour over it and have gone through various internet searches and so on to come up with their questions. That is not a level playing field. We should all be treated equally in the Parliament.

Mr McFee: I agree with Karen Gillon. However, even if she had the statement, she would still have a problem, because when she pressed her request-to-speak button, she would be behind all the members whose names had been submitted the night before. Even if she got to read the statement, her chance of asking a question would be remote. That is a time allocation issue. It is all very well to inform us all in advance, but if a member has Buckley's chance of being called when they press their request-to-speak button, it does not matter whether they had the statement two days before. There are two issues.

Karen Gillon: We could say that whips will not be allowed to submit lists in advance in such circumstances and that selecting members will be a matter for the Presiding Officer.

The Convener: As with stage 3, we agree that more time should be allocated overall to deal with important statements. If the statement and the debate took place in the early part of an afternoon or morning, the timing of the next debate could be flexible according to the number of people who were called.

Mr McFee: The Presiding Officer has occasionally allowed a bit of extra time. I am not sure what the authority for that is, but he seems to have managed it.

The Convener: Does he not take the decisions?

Andrew Mylne: Formally, the Presiding Officer always has discretion as to whom to call, regardless of whether a list has been prepared.

Mr McFee: I am talking about the time for questions. I have certainly witnessed statements that have gone over the allocated time, for good reasons. I am just not sure how that operates. Perhaps a rule—almost like the 30-minute rule or a variation on it—is needed to give the Presiding Officer discretion.

Alex Johnstone: The Presiding Officer certainly seems to be exercising that discretion; he should be encouraged to do so.

The Convener: I do not recollect that the *Business Bulletin* gives a time for dealing with a statement.

Andrew Mylne: The daily business list sets out the business that is to be taken. Often, it simply lists items "to be followed by" the next item. In such cases, discretion lies with the Presiding Officer to an extent, although in practice that is exercised—

Mr McFee: In practice, the Presiding Officer usually says that he will allow 20 minutes for questions.

If that discretion exists, a rule is not required. However, what is probably required is more sensitive timetabling. I know that that places a lot of pressure on the bureau, but that might be good. The bureau will need to have a magic wand.

The Convener: We have just about dealt with the seven questions that the clerks have put at the end of paper PR/S2/06/10/1. On question 4, which is about increasing the notice period for stage 3 amendments, Karen Gillon felt that an increase would not help much. What do other people feel about that? I am an enthusiast for the proposal.

Karen Gillon: What is the current period? Is it five sitting days?

Andrew Mylne: It is four sitting days.

Alex Johnstone: That is probably adequate, as long as we have enough time between stages 2 and 3 to develop our ideas.

Mr McFee: The crux of the matter is the time between stages 2 and 3.

What is the notice period for Executive amendments? It is four sitting days for the rest of us.

Karen Gillon: The period is five sitting days.

Andrew Mylne: Under the rules, the period is the same for everybody. The Executive operates an informal convention under which it aims to lodge most of its amendments five sitting days before stage 2 or 3 starts, but the rules are the same for everybody.

Mr McFee: We do not want to remove the Presiding Officer's discretion to accept last-minute amendments, because they might be late for perfectly valid reasons.

Alex Johnstone: I would rather have an unseemly scramble at the end than bad legislation on the statute book.

Mr McFee: One is sometimes the result of the other.

The Convener: If we succeed in getting more time for stage 3 debates, possibly by extending them into another day, we will also allow more time for off-stage discussion, as it were.

11:15

Mr McFee: It has been suggested that the stage 3 debate does not matter a tuppenny damn. By that time, the decisions have been taken on the legislation. We can debate bills, but we have to pass or not pass them; we are not given the opportunity to do anything else.

Given that we do not have a second or revising chamber, it is very important that adequate time is given to the consideration of bills at stage 3.

Karen Gillon: I think, Presiding Officer—

Alex Johnstone: It could happen yet.

Karen Gillon: I meant to say “Convener”.

I think that we need to send a very clear signal to the business managers that we expect them to sort this out. For the past seven years, members have complained about the lack of time at stage 3; for the past three and a half years, we have debated the issue. The business managers need to sort it out.

I suggest that we leave things flexible at the moment. However, if the business managers show less than a willingness to sort it out over the year ahead, when there will be numerous stage 3 debates, we should add the issue to the legacy paper for the next Procedures Committee. We could recommend that it considers the introduction of rules that would require stage 3 debates to be held over a longer time period than is the case at present.

Robin Harper: I support that.

The Convener: Each of us could contribute by speaking to our respective business manager and telling them to get a grip.

We have covered the first paper, which is perhaps the weightiest of the three. I turn to the second paper, on special cases of parliamentary business. At the moment, committees have 12 half sitting days and Opposition parties have 16 half sitting days for debates. A subtle point is made in the paper that those days can be sliced up, so to speak. There is a suggestion that it might be better to say that committees have 12 two-hour sessions, for example. There is also the overall issue of whether the allocations are fair. I suppose that that point impinges somewhat on the subject matter of the next paper, on interpellations. If we go for interpellations, out of whose current slice of the cake do they come?

Karen Gillon: Everyone's.

The Convener: At the moment, setting aside debates on Executive legislation, the Executive has 41 debates whereas the number of non-Executive debates is 17. The question is whether those allocations are reasonable.

The issue that troubles me most is our concept that debating time is the Executive's time. Other Parliaments with which we have dealings have the concept that the time is the Parliament's time. We seem to think that it is up to the Executive to kindly give little bits of its debating time to committees and Opposition parties. We should think of the time as the Parliament's time. Obviously, the Executive needs time to get its legislation through and a fair share of the time that is allocated to debates. However, at the moment, the whole thing is in effect decided by the Executive. That is not correct.

Mr McFee: I have stuff to raise on issues that appear earlier in the paper, convener, but I am happy to open on that point. Until we take other decisions, we will go round and round the arguments on this one. Before we can slice up the cake, we need to know how many people want to eat it. We have not quite got to that stage.

I note the proposal for parliamentary time to be divided among the different groups on a more pro rata basis. We may or may not take a view on that, but it is clear that time is limited. For example, in the new division, the Green party has only two debates a year; I am not sure how the Scottish socialists and the independents will manage on one and a half debates a year. There is also an issue as to whether those debates always serve the purpose that they are supposed to serve.

Karen Gillon: They are not debates.

Mr McFee: Perhaps, depending on how we interpret interpellations, that could be looked at as well. That may be another thing that has to go into the big melting pot. I do not know, but I agree that we seem to have the idea that the time belongs to the Executive and that the rest of us receive the crumbs from the table. I think that that is fundamentally wrong.

Karen Gillon: You do not know how lucky you are.

Mr McFee: Thank you. Your charity knows no bounds.

Alex Johnstone: We all know that the position that Bruce McFee has described is the position as it is. In principle, however, the Parliament is in control of its own business. It is the fact that the Executive commands a majority in the Parliamentary Bureau that allows it to influence business as heavily as it does. On balance, that is probably the best of a bad bunch of options that might be before us. In that respect, I am therefore keen to ensure that non-Executive parties get their allocation of time and, as I have said before, I am also keen to ensure that no attempt is made to restrict the way in which non-Executive parties use the time once it is allocated to them. If we were to go down the road of presenting different

alternatives to the current non-Executive allocation, those proposals would be worthy of consideration, but at this stage I have to defend the right of non-Executive parties to have their time in Parliament. I would consider changing that position only if we had something else on the table that might be more desirable.

Mr McFee: I do not think that there is any disagreement about that. Nobody apart from Karen Gillon suggested anything to the contrary.

The Convener: In a year's time, there might be a minority Government. Would it have all that time and would all the other parties, with many more members, not have the time?

Alex Johnstone: When that day comes, we could all have a great deal more fun.

Mr McFee: Alex Johnstone's people are going to sit in on that anyway.

Robin Harper: They would want more debating time in order to be able to explain themselves.

Karen Gillon: A minority Government would not have a majority on the Parliamentary Bureau, so it would not get the time.

The Convener: There is an issue about committees being given more time for subject debates and about whether the Opposition parties should be given time in better proportion to their membership in the Parliament.

Karen Gillon: I would support an increase in committee time if it was not just a debate among committee members. Nine out of 10 times in a committee debate in Parliament, all the committee members stand up and say their piece about the report that they have produced and nobody else participates in any meaningful way. I would be quite happy to have an increased amount of time in the chamber for committee business if the convener put forward the committee's views and then Parliament debated them, with members of the committee standing back from that. That way, it would become a debate on the subject, which would be much more meaningful and worth while than what happens at the moment.

Mr McFee: Is it not the case that some of the slots allocated for committee time have not been taken up?

The Convener: Yes.

Mr McFee: If there were more time for committee debates, it would presumably be a matter of persuading the committees to look for more debates.

The Convener: Taking Karen Gillon's point on board, I wonder whether such a debate would have to be considered at an earlier stage in the proceedings, before the kind of debate that she

has described could take place. If a committee is going to do research on a subject before it writes its report, it could tell the Parliament that it is researching that subject and that it would like members' views for a general debate. That would get over the problem of the committee just parroting its stuff.

Alex Johnstone: It occurs to me that committees could hold subject debates at the early stages of inquiries. That would have lent itself perfectly to the process that we are going through now. If a subject debate on how parliamentary time is used had been held during committee time, we might have a lot more to go on at this stage.

Karen Gillon: If Alex Johnstone refers back to the *Official Report*, he will find that I suggested such an approach some time ago, but I think that we were overtaken by an Executive debate. We had begun to explore that idea. Alex Johnstone is right, however, to suggest that we are talking about this idea in a bit of a vacuum. It has become all about our pontifications, rather than those of others.

Mr McFee: I presume that the option still exists at this stage. Precisely that debate could be held before any report is concluded.

Karen Gillon: Yes. We could say where we have reached and ask for people's views. There is no reason why not. I would be happy to sit back and enjoy listening to the convener explain the committee's position.

Alex Johnstone: The clerks might reach the stage of having lots of options for our report, as often happens, and we could publish an interim report containing all those options and have a debate on it.

Mr McFee: And we would end up with more options.

The Convener: It is worth pursuing that line of thought.

Let us press on to the heading "Advance notice of non-Executive debates".

Mr McFee: Could I go back a little bit? I did not want to cut into the discussion earlier. Paragraph 4 on page 2 comes under the subheading "Origins of the Rule", which in turn comes under the main heading of "Rule 5.6 – Special cases of Parliamentary business". It refers to members' business debates. The third bullet point of that paragraph says:

"time should be set aside 'after the votes at the end of the day' to allow 'members to raise non-controversial, constituency-related issues'".

Why both those qualifications? Why should members' business debates only be non-controversial and constituency related?

The Convener: Those were the views of the consultative steering group, not the Parliament. Personally, I feel that the CSG could be quietly consigned to history. It was a worthy bunch of people, who were very helpful before the Parliament was set up, but we now have seven years of our own experience to go on, rather than just the theoretical ideas of some other people. That is the explanation—that was the CSG's view and it led to members' business debates.

Mr McFee: Could we raise the question why those two rules should continue to be followed for members' business?

The Convener: Yes.

Mr McFee: Members will have various views on that.

Robin Harper: There is a view that it would be more fun if members' business debates were controversial and not constituency related.

The Convener: The issue is addressed a bit later in the paper, in paragraph 44.

Mr McFee: I just wanted to highlight the matter.

The Convener: It is useful that you have raised it.

Turning to the subject of advance notice of debates, I included in my paper on bill procedures and related issues a suggestion that longer notice periods should be applied to ordinary debates, with five days' notice of the motion and two days' notice of amendments. More notice should be given of debate subjects, whether they are Executive debates or Opposition debates, with an opportunity to respond should members wish to go for something highly topical instead, in which case the Presiding Officer could let them change their minds. The argument that a debate must be decided at the last minute because of topicality is a load of rubbish. Parties have their views on education, housing or whatever it is, and those are not going to change over 12 hours. Giving more notice would lead to better speeches, as members would have more time to research topics more fully.

11:30

Karen Gillon: It depends on whether we want to have a debate on the motion or on the general subject. Nine days out of 10, members do not debate the motions that are before them; they make the speech that they were going to make whatever the motion said.

I agree with you, convener. By Wednesday we should be required to lodge our motions for the Wednesday and Thursday of the following week, and by Thursday, we should be required to lodge our amendments for the Wednesday and

Thursday of the following week. Everyone would then know what we are going to debate, we would be able to go away and consult the people whom we are here to represent and we would be able to have a meaningful debate. We cannot do that at the moment because we get the motion and the amendments the day before the debate and we cannot talk to anyone about it. That is stupid. If the situation is an emergency, the Presiding Officer has the discretion to allow an emergency debate, but motions should be laid on the Wednesday and amendments on the Thursday so that everyone leaves here on the Thursday night knowing what is going to be debated the following week. The public and the press will also know what is going to be debated, and we can have a meaningful debate based on fact.

Alex Johnstone: The convener and the clerk can correct me if I am wrong, but when we visited Oslo, it was explained to us that the timetable for the chamber in the Norwegian Parliament works on a framework that is started months in advance. If anything is projected months ahead, it is fitted into that framework and, although it is possible to add procedures or additional work, the framework evolves over time and it is possible to plug into what is going to happen in Parliament a month ahead and see as much detail as is available at that time. The Norwegian Parliament seems to have a much better system for letting people know what is happening in the future.

The Convener: It would be possible for the Executive to say that during June, for example, it will ensure that there is a debate on X, but the exact timing of the debate could wait a wee bit. The Executive gets very worried about committing itself.

Mr McFee: That might be easier for subject debates.

Karen Gillon is right. There is merit in making those who intend to lodge a motion lodge it in reasonable time and those who intend to lodge amendments to that motion do likewise. That seems to be reasonable.

There seems to be an idea out there that somehow there is a Blackadder and Baldrick cunning plan and that members should wait until the final minute to slip in the motion and amendments. Members often do not see the amendments. If there is an Executive debate, for example, I will probably see the SNP amendment on the afternoon before the debate, but I will not see the Tory amendment until I read the *Business Bulletin* on the following morning. The idea that we can then have a debate on the motions and amendments is laughable, especially without a wee quick squint at them to decide whether we can support them. There is therefore merit in Karen Gillon's ideas.

Karen Gillon: Such a system would mean that parties could have more sensible discussions about what is in the amendments and find out why the Executive does not accept an amendment when it looks to be absolutely sensible. However, we cannot have that debate when we do not see the amendment until we sit down in the chamber, by which time it is too late to get into the discussions.

The Convener: I agree.

Robin Harper: There should be two days between the lodging of the motion and the lodging of the amendment; 24 hours is not long enough, for the reasons that Karen Gillon was talking about. It can be very advantageous to talk to other parties, including the Executive, about an amendment to see whether they will accept it. If one is trying to be positive and to improve the situation, it is much better to be able to lodge amendments that would improve on what is already there rather than directly contradict it. Members need time to do that.

The Convener: So you are arguing for more time between the lodging of the motion and the lodging of the amendments.

Robin Harper: I also agree with Karen Gillon's suggestion that they should be lodged during the week before they are debated.

The Convener: There seems to be widespread support for the motion being lodged a week in advance of the debate, but there is an issue about whether members want a day or two to sniff around and talk to other people about the amendments or whether they want to see the amendments as soon as possible so that they can try to persuade their group to support them or not. The activity in the Parliament takes place on Tuesday, Wednesday and Thursday so, if an amendment to a motion that was lodged on a Wednesday is not lodged on the Thursday, it is difficult to get members together until the following Tuesday.

Mr McFee: In that case, the party that is to move the motion could lodge it on the Tuesday and, I presume, discuss it in advance with other parties. That might get over the slight timing difficulty.

Karen Gillon: Could we consider the matter in a wee bit more detail?

The Convener: Yes. There is general support for a lot more notice of motions. It is just a question of the mechanics of discussing amendments to try to reach suitable agreement.

In paragraph 30 of paper 2, the clerks raise the point that there might be a technical problem with the rules differentiating between longer notice for real motions and amendments and one-day notice

for procedural motions and amendments that are not serious. Is that an issue?

Andrew Mylne: I was merely flagging it up as a possible issue that we need to consider, but it is not an obstacle in principle to what the committee suggests.

Karen Gillon: I am sure that you can find a form of words, Andrew. That is what we pay you for.

The Convener: The Minister for Parliamentary Business would probably not want to have to give too much notice for some of the motions that she moves.

Karen Gillon: What does that mean? We should ask the Minister for Parliamentary Business to give as much notice as anybody else except in particular circumstances. We should stop lodging business motions that say "Executive business" and "non-Executive business"—those terms do not mean anything to anybody and are pointless—and should specify the subject of the debate. Business motions are lodged only a fortnight in advance, so surely parties know what they will want to discuss in two weeks' time. That should apply equally to the Executive and non-Executive parties.

Robin Harper: Yes, indeed.

The Convener: That is helpful. The next section of the paper concerns committee debates. I think that we have covered those to a reasonable extent in a previous paper. There was a feeling that it would be helpful to have committee subject debates earlier in the cycle of a committee's consideration of an issue.

Mr McFee: I did not mention earlier the issue of how members' business debates are allocated. There is a separate issue to do with that.

The Convener: It is a straight fix between the groups.

Mr McFee: It depends on whether a member's face fits within the group.

Karen Gillon: What about a ballot?

Mr McFee: I would be in favour of removing the restriction that members' business debates have to be on a constituency issue and non-controversial. If we did that, we would have to have some sort of proportionality in their allocation.

The Convener: We would still not have a vote at the end of a members' business debate, I presume.

Mr McFee: That is correct.

Alex Johnstone: Members' business debates need more bite.

The Convener: We could still have a biting motion without teeth.

Karen Gillon: If we remove the restrictions, all we will get is debates about issues that are not within the Parliament's responsibility.

Alex Johnstone: Unless there is a restriction on that.

Karen Gillon: Unless we put a restriction on that, it will happen. We need to make members' business debates more meaningful, but we will end up debating such issues unless we state that the debates must be on issues that are within the Parliament's competence. I would be happy to remove the other restrictions if we had that rule.

Mr McFee: We could remove one restriction and not necessarily the other.

Robin Harper: Yes. Perhaps we could alternate debates. The format that we have at the moment results in some good debates because they are consensual and because the minister has plenty of warning and replies for seven minutes. I would not like to lose that completely, but we could alternate between the present pattern and debates that are controversial but within the Parliament's remit.

The Convener: There is a range. If Karen Gillon wanted a new railway halt somewhere in her constituency—

Karen Gillon: I want hundreds of them.

The Convener: She could lodge a motion on the subject, debate it and then one or two list members could come along and claim the credit—

Karen Gillon: You will find that that is why I do not lodge motions to have such stupid debates.

The Convener: If the Airdrie scouts were celebrating their centenary or something, it would be fair enough to have a debate about it. However, if I want to lodge a members' business motion on a policy issue, I find that I have to jump through some peculiar hoops to get it accepted for debate. We are not allowed to call on anyone to do anything in the text of the motion; we are allowed to state that we believe that they should do something. Only a certain sort of wording is legitimate and that is rather childish. We could have more vigorous members' business debates; as there is no vote on the motion for the Executive to lose, what is the problem?

Karen Gillon: Have we sounded anyone out on the matter?

The Convener: I am not sure—we have not done so recently anyway.

Mr McFee: This could be a very long committee debate.

Karen Gillon: We could have two days of debate.

The Convener: At the moment, there is a straight proportional fix between the parties as to

who gets the members' business slot. Who gets the party slot is then decided within the parties.

Karen Gillon: I have not had one.

The Convener: I did not get one for a long time and then I was approached out of the blue.

Robin Harper: I would be against having a ballot because the laws of chance could mean that a very small party might not get a debate slot for two years.

Alex Johnstone: Judging by the experience of the Green party in this Parliament, you would probably get a slot every week.

Karen Gillon: Your Greens do all right out of the Parliament, young man—disproportionately well, I would say.

Robin Harper: I am not complaining, but I am considering how the coin could fall the other way.

Karen Gillon: I am a member of the most disadvantaged group in the Parliament.

Mr McFee: That is a very frank admission.

The Convener: Let us look through the questions on page 11 of the clerk's paper on special cases of parliamentary business. We have not covered them all as we did the questions in the previous paper. The first is:

"Should the Rule specify a minimum duration for non-Executive and committee debate-slots?"

Karen Gillon: I think that the rule should specify a minimum duration because if the time is the Parliament's, the Parliament should be able to debate the motions that are before it. We cannot possibly do that in the time allocated. It is just not possible to split a two-and-a-half hour debate into two slots—that is not a debate; it is a party political broadcast. That is fine if that is what we want, but let us not call it a debate.

Alex Johnstone: I argue against that, of course, because I believe that the time that is allocated to non-Executive parties should be the responsibility of non-Executive parties, which should be allowed to divide their time as they see fit.

Mr McFee: Absolutely. We should get away from the notion that only non-Executive debates are party political broadcasts

Karen Gillon: But those are shorter party political broadcasts. We have said today that we should have more time to debate the issues and that we should have more notice of the motions. Then we have debates in which one speaker speaks for four minutes. That is not a debate; it is a statement from each of the parties. I would criticise the Executive if it did the same thing.

If we are calling it a debate, it has to have a timeframe that allows us to have a debate. If we

accept that it is not a debate, we can do what we like with the time. We cannot say that it is the Parliament's time and then say, "If it's my time, it's mine and I'm going to do what I want in it." We have to have the same principle for everybody. If the committee says that the time is the Parliament's, the Parliament should be able to set the rules for how that time is used.

11:45

Mr McFee: Presumably, the Parliament would then be able to set the rules for how Executive time is used.

Karen Gillon: For time slots?

Mr McFee: Yes. However, that would basically hand the content of all debates to the Executive, because the Executive parties have the majority. That is a problem.

Karen Gillon: But this is not about the contents; it is about the length of the debate.

Mr McFee: Well, fine, but—

Karen Gillon: It is not about what is put in that space; it is about the Parliament deciding whether it can debate a serious subject such as nuclear energy in 65 minutes. It cannot.

Mr McFee: Of course it cannot, but that is the same as the argument for having more time for non-Executive debates.

Alex Johnstone: It is also the argument that if a subject is so serious, the Executive should schedule some of its time to debate it. It has more of it.

Robin Harper: Karen Gillon has mentioned one of our debates. We agonised about whether to have two debates—one on Trident and one on nuclear energy—or to opt for one or the other. We knew that having the two debates would not be popular, but that is what we decided to do. We were cognisant of the fact that we would not get a good, full debate in either of those two slots, but we knew that we would be able to make our points. Returning to Alex Johnstone's point, both those subjects could be debated in Executive time.

Richard Baker: I appreciate what Robin Harper has said, but in a debate of an hour and a half, each member will inevitably have only four minutes in which to speak. There will be only two speeches from, for example, Labour back benchers, whereas the party whose motion is being debated will have four speakers, including front benchers. That is my problem with the arrangements. If we are to have a debate in which members can formulate proper speeches and take interventions, four minutes is simply not long enough. There are few opportunities for back benchers to speak in such debates.

Karen Gillon: If the Executive had chosen to hold two debates in its time, I can guarantee that the Opposition parties would have screamed blue murder, because, in effect, only the Executive parties would have been able to take part fully. I am coming at this not from a Labour Party perspective, but from a Procedures Committee perspective. Such practices do not do the Parliament any good. I am not saying that we need to make a decision on the issue today, but the committee needs to address seriously the question whether such arrangements make good and effective use of parliamentary time.

The Convener: Let us park this issue. It is obvious that we are not going to agree—

Mr McFee: We could take the matter forward. I can agree with many of the points that Karen Gillon makes, but I would like to put the converse argument: if the next opportunity to hold a debate is six weeks away, in the case of the SNP, or six months away, in the case of the Greens, we can understand where those parties are coming from. Some of the issues that are debated could be covered by interpellation, if we look into it.

Karen Gillon: We should look into interpellation. That would offer a far better use of time.

The Convener: There are a lot of issues there. This is a fairly minor technical point, but should the rules say that the allocations should be more like two hours, rather than a half day?

Mr McFee: If we have to programme in all sorts of slots like that, whether they are on Wednesday mornings or Thursday mornings, we could end up with all sorts of issues.

Karen Gillon: There could be gaps.

Mr McFee: Tying ourselves up like that would be dangerous.

Karen Gillon: It is the luck of the draw.

The Convener: The next set of questions concerns the allocation of 16 slots to Opposition parties collectively. Should they have more slots in total? Is the division of slots between the parties fair enough? We have dealt with the last two questions, which were the dates of debates being publicised further ahead and more notice being given of the subjects. Do we wish to make any suggestion about the number of Opposition slots?

Karen Gillon: Going back to Bruce McFee's point, we need to consider the issue of interpellation and to determine how we will use the parliamentary week. If we want to change things, addressing the interpellation issue will be fundamental. Until we have looked at that issue and consulted colleagues fairly widely on it, it would be pretty pointless to try to make decisions on some of this.

The Convener: Right. On committee debates, the main enthusiasm was for subject debates rather than more debates on reports. I think that we have dealt reasonably with that.

On the question of members' business debates, at the moment, the bureau selects the motions for debate. There are mixed opinions about whether there could be a ballot. At one time, it was suggested that, for alternate weeks, there could be a ballot and a bureau decision. That would help to cover Robin Harper's point a bit.

Mr McFee: That would be like a bag of liquorice allsorts. I think that we should stick with one system or the other. We would end up with so many compromises that it would be hard to remember what the fundamental principles were. It also depends on whether the subject matter and criteria are restricted to what they are now. If they remain as they are, there is a bigger argument for having a ballot but if we widen the areas that can be debated, the argument goes against balloting and in favour of proportionality.

The Convener: Another possibility is that there could be a vote rather than a ballot.

Mr McFee: That would simply mean that the Executive would control the subjects that were discussed in members' business debates.

Alex Johnstone: In effect, the bureau would control that, and that is what happens already. We may as well just leave the decision with the bureau.

The Convener: Thank you. That was helpful.

Let us turn to the paper on interpellations. From what members have said, I think that there is definite enthusiasm for the concept. I felt that the version that led to a vote of no confidence in the Government was not the right way to go. We have mechanisms for doing that anyway. For me, the most attractive aspect is that a single member who has a bee in his bonnet can share that with other members if his dialogue with the minister shows that it is a really good issue. We could build on that rather than making it a big party-political thing.

We start from the position that we would like to pursue interpellation. We will not come to any definite conclusion today, but we can ask the clerks to pursue the issue in the manner that we will describe in a minute or two.

Karen Gillon: I apologise for the fact that I will have to leave the meeting.

We have not taken any evidence on interpellation from members, from the parties or from the Executive. It is a positive way forward, and I would like us to get information out to members, the parties and the Executive in order that we can get some information back about what

model people would favour and how people would like to see it working. There is no point in our doing a screed of work if people come back to us and say, "That's a stupid idea. We're not even interested." However, I think that people will be interested, and there are a variety of models that we can present to members. Personally, I think that it would be a positive step in the right direction.

The Convener: Is it worth our steering the discussion a bit, so that the paper that is circulated is influenced by our preferences?

Mr McFee: We may want to construct a rough outline of a possible interpellation system. You are probably right, convener, on the issue of the vote of no confidence. That is one use of the system that is especially prevalent in the Finnish Parliament as a result of the nature of that parliament and the way in which it structures its business, which is entirely different from how we do it here.

First, we must decide what the point of an interpellation would be. In my view, an interpellation would be a way of holding the Executive to account. There is a question about whether the system should be open only to non-Executive parties, but I think that it should be open to any member of the Parliament. There is a democratic deficit for Executive party members—poor souls—because they have to sit there and keep their mouths shut while they are fed all this crud for half the day and are not allowed to ask questions about it.

Karen Gillon: Mr McFee assumes far too much about the way in which we work.

Mr McFee: I know that that happens by the silence on many occasions.

I think that interpellations should be written. If a member wants a detailed ministerial reply on which the minister can take questions thereafter, the matter should be addressed in writing and sufficient time should be given for the minister to prepare—that is only reasonable. If the questioner has time to prepare, so should the minister.

The system should open up the discussion to other members, so that we get the kind of spontaneity that we sometimes do not get. Perhaps that means that no lists of questions should be submitted before the discussion. There should probably also be the possibility of a debate coming out of that.

As for votes of no confidence, there are other mechanisms for prompting those.

We can discuss the threshold criteria. There have been hundreds and thousands of written questions about everything, and I wonder how many of them have been submitted simply for a

press release or because a member wants to be seen to be asking more written questions than anybody else. We will have to consider how we would ensure that the interpellation system was not abused in that way. I do not have the answer to that, but if we are going to suggest such a system—as I think that we should—we should have some thoughts about how we could prevent members from abusing the system. If the system gets clogged up, it will not work.

The Convener: That is helpful. Do members have a concept of what might constitute an interpellation issue? Could it be that the health arrangements for a particular bunch of people were unsuitable?

Mr McFee: One issue that has been in and out of the news for a while is how the Executive's policy of free personal care for the elderly has been implemented by local authorities. That would be a fantastic question for interpellation. There would be many views and questions from different geographical areas, and the minister would have to be up to his job to address those. The crux of what the Parliament should be about is holding the Executive to account, but the Parliament does not do that on many occasions.

The Convener: What is the best way forward? Do we want the clerks to produce a paper giving us a notional preferred system?

Mr McFee: Yes, loosely.

Karen Gillon: Yes.

The Convener: If they slightly misconstrued our notional preferred system, we could adjust it before we put it out to the public.

Karen Gillon: I am sure that members would be happy to comment by e-mail in advance of the next meeting.

The Convener: So, we ask the clerks to prepare for the next meeting an interpellation paper mark 2, which would be suitable for circulation to the bureau, the Executive and members. Would we approach all those people simultaneously, or would we go first to the bureau and the Executive?

Mr McFee: Again, we are talking about a hierarchy—the bureau and the Executive, then the ordinary MSPs. I think that the whole culture has to change.

The Convener: So, we will send it to them all at once.

Karen Gillon: Super.

The Convener: Let us move on to the paper that I prepared on bill procedures and related issues. All the points have been well discussed today other than whether we really need closing speeches for parties on some occasions. On some

occasions we do, but it is questionable whether that is relevant to the final debate at stage 3 and some other debates. Many of the closing speeches are not all that helpful, and the time could be better spent on contributions from back benchers, for example.

12:00

Alex Johnstone: There was an interesting application of the theory in the debate on the Animal Health and Welfare (Scotland) Bill. The Deputy Presiding Officer who was in the chair at the time decided to abandon opening speeches and went straight to the floor; closing speeches were allowed at the end.

Karen Gillon: That is a better model.

Alex Johnstone: It worked.

The Convener: That is interesting. This is one of the areas in which the high heid yins get two kicks at the ball and the plebs get no kicks at the ball.

Mr McFee: In effect, following the d'Hondt system for allocating time for debates, does it matter a tuppenny damn whether we call a speech an opening speech? Frankly, it does not. What we get is an opening speech.

Alex Johnstone: Yes, but by not having opening or closing speeches, we free up time. The members who are involved all get the same time; they can say what they like, but they are restricted in time.

Karen Gillon: They get four minutes instead of 12.

Mr McFee: Sure, but saying that members should have less time in which to make an opening or closing speech is a different argument from whether we should have opening or closing speeches. Alex Johnstone and Karen Gillon are asking whether we need the time that is given to opening speeches. I can think of occasions when a member who is representing a committee would be quite happy to have four minutes for an opening speech.

Karen Gillon: On every occasion that I have opened for the committee, I would have been happy to have four minutes.

The Convener: I think that we are due to return to the issue of speaking times at our next meeting. We can deal with the suggestion then.

Karen Gillon: The member who moves the motion should be allowed to—

Mr McFee: Members who move amendments, too.

Karen Gillon: Yes, if there are amendments. Those members should be able to make opening

speeches, then we should just get into the debate. If we had 10 parties, all 10 parties would say that they need to make opening speeches, but they do not—their members will get to speak in the debate. Each party should be allowed a closing speech, in which it can sum up and respond to points that were made in the debate. If we were to get rid of closing speeches, we would get rid of the ability of parties to answer questions that are raised in the debate. I would far rather get rid of opening speeches than closing speeches.

The Convener: That is an interesting point.

Mr McFee: Some parties may not want an opening speech.

Karen Gillon: Yes, but it would equalise the position.

Mr McFee: Unless they are moving an amendment.

Karen Gillon: Of course.

The Convener: Previously we discussed the suggestion that, instead of being called from the back benches, smaller parties should have the right to have a speaker in debates. At least they would be guaranteed one shot.

Mr McFee: We either have them called or not have them called. There is a wee chap who goes round telling us that 2.6—or whatever the number is on the day—members want to speak in the debate and that each of them will get four minutes. The whips have a list that shows an opening speaker with X minutes, a closing speaker with X minutes and 2.4 open debate speakers. Depending on the length of the debate and whether other members go over their time, members may or may not be called. A separate issue is that debates are sometimes undersubscribed.

If we were to agree the proposal, the only effect on the larger parties would be that they would lose their right to have an opening speaker. We would free up only 10 or 15 minutes in the debate.

Karen Gillon: I suggest that we look at the proposal in a bit more detail, as the convener proposed.

The Convener: Yes. Given that we will return to the issue of speaking times, we could include the issue in that discussion.

Mr McFee: This suggestion may cause too much work, but perhaps it might be possible to redraft the speaking grid that is handed round the chamber to take account of debates in which opening speeches were not permitted or allowed for, apart from those in which amendments were being moved. It would, of course, depend on the number of amendments that were being moved.

Karen Gillon: That could be done for stage 3 debates in which we need an opening speech only from the mover of the motion that the bill be passed.

Mr McFee: That would just give the Executive extra time in relation to the rest of the Parliament.

Karen Gillon: Would it?

Mr McFee: Of course it would. The person who moves the motion that the bill be passed is an Executive member.

Karen Gillon: Not if it is a member's bill.

Mr McFee: Well, okay. On the two occasions in every two years, or whatever—

Karen Gillon: If we want to find out how getting rid of opening speeches would work, it would be helpful to see an amended grid for a debate on a motion to pass a bill. There are no amendments, so we would be able to see how getting rid of opening speeches would affect the time slots within the whole timeframe.

Mr McFee: I do not know whether that would be a big job. It might be.

The Convener: The clerks can come back to us on that.

We will get back to the minister, among other people, about interpellations. Do we want to slot into a discussion with the minister, perhaps in September, our collected thoughts so far? We could then perhaps put something out to the full Parliament.

Mr McFee: As we are talking about changing the culture, I suggest that we change some of it ourselves. If we are going to go to the Parliament, why go to the minister first? She will state a view and other people might feel that they have to fall in behind it. Why not have a more open and frank debate in the Parliament about the matter?

Alex Johnstone: If we do not persuade the minister first, we will go nowhere.

The Convener: Well, that is a point of view. Do we have to make a decision now?

Mary Dinsdale (Clerk): Not today.

The Convener: I will tell the minister informally how we are getting on and that she might be summoned in due course.

Members' Bills

12:06

The Convener: The Minister for Parliamentary Business has written to the committee about substitutes. We have been discussing the specific issue of the substitution of members who are in charge of a bill. The minister makes two points that arise from two hiccups. One is, regrettably, about a death, and the other is about a sudden resignation. Under the current rules, a substitute cannot substitute for a member in those circumstances. That seems a bit bizarre.

Mr McFee: It is stupid.

Karen Gillon: It is stupid. The minister makes a good point and the changes that she suggests are fair. We should tie it all together and get it done.

Mr McFee: The substitute should substitute full stop, then we will not have these ridiculous situations.

The Convener: The clerks are producing a draft report on the issue that we discussed, so they can tag on what the minister suggests. Today, we have to agree to discuss the draft report in private at our next meeting.

Karen Gillon: Super.

The Convener: Is that all right?

Members *indicated agreement.*

Regulatory Framework Inquiry

12:08

The Convener: The Subordinate Legislation Committee has produced an interesting report on the regulatory framework in Scotland and is interested in our views. There will be a parliamentary debate on the report on Thursday. Personally, I would have thought that we welcome the Subordinate Legislation Committee's efforts to make the procedures that affect its work much more sensible because, at the moment, they are a bit of a guddle. We should encourage the committee in its efforts.

We wrote to the Subordinate Legislation Committee about the consolidation of bills and it makes an interesting point—which is covered in paragraph 11 of the clerk's paper on the matter—about the difference between pure consolidation and rolling consolidation. That mirrors our view that a consolidation bill should be purely for consolidation and that other things should not be brought in. We could perhaps encourage the Subordinate Legislation Committee to go in that direction.

Does any member have strong views on the matter?

Mr McFee: I will not deal with the consolidation issue, but I suggest that technical difficulties might arise with the Subordinate Legislation Committee's proposal for two systems of consolidation—one system for pure consolidation and another for rolling consolidation.

I seek clarification on the proposed procedure for Scottish statutory instruments. On page 2 of the clerk's paper, paragraph 9 outlines the proposed general procedure. Would that general procedure have the effect of making each SSI a negative instrument? If it is proposed that instruments can only be "disapproved", will the system in effect be a negative-instrument-type procedure? That is what it looks like at first glance. I would be concerned if SSIs could only be disapproved and could not be amended.

The Convener: At the moment, SSIs cannot be amended.

Alex Johnstone: Even under the affirmative procedure, members can only vote against the draft instrument.

Mr McFee: I understand that.

The Convener: The proposal is that, if a committee is worried about provisions in an instrument, the Executive could withdraw it and produce an amended one. However, as the bullet points at the top of page 3 of the clerk's paper explain, the 40-day clock would keep ticking.

Mr McFee: First, is the proposed general procedure in effect a negative instrument procedure?

Secondly, the two bullet points at the top of page 3 propose that the 40-day clock would keep ticking while the Executive amended the instrument, but the proposal seems to be that an instrument under the general procedure could be knocked out only on a recommendation of either the Subordinate Legislation Committee or the lead committee. If the Executive amended the terms of an SSI and there was no further meeting of the Subordinate Legislation Committee or lead committee, how the heck would we be able to knock out an instrument that we disagreed with? If the clock is ticking and there are no more meetings of the relevant committee, how will members be notified of the changes to the instrument?

The Convener: Presumably, the changes would be made in the light of the relevant committee's recommendations.

Mr McFee: I assume that that is what would happen, but I seek clarification on how the Parliament could disapprove an amended instrument. For example, if the Executive radically altered the terms of an SSI with only two days to go, how would the Parliament disapprove the SSI?

The Convener: I am not in a position to reply on behalf of the Subordinate Legislation Committee, but you have obviously made a pitch to be given a speech in Thursday's debate.

Mr McFee: I was not angling for that, convener.

The Convener: I had hoped to speak in the debate, but I may not be able to do so.

Should we raise specific points with the Subordinate Legislation Committee or should we just express polite interest and wish that committee well in its efforts to reform the system?

Mr McFee: If the debate is to take place on Thursday, asking my questions in writing will hardly be fruitful.

If the proposal is that the Parliament should be able to vote down an SSI only in the two ways that are proposed, the Executive could change the SSI after the last opportunity to vote it down has passed. That gives me some concern.

The Convener: We will try to get clarification on that, which we will produce at our next meeting. I am sure that the Subordinate Legislation Committee does not in any way wish to diminish the parliamentary scrutiny of SSIs. I took it that the Subordinate Legislation Committee had been working on what it thought was a more efficient system of scrutiny.

Mr McFee: I do not call into question the Subordinate Legislation Committee's intention, but

the proposal might have that unintended consequence.

The Convener: That is a fair point. We will see how the debate goes on Thursday and, in the light of that and of any other points, we can discuss the issue at our next meeting.

I have been asked to remind members that, if they can manage to do so, they should attend a meeting with the House of Commons Procedure Committee on Wednesday 14 June at 11 am. The House of Commons committee is interested in petitions and various other things, so it is meeting the Public Petitions Committee and our committee.

Mr McFee: I give my apologies in advance as I will be at the Justice 1 Committee meeting.

The Convener: I think that a number of other committee members have volunteered to attend.

Meeting closed at 12:15.

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