

PROCEDURES COMMITTEE

Tuesday 20 June 2006

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2006.

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

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

CONTENTS

Tuesday 20 June 2006

Col.

ITEMS IN PRIVATE.....	1551
HOUSE OF COMMONS COMMITTEES (MEETINGS)	1552
REGULATORY FRAMEWORK INQUIRY	1555
PARLIAMENTARY TIME.....	1556
MEMBERS' BILLS.....	1587

PROCEDURES COMMITTEE

11th 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 20 June 2006

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

Items in Private

The Convener (Donald Gorrie): We will make a start; I am sure that Karen Gillon will be with us as soon as she can manage it.

The first item is to agree that we will take item 6—our draft report on the use of parliamentary time—in private, as we normally do with draft reports. We can also agree now that we will deal with our future draft reports on parliamentary time, members' bills and consolidation bills in private. Is that agreed?

Members *indicated agreement.*

House of Commons Committees (Meetings)

10:19

The Convener: We have had two interactions with the House of Commons. The first was a meeting with the House of Commons Procedure Committee on 14 June and the second was a meeting with the Scottish Affairs Committee yesterday. The clerk has produced a paper on the first meeting, which I could not attend. Does anyone who had the pleasure of being present wish to expand on it or raise any points?

Robin Harper (Lothians) (Green): The House of Commons Procedure Committee seemed to be far more interested in the Public Petitions Committee than in us. We got quite a grilling on the Public Petitions Committee, focusing on its failings as well as on the failings of the House of Commons system. It is clear that the House of Commons is looking at the Scottish Parliament in considering its own procedures. Richard Baker was also there.

Richard Baker (North East Scotland) (Lab): As Robin Harper says, the discussion focused on the Public Petitions Committee. The Procedure Committee gave us a real grilling on it and asked what the holes were in our system. It is looking to beef up the Westminster system and it is deciding how far down the road of our system to go. All of us from the committee made it clear that we feel that our petitions system works well, despite the fact that there could be seen to be pitfalls in the sheer number of petitions that are lodged, the way in which they are put forward and who presents them. However, those factors have not prevented our system from working very well, and that is the message that the Procedure Committee went away with.

Beyond that, we discussed the role of members' business debates and agreed that having more contact between our committee and the Westminster committee in future would be useful, so we should keep the dialogue going. All of that is well represented in the note from the clerks.

The Convener: Thank you. Your last point, about improving contact between ourselves and Westminster, also emerged at the meeting yesterday, the main cause of which was the launch of the Scottish Affairs Committee report that Andrew Mylne has given to members. From our point of view, the whole thing was highly satisfactory. We produced a report on what we are meant to call legislative consent motions—it will take a while for us to get a grip on that term—which was laid before the Scottish Parliament, in order to improve our procedures. Although the

report acknowledged that we cannot tell Westminster what to do, it suggested that Westminster might look into the issue. The Scottish Affairs Committee did look into the issue and took evidence from some of us as well as from the Minister for Parliamentary Business and others. It then produced its report, which agrees to all the things that we suggested. That is helpful. The Scottish Affairs Committee's conclusions and recommendations are on pages 16 and 17.

The Scottish Affairs Committee has agreed that, when we pass a legislative consent motion, our parliamentary clerk should write to the clerks of the House of Commons and the House of Lords, telling them that that has happened. The clerks at Westminster would then tag the bill in question—that makes it sound a bit like an antisocial behaviour order—to alert members at Westminster to the fact that there is a legislative consent motion attached to it. The Westminster clerks would also improve the information that is given to members at Westminster. Instead of a minister telling members that they can read about the issues in the library, there would be a proper written statement summarising the implications of each bill for Scotland. Also, more information would be given after the Queen's speech.

The Scottish Affairs Committee produced those proposals, which I presume will go into the Westminster system. It also touched on two other ideas. The first was the idea of a super Scottish Grand Committee, which would be a venue for discussion—not decisions, votes or anything like that—and would be composed of MSPs, and MPs and MEPs representing Scottish constituencies. I think that it should also contain Scottish peers, as they, too, have some influence. I took it upon myself to say that that was a good idea and that, if Westminster proceeded with it, the Scottish Parliament would be happy to be involved in the discussion.

Finally, the Scottish Affairs Committee dipped its toe in the water of the West Lothian question. It said that it was not up to its members to make a decision, but that it had noted unrest among some people, especially in England, and that it thought that the Parliament should address the issue.

Naturally, the media were more interested in the latter two points than the technicalities of legislative consent motions. However, what happened was encouraging. In fact, I think that I have made my little mark on history, because it was the first time that any of us has been asked to take part in the press conference that accompanies the launch of a Westminster committee's report. That is a step in the right direction.

Mr Bruce McFee (West of Scotland) (SNP): Is there a suggestion that the Procedures Committee

should take up the West Lothian question, or is that for another day?

The Convener: I think that it is for another Parliament.

Mr McFee: I would be happy to contribute to that discussion.

The Convener: Yes, I am sure.

Regulatory Framework Inquiry

10:26

The Convener: Item 3 concerns the regulatory framework inquiry. We received a letter from the Subordinate Legislation Committee. There was a debate on the regulatory framework inquiry, but I missed it because I was ill. Do members wish to comment on the inquiry or do we wish politely to reply to the Subordinate Legislation Committee saying that we have read its stuff with interest? Do we want to say anything specific or do we just want to leave it?

Mr McFee: I would like to communicate my thanks to Andrew Mylne for the information that he solicited on my behalf, which was useful.

The Convener: Has the letter satisfied us?

Mr McFee: There is a wee gap. However, the intent is clear, which is important. The methods by which the framework is used and altered are important. I do not know how the issue relating to the wee gap can be resolved, other than by starting the process all over again. I am not sure that it would be worth doing that, given the small number of occasions on which there will be a problem.

The Convener: I am sure that the intention is to improve our scrutiny of these matters rather than to leave doors open.

Mr McFee: One assumes so.

The Convener: If, at some stage, you have some constructive suggestions, I am sure that the Executive would be interested in them.

Do we wish to encourage the Executive to continue as it is doing? Shall we do so by sending a polite letter?

Members indicated agreement.

Parliamentary Time

10:27

The Convener: We will deal in public with some matters relating to parliamentary time. Later on, we will go into private session to consider our draft report on the subject.

Members should have before them committee paper PR/S2/06/11/4. Previously, we discussed to a limited extent the selection of speakers and speaking times in chamber debates, but we said that we wanted to look at the bigger picture. We have since done so, in relation to other reports, and the issue is back on the agenda for discussion. It would be helpful to get specific responses to the questions on page 10 of the paper.

Attached to the paper is a grid showing speaking times for different sorts of debates. It gives times for the opening and closing speeches and the length of the open debate. The last three columns of the grid show that, in short debates, the front-bench speakers totally dominate and that, in extremely long debates, the back-bench speakers have plenty of time to speak. However, there are not many of those latter debates. In normal debates, which last around two or two-and-a-half hours, there is, roughly, a 50:50 split between front-bench speeches and back-bench speeches.

Andrew Mylne has produced a grid showing what the effect might be if there were less time for opening and closing speeches and more time for open debate.

10:30

Mr McFee: I think that the second paper is for item 6.

The Convener: No, it is labelled item 4.

Mr McFee: I thought that it came later on. Perhaps it is replicated. It does not matter.

The Convener: I thought that it would be sensible to address the various parts of the issue together without getting too bogged down in the details.

Mr McFee: Absolutely.

I missed a meeting at which some decisions might have been taken. The points that are made in the paper and the tables presuppose that we stick to a rigid timetable for debates.

The Convener: Not necessarily.

Mr McFee: They tend to suggest that we are going to stick to a rigid timetable.

The Convener: I think that no decision has been made about that.

Mr McFee: At the meeting that I missed, was any decision made about the length of speeches?

The Convener: No.

Mr McFee: The grid in annex C shows how many speakers—down to 0.1 of a speaker, in some cases—there would be in a fixed-length debate. If we do not have fixed-length debates, those figures become redundant. That goes back to one of the principles that we have to discuss. However, if you want me to comment in the context of fixed-time debates, I can do that.

The Convener: That would be helpful. When we issue a consultation document, members might or might not support fixed-time debates. We must have a plan for situations in which debates are for a fixed time and for situations in which there are no fixed times.

Mr McFee: The biggest concern among members relates to short debates, given the preponderance of opening and closing speakers. Sometimes, the length of time that is taken up by those speakers means that there is almost no open debate. I know that there has been some discussion about whether opening and closing statements are both required. I think that there was some sort of consensus around the view that closing statements were more necessary.

With regard to short debates, has consideration been given to allowing only those who have motions or amendments to move to make opening and closing statements? I am aware that parties might lodge amendments that are not accepted for debate but, clearly, if parties that did not lodge amendments did not have an opening speech, time would be saved. There could be an argument for dispensing with opening statements from such groups. We would have to consider whether that would simply skew time in favour of the party that initiated the smaller debate. If so, perhaps some way of balancing the issue could be found. The idea would certainly give back-bench speakers more time.

The Convener: The second of the two papers on this issue, paper PR/S2/06/11/8, which is headed “Effect of changes in opening speakers’ allocations”, deals with that to some extent. Do we feel that, on the whole in normal debates, time is skewed in favour of front benchers versus back benchers and that we should try to balance that better? That would be our starting point if we wanted to make a change. We could then discuss the mechanics of that change.

Mr McFee: It depends on the length of the debate.

Cathie Craigie (Cumbernauld and Kilsyth)

(Lab): If it is an Executive-led debate—or an Opposition-led debate, for that matter—it is reasonable that we should have opening and closing speakers to speak to their argument and then to sum up the debate afterwards. The question is whether we think that 20 minutes for that is enough or too long.

I agree with Bruce McFee that it is difficult to reach a conclusion when we have not decided whether debates will have set times. We need to throw in all the facts and speak about them at the same time. The way in which we are going about this inquiry makes that difficult.

It is reasonable that the mover of a motion has the opportunity to open and sum up the debate. It is reasonable that the balance of speakers should reflect the proportions of parties, or members’ independent status, in the Parliament.

Mr McFee: Is Cathie Craigie saying that everybody should make a closing speech regardless of whether they move a motion, or should there be restrictions?

Cathie Craigie: If someone is the promoter of the debate, it is reasonable that they should have the opportunity to sum up and to comment on the contributions that have been made during the debate.

Mr McFee: Irrespective of whether they move the motion or amendment.

Cathie Craigie: Presumably, if they move the motion or propose the debate, they will open the debate and encourage contributions. As I said, it is reasonable that that member should be able to respond to the points that are raised. I support having the opportunity to make opening and closing speeches.

Mr McFee: In all circumstances?

Cathie Craigie: I think so, but I am open to discussing the matter.

Alex Johnstone (North East Scotland) (Con):

During this general discussion about parliamentary time, I have been surprised by the number of times members have felt it necessary to say that it is difficult to discuss certain matters without having discussed other matters previously. That demonstrates that we are dealing with a classic situation in which there is no beginning and no end, and no matter where we choose to start, we will come across subjects that we wish we had already discussed.

The matter of opening and closing debates and associated speaking times has evolved over the short time in which this Parliament has existed. It has evolved for several reasons, one of which is

that the current arrangement is the best way that we have managed to make it work so far.

We should not confuse opening and closing speeches with moving motions or amendments. It is important to note in any political discussion forum, whether in a Parliament or anywhere else, the very different views at the beginning of the debate. Therefore, every party should have the significant right to set out its position at the beginning of a debate, whether it moves a motion or an amendment. The procedure that has evolved, which allows the mover of a motion to speak first, the movers of amendments to speak subsequently, and then any party group that does not have an amendment to make its opening speech thereafter, is sensible.

I have said that it is important that each party or group expresses its position at the start of a debate; it is also important that each party or group gets the opportunity to express its position at the end of the debate. Our present structure is not far from being the appropriate one.

The key decision is whether to squeeze the opening and closing speeches to allow more speeches from the floor. The Executive has the most time for opening speeches. The Conservatives—and the Liberal Democrats and, to a slightly lesser extent, the SNP—find that their opening speeches are not all that much longer than the speeches from the floor anyway. The key, therefore, is whether the Executive would be prepared to accept less time for opening speeches.

The Convener: I do not think that the question whether we have to decide about open-ended debates is entirely relevant. The day is structured in such a way that most debates last for around two or two and a half hours—unless we continue through lunch time or carry on long into the evening. Whatever system we have in future, many debates will last between one hour 45 minutes and two hours 30 minutes.

It has been suggested that the Scottish Green Party and the Scottish Socialist Party should have a right to have a party speaker. At the moment, speakers from those parties tend to have to take part in the back-bench part of the debate. It has been suggested that they should be guaranteed a slot. They might not get any more time than they do at the moment, but at least they could make their mark right at the start.

Robin Harper: I do not think that opening speeches should be shortened. We want to see what is on the stall. We want a debate, so we want to know what we are debating. If we shorten the opening speeches, there will be less to debate. I would not like that to happen.

It might be useful to consider—albeit under the horrendously complicated d'Hondt system—the idea of issuing all the parties with a certain number of cards for opening and closing speeches each year. The parties could then play those cards. For example, in a particular debate, you could decide that you did not want to play your opening card. You could then keep it, saving your cards for when you wanted to use them.

It would be a use-it-or-lose-it system. We might get to a point where, for everybody to get a fair crack of the whip, we would just have to allocate time for people, but the card system would be seen as absolutely fair and it might make for better debates.

The Convener: Would you like to think your idea out and put it down on a piece of paper?

Robin Harper *indicated agreement.*

Mr McFee: I fundamentally disagree with you, convener, and with Alex Johnstone, when you say that the question whether or not we have open-ended debates is not hugely material to this discussion. That is a bit like driving on to the forecourt of a garage to buy £20 of fuel when you do not know whether the car you are driving is petrol or diesel.

I fundamentally disagree with Robin Harper's proposal as well. If everybody saved up their aces for the one big debate—which you can see happening—we would be right back at the beginning.

If we say that each party is allowed to open and to close, and if we do not reduce the amount of speaking time, we will end up with more front-bench time and less open debate, which is entirely the opposite of what I thought we want.

10:45

Alex Johnstone: Change is not compulsory.

Mr McFee: I am just saying that if we go down that route—this is always the difficulty of using a time-constrained system, which I do not favour—the inevitable result will be to reduce time for back benchers to speak in open debates.

The Convener: I do not follow your logic at all. Who is proposing to give more time to front benchers than they have at the moment?

Mr McFee: Alex Johnstone said that he is in favour of all parties setting out their stalls.

The Convener: Well, they do.

Mr McFee: Robin Harper's party does not get to set out its stall.

The Convener: I suggested that those parties would be guaranteed a slot, but they would not get

more speaking time overall. It would merely mean that whoever speaks on behalf of the Greens, for example, would set out the Greens' stall rather than speak as a back benchers.

Robin Harper: I think that we have done reasonably well in terms of submitting speakers' names and being called to speak.

Mr McFee: The logic of that does not add up. If you look at the chart—

Cathie Craigie: What chart do you want us to look at?

Mr McFee: The one that shows how time is allocated at the moment. It is at the back of the paper.

I will take the worst example of 30-minute debates. At the moment, Robin Harper's party is guaranteed 0.1 speakers in a 30-minute debate, as is the SSP. We can leave out the Liberals and the Conservatives, who are allocated 0.3 speakers, because they are guaranteed a speaker. If the Greens are going to be guaranteed a space, the SSP will have to be guaranteed a space, because the parties are of a similar size, and the independent group will have to be guaranteed a speaker. That would move us from having three parties or groups with a one in 10 chance of putting up a speaker to having a guarantee of three speeches. That is inconsistent with saying that the change would not alter the amount of front-bench or overall—

The Convener: Thirty-minute debates are a load of rubbish anyway. The serious debates are given around two hours, and the Scottish Socialists and the Greens normally get a speaker in them. The suggestion is that those speeches would be counted as the parties setting out their stall and they could come after the other party spokespeople.

Mr McFee: Well, let us look at the figures for a one-and-three-quarter-hour debate. The Greens, the SSP and the independents are entitled to 0.4 speakers. We would be hard pushed to find a debate in which they all had a speaker.

Alex Johnstone: The practice at the moment is that the Presiding Officer ensures that they get their chance. Sometimes they only get a shortened time, but the Presiding Officer offers the courtesy of ensuring that the smaller parties are allowed to speak. That is why I am coming round to the view that the way in which the Presiding Officers currently allocate time in the debates, taking into account the flexibility that they have, is the system that serves us best.

The Convener: Is the general view that we do not wish there to be any radical change? Are we going to propose that the Greens and the

socialists get a front-bench speaker in debates of a reasonable length?

Cathie Craigie: Alex Johnstone's summary of the way in which the Presiding Officers operate at the moment covers that point. The smaller parties get representation.

Robin Harper: We do not have any back benchers anyway: we are not big enough.

We do not have any complaints with the way in which the Presiding Officers have used their discretion so far. In a sense, it is immaterial whether we call ourselves front benchers or back benchers when we get a slot; as long as we get our four or five-minute slot, it does not matter what it is called.

Given that strict d'Hondting would exclude us completely from many debates—we would have to save up our cards and play them in subsequent debates—I am not disposed to do anything other than place us firmly at the discretion of the Presiding Officers, which so far they have exercised wisely.

Richard Baker: The only pinch point in speaking times for debates—which I have mentioned previously and the convener has identified—is when the morning session of the Opposition day is divided into two. My preferred option is simply to say that the debates should be of a certain length so that back benchers are not reduced to four-minute speeches, in which taking interventions and having a proper debate is practically impossible. That has been discussed at committee before and it may not be possible to do it. That is the only occasion on which we have any real pinch points and trouble with speaking times. The rest of the time, back benchers are given six minutes and the system for opening and closing speeches works well. The only problem I can identify is when the debates are so short.

The Convener: What shall we do about that?

Richard Baker: My preference is to have some sort of system whereby such debates have to be of a certain length. Again, we discussed that at previous meetings and it was not agreed by the committee, so I shall not fight to the death over that, but I should like it to be on the record.

The Convener: If we treat the questions on page 10 of the paper from Andrew Mylne as our exam paper, the general view seems to be that we are content with the way in which the Presiding Officer conducts debates. On questions 1 and 2, we do not really want to change anything. Are subject debates a different issue? In a previous meeting, we questioned whether there is any need for opening and closing speeches if we are not debating a motion. Are members content to treat subject debates in the same way as the other

debates that we have just been discussing?

Members indicated agreement.

The Convener: In members' business debates, have there been occasions on which members have not been called at all? I do not recollect any.

Mr McFee: The Presiding Officers are very good at extending debates when they have to.

Cathie Craigie: In the early days of the Parliament, we had a members' business debate on deaf awareness in which there was huge interest. Not everyone who wanted to get to speak, but nobody fell out about it, and that was prior to the Presiding Officers' becoming a bit more flexible. I like the flexibility that the Presiding Officers use in the members' business debates—they often allow the member who has lodged the motion to take a bit longer. Members are understanding about that.

Alex Johnstone: Similarly, when there is a bit of pressure on time and many members want to speak, the Presiding Officers encourage members to be brief to get more members in.

Cathie Craigie: That flexibility is good.

The Convener: Is seven minutes for the member to kick the ball into play and seven minutes for the minister to act as the goalkeeper about right?

Members indicated agreement.

The Convener: In committee debates, the usual procedure is that the committee convener opens and the deputy convener closes, although they can swap if they want. Do we want priority to be given to other committee members, or are we content that members should take their chances? There is a view that the party line is not so important in a committee debate, so perhaps the parties could have less of a shout. Committee debates are not usually conducted along fiercely party-political lines.

Cathie Craigie: It is important that the convener of the committee opens a committee debate and that the deputy convener or another member of the committee closes it. We need to find a way to change how we think about such debates, so that we do not just have all the committee members piling in. If a committee has produced a report for debate in Parliament, most committee members will have been working on it for a long time, so it is natural that they will want to share their experience and knowledge with other members. However, it would be good if we encouraged other members to comment more—

Alex Johnstone: You mean that you want to encourage less informed debate and more partisan attack.

Cathie Craigie: I do not know about that, but it would be good if we encouraged other members to speak in such debates. We might then have a situation in which a committee had to think again about its recommendations, rather than just the Executive having to think about the issues. I do not know how we can do that, other than by becoming more proactive and disciplined about speaking in committee debates. If we could include that message in our report, that would be welcome. I know that members of other committees talk about that as the ideal, but it has not yet been put into practice.

Alex Johnstone: Cathie Craigie is right that we should encourage more members to get involved in committee debates in Parliament. Given that, it appears that it would be counterproductive to give priority to committee members.

Mr McFee: I agree, but the problem is that, if we give more of our restricted time to members or a group, we will have to take that time from another group. That is the balancing act that is needed when we operate with a restricted timetable. I agree with Alex Johnstone and Cathie Craigie that committee members, other than the convener in opening the debate, should not have a right to speak in committee debates. There is also a virtue in having the deputy convener or another committee member sum up for the committee. If the committee has the right to open the debate, it should also have the right to close it.

The problem is with the parties. Let us be blunt: unless a member's name is on the list of speakers, he or she has as much chance of being called in such a debate, unless it is a Procedures Committee debate, in which Karen Gillon gets 35 minutes to sum up—

Karen Gillon (Clydesdale) (Lab): I am willing to share that time with any member.

Mr McFee: We tried to help you out.

Alex Johnstone: You were very generous.

Karen Gillon: Yes—very generous.

Mr McFee: I have forgotten the point that I was trying to make. Alex Johnstone is giving me the thumbs up—he can get his thumb down now, because I have remembered it. Unless a debate is undersubscribed, a member whose name is not on the lists that parties submit cannot walk into the chamber, press his or her request-to-speak button and expect to be called to speak. The member will have as much chance of speaking as I have of landing on the moon tomorrow. If we want to include non-committee members and to reflect geographical spread and specialist knowledge, the discipline must be with the parties in compiling the lists. Nothing we can do today will bring that about—the parties must want to do it.

Robin Harper: Bruce McFee has explained the point better than I could have done. One reason for the relatively low attendance at committee debates is that members think that they do not have a chance of speaking, so they do not turn up.

Cathie Craigie: Bruce McFee said that we would have to take time from somebody else—I do not suggest that. He says that the problem is with the parties, but the system that we have got into is that the parties submit lists of members to speak. In the first year of the first session of Parliament, back benchers used to sit in the chamber, scribbling down speaking notes with their buttons pressed, hoping that they were going to get in. We were going to publish a book of all the undelivered speeches.

11:00

If members know that they are going to speak, they can go away and prepare. Also, groups who want to influence Parliament's thinking have the opportunity to brief and work with members who will speak in a debate. It is not the parties who must change members' mindset about committee debates; rather, we as members must change our mindset and think, "Okay, I'm not on the Justice 1 Committee but I have an interest in the report that it's been working on for the past six months, so I'm going to get involved. I'll read the report and comment on what the members of that committee have to say."

It will take time to encourage wider debate and more involvement by back benchers. There should be a mechanism whereby the committee can take another wee look and say, "Well, we said this and it was endorsed by Parliament," or recognise that the recommendations need to be altered to take account of the views of the whole Parliament.

Karen Gillon: The problem is not unique to committee debates. It is also prevalent in stage 1 debates—they, too, are debates among members of the relevant committee. Stage 2 is also a discussion among members of a committee. When we get to stage 3, we all panic because we had not realised that certain issues were in the bill and we sit in the chamber thinking, "Oh, my goodness." I do not know how we can fix that by changing Parliament's procedures, but there is a need to stop the rot and to get members involved. I have taken a conscious decision not to speak in committee debates as a member of the committee, although I will speak as deputy convener if I have to. Otherwise, the party has to find other speakers. We need to consider how we choose speakers. I have wanted to speak in other committee debates, but have been unable to because committee members have got in first. They knew when the debate was coming up so they got their names on the list.

Is it particularly radical to suggest that we should not have speaker lists for committee debates and stage 1 debates? There could be opening and closing speakers to represent the parties, but the rest of the time would be for any members who want to take part.

The Convener: We could try that out.

Alex Johnstone: As on a number of occasions, I find myself defending the business managers.

I do not know what the procedures are in other parties, but in the two years for which I was my party's business manager I never refused anyone who requested to be placed on the speaker list. If a list had been prepared already but someone asked to speak, I would go and ask one of the previously nominated speakers to stand down and make a space. Speaker lists serve a function in that they allow the business managers to ensure that every member gets his or her turn. They are useful and I would defend them as a functional way of managing an element of parliamentary business, but I would also defend the business managers, who are there to try to help the process and not to subvert it. We sometimes suspect the business managers a little too much.

The Convener: Point noted.

Mr McFee: I did not have the benefit of being in the first session of Parliament, so I cannot say what it was like, but from reading the standing orders it seems that the procedures have evolved pretty rapidly into a restricted system. That might make it easier for everybody in terms of submitting lists and getting speakers, but there are two types of debates. There are the popular ones, which everybody and their auntie wants to get into, and there are the less popular ones, with which we on the Procedures Committee will be familiar. With the less popular debates, the business managers have to go around trying to ensure that there are enough speakers.

Cathie Craigie said that we have to change our attitudes. That is right, but when individual members have changed their attitudes, they still have to get on the list.

The fact is that the business team e-mails the whips telling them that, for example, they need four speakers for a particular debate—one to open, one to close and two for the middle—and what their time allocation will be. That is what happens for every debate. There is communication between the whips or the business managers of the different parties. If we want to force a change that will move us away from committee members always being selected to speak in committee debates, we would have to adopt a measure such as that which Karen Gillon suggested, which was to have members called from the floor. That is what standing orders say, so

it would not be a radical departure; it is what we are supposed to do. That leads me to question why we should do that only for committee debates.

The Convener: Do we wish to insert Karen Gillon's suggestion in our proposals? On the whole, stage 1 debates and committee debates do not form part of the usual party-political contests, so it would be logical to reduce the power of the party system in determining who speaks in them. I assume that members would still tell their whips that they intended to speak. There could be a system whereby a member could indicate in advance to the Presiding Officer that they wished to speak. That could be done individually rather than through the business managers. Do we wish to pursue that idea? I would be keen to do so.

Mr McFee: I will throw in a suggestion, which the committee can either throw out or consider, as it sees fit. If the argument is that we wish to reduce the power of the party whips—which might find favour in some quarters—why should we adopt Karen Gillon's proposal for the debates in relation to which the party whips do not have power? Why not do that with the debates in relation to which the party whips excel at exerting their influence, which are the more political debates? We should do that if we want to challenge the existing practice. Would that be a step too far?

Karen Gillon: There are two issues. The purpose of stage 1 debates is for us as parliamentarians to consider bills without party-political bias, to the extent that that is possible. That is not always possible; if a party has promoted a bill, members of that party will have a loyalty to the general thrust of the bill's proposals, if not to their detail. In stage 1 debates in particular, we should try to have a wider parliamentary debate. That should not preclude us from carrying the same aim into the more political debates on motions and amendments, but there is an onus on us as parliamentarians to assess bills in as fair a way as possible at stage 1.

Alex Johnstone: I would be seriously concerned if the committee were to take a position that began the process of undermining the party structure in Parliament. It is important in our free and open democracy—in which we stand for election under our party banners on party manifestos—that the party structure be reflected accurately in the activities of Parliament. It is just as important that party positions are put up for debate, so I would be seriously concerned about any move away from the present position, in which the right of parties to have their views expressed is guaranteed.

The Convener: Yes, but I draw a distinction between stage 1 and committee debates and other parliamentary debates. There is an argument for allowing members to request to

speak in advance of stage 1 and committee debates so that the Presiding Officer knows how many members want to speak and what the shape of the debate is likely to be. The Presiding Officer could still reflect the party balance in calling members. It would be reasonable to suggest that those two types of debate should be less under party control than other debates. I do not think that that would undermine the party system—the proposal is worth including in our suggestions.

Mr McFee: Is the intention that we provide different scenarios or possibilities for members to comment on?

The Convener: I think so, but we still have to make a decision on that.

Mr McFee: Fine.

The Convener: Right. That was a helpful discussion.

One issue that is not reflected in the questions is how party proportionality is calculated. I understand that it is currently calculated with reference only to back benchers, but it might be logical to include front and back benchers in allocations.

Karen Gillon: I disagree fundamentally. As a Labour back bencher, I am part of the most marginalised minority group in Parliament and would resist anything that would take away our right to make speeches. Including Executive speakers when allocations are being calculated would seriously undermine the rights of Labour back benchers to speak in debates.

The Convener: Okay. Party proportionality was mentioned in the paper, so I thought that it was right to raise the matter.

Mr McFee: Why do Labour members take 11 minutes to make opening speeches, but Scottish National Party members might take only seven minutes and Tories and Liberal Democrats might take only six minutes to make opening speeches?

Alex Johnstone: We speak more quickly.

Cathie Craigie: Other members have less to say than Labour members.

Mr McFee: If that is the view of your coalition partners, that is fine.

The Convener: Are you referring to what happens in Executive debates? Does not a member who moves a motion in an SNP debate, for example, get as much time as anyone else to speak?

Mr McFee: I do not think so.

Cathie Craigie: They would if the debate was a proper, full-length debate.

Alex Johnstone: If the debate is a non-Executive debate, the member who moves the motion will, in general, get the same amount of time to speak as the Executive would get.

Mr McFee: What about in closing?

Alex Johnstone: In a Scottish National Party or Conservative-led debate, the member who moves the motion will get the time that is traditionally allocated to the Executive in opening a debate.

Mr McFee: I do not know whether they get the same amount—

Karen Gillon: It depends on the length of the debate. If time is split so that there is a 45-minute debate, a member will not get the same amount—

Mr McFee: Let us assume that we are talking about debates that are the same length.

Karen Gillon: It is a long time since the Executive had a short debate.

Mr McFee: You should have more short debates, in that case.

Karen Gillon: I assume that other members would get as long as the Executive gets.

Mr McFee: Karen Gillon's point about proportionality can be appreciated, which is one reason why we should not have a totally regimented structure. However, if we are going to have such a structure, it would appear that all members are equal but some are more equal than others.

The Convener: My understanding of the amount of time that is allowed is the same as Alex Johnstone's, but I may be wrong.

Andrew Mylne (Clerk): I am not sure what the answer to the question is, but I think the convener is correct. When one of the non-Executive parties leads a debate, it will get the longer speaking-time allocation, which would normally go to the Executive.

Mr McFee: I know that more time will be allocated, but I do not know whether it will be the same as that which the Executive receives.

The Convener: Andrew Mylne can check that. I assume that we want fairness and that the Executive or the party that secures the debate should get the appropriate time.

The next question in paper PR/S2/06/11/4—question 4—is useful. It asks:

"Would there be merit in building in additional time into each debate to allow some interventions to be taken without this reducing individual speaking times?"

Would it be possible to have a pool of, say, five or 10 minutes for the Presiding Officer to use for interventions, so that if a member takes

interventions during a six-minute speech, he or she will get injury time? That would encourage members to take interventions.

Cathie Craigie: It is good to take interventions, but what you describe would be possible only if the number of back benchers who could participate in the debate were reduced. The Presiding Officer has previously used his or her discretion to allow members injury time, but that practice seems to have fallen away because not enough time has been available, unless a debate has been quiet. I think back-bench members would accept one member losing the opportunity to speak in a debate if that meant that there was more flexibility for speakers to take interventions.

11:15

Alex Johnstone: We all think that that is okay as long as the member who loses the opportunity to speak is not a member of our own party.

Cathie Craigie: That is right—we can lose a Tory, a Nat or a Green, no bother.

Mr McFee: At the risk of repeating myself, I must say that we have returned to the same old problem: we cannot put a quart into a pint pot. If a speaker is to be allowed more time, time must be taken from other speakers unless there is slack in the programme. We have not addressed that fundamental problem—

Cathie Craigie: That is what I was saying—

Mr McFee: In that case, I agree with you.

Would it be useful to have a system such as the one that operates at Westminster? Yes. Would such a system encourage better debate? Yes. Would it encourage more people to intervene? Yes. Would it reduce the time that back benchers have to speak? Yes, because most of the additional time would have to be taken from the open debate, which would have an automatic impact on back benchers, unless we relaxed the strict timetabling.

Alex Johnstone: I am not convinced by the causes and effects that Bruce McFee sets out. Some members often take interventions and expect to make interventions—and other speakers allow those members to intervene. Some committee members are motivated by the fact that members often say, "I cannot take an intervention because I do not have enough time," which is too often simply a device to avoid taking an intervention. In reality, members who want to take interventions do so.

The Convener: If members knew that they would not lose time, their excuse would be stripped away.

Alex Johnstone: Many members need to learn the art of making their points in rather fewer words.

Robin Harper: I try to allow time for interventions by not packing my speeches with so many words that I have no time to take interventions. There are two ways of solving the problem. A member who has been allocated four minutes in which to speak should have written a speech that will take three minutes—or three minutes and 30 seconds—so that he or she can take interventions. A member who has written a four-minute speech could almost certainly have said what he or she wanted to say in three or even two minutes.

It would be good if the bigger parties were prepared to lose one speaker per debate, so that four or five minutes of injury time could be added. However, the Presiding Officer would have to decide when the four or five minutes had run out and let speakers know that further interventions would cut into their speaking time.

Alex Johnstone: The Presiding Officer already does that.

Robin Harper: Yes.

Alex Johnstone: Members should never take an intervention from John Swinburne, who invariably wants to make a 90-second speech during someone else's speech.

Richard Baker: The problem does not arise during the six-minute speeches in Executive debates, because it is easy to allow time for interventions during a six-minute speech. However, it is almost impossible to take interventions during a four-minute speech, because it can take four minutes to say what one wants to say. The pinch point arises when insufficient time is allocated to a debate. There is no need for the Executive parties to give up speakers; the problem is the paucity of time for back benchers' speeches.

The Convener: If the Presiding Officer had a pot of time to accommodate interventions, should front-bench speakers qualify for the use of that time, or should it be restricted to back benchers? Often the minister or main spokesman is the speaker who is most intervened on.

Mr McFee: Where would the pot of time come from?

The Convener: It would come from the time that had been allocated for the debate.

Mr McFee: Would it be taken from the opening speeches, the closing speeches or the open debate?

The Convener: Perhaps everything could be squeezed a bit. For the sake of argument, let us

assume that the pot contains six minutes, to allow for six interventions. Opening speeches could be reduced by a minute—

Mr McFee: There would be some jiggling of speeches.

The Convener: Yes.

Alex Johnstone: If the Presiding Officer had such a pot of time to allocate, it would be allocated not to members who take interventions, but to the usual suspects who will not sit down at the end of their time—it will not go where we want it to go. I am sorry about dropping names into the discussion, but it will go to the Fergus Ewings of the world, who are invariably well over time by the time the Presiding Officer eventually persuades them to sit down.

Mr McFee: They have lots to say.

The Convener: Perhaps our suggestion might strengthen the Presiding Officer's arm in dealing with such behaviour.

Cathie Craigie: I am persuaded by Alex Johnstone's argument. We should mention in our report that we want proper debate, that we want members to be willing to take interventions and that we want the Presiding Officers to use their discretion to allow that to happen. Alex Johnstone's point was well made and I support his point of view.

Alex Johnstone: I am doomed.

Cathie Craigie: You are—you have had it.

The Convener: Will we suggest that the Presiding Officer have a pot of time or not?

Cathie Craigie: No—I do not think that we should.

Mr McFee: The Presiding Officer would not need such a pot of time, but we should mention the principle that members should take interventions, which is important, although we should raise it solely in the context of there being restricted time for debates. I do not mean whether a debate is an hour or an hour and a half long; I mean the strict timetabling, which is at the root of all the problems. If we have strict timetabling, we are simply reshuffling the pack to find out how the hands are dealt. If we find time, it has to come from somewhere. There is no way round that fundamental problem.

The Convener: So there is no support for that proposition of the Presiding Officers having a pot of time.

Are we interested in altering the normal length of a back-bench speech, which is four to six minutes, or are we content with that?

Cathie Craigie: Content.

Karen Gillon: I think that six minutes is a far more realistic speaking time. We should recommend that it be the normal speaking time, rather than four minutes.

Alex Johnstone: The combination of four and six-minute speeches that we have at the moment is reasonable. I know that one or two of us have problems with non-Executive parties initiating short debates that limit speeches to four minutes, but we must remember that there are also procedural issues with the shorter debates that take place as part of parliamentary and Executive business. It is acceptable to apply the four-minute limit in short debates, which crop up fairly regularly.

Richard Baker: Rather than make a recommendation, perhaps we could say that the committee is of the view that speeches should, as far as possible, be of six minutes but realises that there are times when that is not possible.

Mr McFee: So we will have six-minute speeches except when that is not possible.

Richard Baker: That suggests a committee view that we would like to build that into the system but cannot.

Mr McFee: I am sorry to say it again, but it relates to the fundamental problem that the six-minute limit would affect only the open debate, which would inevitably reduce the number of open-debate speakers, unless we were to increase the overall time for the debate. We need to make a fundamental decision about whether debates are restricted to set times. Members should bear in mind that we want to guarantee that Robin Harper gets a space in every debate, when he has a one-in-10 chance of getting a space, as do the Scottish Socialist Party and the independents, given what we said earlier on.

Karen Gillon: I never said that I wanted to guarantee Robin Harper a chance to speak.

Mr McFee: No, but you were not in the room when we were discussing the matter. If we say that the Presiding Officer is encouraged to call members from each of the minority parties, there will be no time left by the time we get through the three of them.

The Convener: The proposition was that they would be guaranteed time in a debate of sensible length, but not in a half-hour debate.

Karen Gillon: That is fine in a debate of an hour and a half, but not in one of 45 minutes.

Robin Harper: If we look at the other recommendation on—

The Convener: We will deal with that later on.

Robin Harper: The idea could be considered in conjunction with the other recommendation. Surely it is not beyond the wit of man to add five minutes

to some debating time lengths—that is what we are talking about. For goodness' sake—we are looking for just five minutes.

Karen Gillon: You may be looking for just five minutes, but that skews the proportionality of the Parliament. If you are entitled to 0.1 of a minute and I am entitled to 3.1 minutes, should I have my 0.1 over the three?

Mr McFee: What about SNP members?

Karen Gillon: If we say that a party that is entitled to only 0.1 of a minute should have a speaker, then, if I am entitled to anything over the time for the number of speakers that I have, am I entitled to have another speaker? We cannot make exceptions for small parties; the rule must be applied across the board. If we have a proportional system and skew the proportions to support one party, we must skew the proportions to support all parties.

The Convener: Is it reasonable to say that we believe that six minutes is a desirable objective as a basic time for back-bench speeches and that we recognise that if debates are shorter for whatever reason, the time may have to be reduced to four minutes? Is that fair enough? Right—we are finished with that paper.

Mr McFee: I am sorry, convener, but that is not agreed.

Robin Harper: No, it is not.

Karen Gillon: We must be careful of the formulation of words. A far better speaking time is 10 minutes. If we are serious about members making an informed contribution to a debate and about taking on board issues that are out there, we should look to allow members to speak for 10 minutes. At the moment, we cannot even consider that. However, six minutes is preferable to four.

Alex Johnstone: We are talking about a balance. It must be highlighted that we are talking about a situation that is not ideal but is the best that can be achieved. I would like everybody to have the chance to speak and to be able to speak for as long as they would like to, but I do not want procedures to be so open that we can foresee the first filibuster in the Scottish Parliament.

Robin Harper: Six, seven or 10 minutes is better for a speech, but if that squeezed the small parties, I would prefer shorter times to be allocated to everybody. If a stricter interpretation of proportionality were used, I would be content with four-minute speeches. If speeches of six minutes squeezed us out of speaking altogether, that would be intolerable.

The Convener: The paper on time limits reflects the current system. If, in our other deliberations, we go for a more radical reform, we can consider

speeches of 10 minutes or other arrangements. However, if the basic arrangement is to continue, we think that six minutes is better than four and should be aimed for whenever possible.

Mr McFee: No.

Robin Harper: No.

The Convener: What is your counter-proposition?

Mr McFee: If we must remain within the confines of the straitjacket that we have imposed on ourselves, in which the divide is that open debate speeches have six minutes in any debate that lasts more than one and a half hours and four minutes in any debate of less than that time, my counter-proposition is that speeches of six minutes would be impractical. Is it desirable to go to six minutes? Yes, for the speaker who has six minutes, but not for the person who is knocked off the end of the list—and people will be knocked off the end of quite a few lists.

The paper shows that the open debate time in a half-hour debate is nine minutes. That could take two four-minute speeches or one speech of six minutes and one of three minutes. Because of the length of the opening speeches in a 45-minute debate, the open debate has seven minutes. With speeches of six minutes, only one member could speak in the open debate, especially if we wanted them to have time for interventions. Even in a debate that lasted an hour, we would go from having five people who speak for four minutes each to having three people who speak for six minutes each.

I suggest that having speeches of six minutes is impractical. It might be more practical in debates of one and a half hours; the situation might flip over at a certain time. However, we see the effect of six-minute speeches in debates of one and three quarter hours: there is less open debate time and less chance for open debate speakers. If the time for a speech were increased to six minutes in debates of up to one and a half hours, everybody else might as well not bother turning up.

11:30

Alex Johnstone: There you go. The system that is represented in the chart in annex C seems to be the best of a bad bunch.

Mr McFee: If we are to operate within this system, you might be right.

The Convener: However, how often do we have 30-minute debates? They occur perhaps once a year. We are getting very excited about very little. The sensible debates are mostly around the two-hour mark, although some of them might be 90 minutes in length.

Mr McFee: Are we going to recommend six minutes then?

The Convener: We are saying that six minutes is a reasonable figure and that it is preferable to four minutes. It would be possible to go back to four minutes—

Mr McFee: I am not suggesting that.

The Convener: No, we are not suggesting that. The suggestion is for six-minute speeches for debates of one and a half hours, although it will depend on how many people want to speak. We have already said that the Presiding Officer manages these things reasonably well and we are content with what he continues to do, but we think that he should aim, where it is reasonable, to allow speeches of six minutes. It is his decision.

Mr McFee: Convener, you say that it is the Presiding Officer's decision—as indeed it is—but the practicalities are that the business team will send out a request for one or two speakers from a particular party. We cannot have a system that is rigidly controlled in one part of it and totally fluid in another. For example, for a one-hour debate on an SNP motion, the business team will need to find an opening speaker, a closing speaker and one person in the middle for the SNP. If we move to speeches of six minutes, that person in the middle will not be guaranteed to be able to speak.

If we move to speeches of six minutes for debates of one and a half hours, a Conservative or Liberal Democrat speaker will probably drop off the list. The Greens and the SSP will not have a hope in hell of getting in. The effect of increasing the speaking time for one or two individuals will be to reduce it or eliminate it for others. That is the problem with simply shuffling the cards around.

The argument for six-minute speeches might hold for debates of one and a half hours, but there is certainly no argument below that. Is six minutes better than four? Yes. Is eight minutes better than six? Yes. However, is four minutes better than nothing?

Robin Harper: Always.

Cathie Craigie: Proceeding with this argument takes us along the route of discouraging short debates so that back benchers get a much better crack at the whip. The longer the debate, the more opportunity back benchers will have of developing their argument. Some debates will, because of their very nature, require to be short, but we should encourage timetabling of business that allows Executive and Opposition parties to have debates in which members can really participate.

The Convener: Right, we will try to put that in our proposals. Basically, we are not making any great change to the status quo.

Mr McFee: If we are to include Cathie Craigie's suggestion in the proposals, we should also say that we encourage the Executive and the Parliamentary Bureau to allocate more time to Opposition business. If we want to argue for longer debates, that is great, but give us more time.

Cathie Craigie: Debates are allocated on the basis of proportionality, so it is the general public who decide on the allocations.

Mr McFee: Is that the case? The Executive has the overwhelming preponderance of time.

The Convener: The question of the overall allocation of time is a separate issue that we will come to in a moment. Let us make progress, as we have a lot of our agenda still to get through.

The paper on the draft model for interpellation procedure is a good shot at choosing a suitable interpellation procedure out of the various systems that we learned about in our visits. The paper sets out quite well a way in which we might do that. A member would lodge an interpellation; that is, they would lodge a proposition for questions or discussion for which they would try to get support, in the same way that members do for motions. The Parliamentary Bureau would give the member about half an hour of plenary time for the interpellation, in which the interpellator would set out their proposition, the minister would respond, and they would each have perhaps one or two more short kicks at the ball. Thereafter, the issue would be opened up generally to shorter contributions and questions from other members, to which the minister would reply. If the general view was that the issue should be pursued more vigorously, the interpellator would lodge a motion to be debated and voted on at a later stage. Obviously, there are many different ways of doing interpellations.

To set out the issue of interpellation for other members, who have not learned about it as we have, we need a proposal for how it might work. The paper's model seems a reasonable one, but obviously committee members may wish to tweak it in different directions.

Mr McFee: First, I must apologise to Andrew Mylne. I almost said this to him as we came up the steps to the committee room, but I did not read his paper until later on and perhaps I should have got back to him beforehand to give him some pointers. Under the heading "Draft Interpellations procedure", paragraph 1 states that interpellations "would be an alternative to existing methods of asking questions or lodging motions".

I do not think that interpellations should be such an alternative; they certainly should not be an alternative to written questions. Given the volume

of written questions, they could never be replaced by interpellations.

The Convener: I think the suggestion is that interpellations would be regarded as being in addition to questions. There is no question of removing questions. If you want—

Mr McFee: Okay, that is fine.

The Convener: I make it clear that interpellations would be regarded as an additional option.

Mr McFee: Right, well, I read paragraph 1 as meaning that interpellations would be an alternative. If it means that interpellations would be an additional option, that is fine. However, I think that there would be a question as to where we would get the time for that. The themed question time was supposed to bring out in-depth questions—the kind that interpellation would allow—that would enable us to get into a subject more deeply. Therefore, I wonder whether themed questions might be regarded as a way of freeing up time for the interpellation model. I stick that one to the wall.

Paragraph 2 refers to issues of national policy, but we can argue over whether the criterion should be that an interpellation is on an issue of national policy or on an issue of reasonable importance.

What is interesting in the paper is the proposal that all interpellations that have met certain criteria must be answered. If we accept that, we must bear in mind that there could be a large number of interpellations, particularly in the beginning. If interpellations are to be time constrained, we will need a system to deal with that. For example, if there were 10 interpellation questions, it would have to be decided which would be taken, which would be deferred and which would not be used at all. The process would have to be transparent, but that element is missing from the draft model.

Paragraph 5 refers to a "number of cross-party supporters", but we would need to define exactly what we mean by that, which could be done later on. However, would it mean the support of two, three or four parties? We would need an indication of that because, for example, only one or two parties might think that a proposed interpellation was on an issue of national importance.

The paper indicated—I think the reference was to the French system—that there might be a limit on the number of times that someone might sign a request for an interpellation. I think that we would need a trigger mechanism regarding the number of members who would be required to sign for an interpellation. I suspect that the higher the trigger, the lesser the problem of selection—we must strike the right balance. However, there would need to be a selection process.

Paragraph 8 says:

"The Parliamentary Bureau would be required to schedule a reasonable amount of time (e.g. 30 minutes) for each interpellation",

which brings us back to whether we should limit the number of interpellations. That is a big area for discussion. Of course, if we go a step further and give interpellators—if that is a word—the right to insist on a debate, debate time will have to be found in the restricted timetable.

I apologise again for not providing the clerk with my thoughts on the matter. I realise that I am throwing ideas at members and that it is difficult to come up with answers on the flip of a coin.

The Convener: You raise interesting issues. However, the committee took the view that the initial approach to members, to inform them about and attract their interest in the procedure, should be as basic as possible. Of course, much more must be done to work up the detail that you identify, but if we overwhelm members with matters such as whether 20 or 50 members should support a question before it can go forward, members will focus on the details rather than on the idea.

Paragraph 9 says:

"The time allocated would be separate from the existing time reserved for non-Executive and committee debates"—

or the time reserved for questions, I would have thought—so I assume that the time would come out of other Government time.

Mr McFee: I understand what you are saying and I am keen that we give members an indication of the procedure. However, members' views on interpellation will be affected by the issue of whether a question that met the criteria for interpellation would automatically be selected or would be subject to a further selection process. That is a fundamental point.

Alex Johnstone: Having read the papers and considered our previous discussions, I am surprised by how interpellation procedures in other Parliaments reflect many different aspects of what we do and operate in many different ways.

The committee has discussed members' business, which is perhaps not as exciting and inclusive of members as it used to be. Perhaps that procedure could be given more teeth. On the basis that many things, including parliamentary procedure, can be better served by evolution than by revolution, could we trial the interpellation procedure as an occasional alternative to a members' business debate? Questions could cover not just the types of issue that are the subjects of members' business debates but more politically incisive matters. We could ascertain how the process was working in that context before we

sought to persuade the Executive that it should regularly expose itself to more incisive scrutiny.

The Convener: We could suggest that option, because it would be reasonable to find time for interpellations from members' business debates as well as from Executive debates. Interpellations could not replace members' business debates, but they could take up some of the time that is currently allocated to such debates.

11:45

Mr McFee: To follow Alex Johnstone's evolutionary theory, if we wanted to trial interpellation, perhaps we should trial it around themed question time. That seems to provide an opportunity. I know that members of the committee will think, "Oh God, that means looking at question time again," but that seems to be the business that interpellation is most akin to, although the number of interpellations that we could have in that time would be significantly lower than the number of questions that could be asked.

I do not want to talk about First Minister's question time, but let us consider the subjects that come up at question time. Let us say that Karen Gillon lodged a question that was selected for themed question time. She might raise an issue in which there is a lot of interest but, with rare exceptions, she would get only one or two supplementaries, although she might wish to make a greater statement or ask a more in-depth question. Therefore, if we were to trial interpellation, it would be best suited to themed question time.

The Convener: The chances are that if we try to sell interpellation on the proposition that we will lose time for ordinary questions, we will be on a loser. There is some logic in what you say and perhaps an interpellation could follow on from question time. That might be a sensible time for it, but to invade the time that is allocated to questions is not a good move.

Mr McFee: I was suggesting doing that on a trial basis.

Karen Gillon: I do not know many people who think that question time is a resounding success in the current format. If a member gets one question and an answer and the minister does not answer the question that they have asked, it is frustrating for the member not to be able to push that further.

Alex Johnstone: Surely ministers do not refuse to answer questions.

Karen Gillon: I do not think that ministers refuse to answer questions. However, sometimes, they do not give as full and frank an answer as we would like and, if we were able to pursue them further, we might be able to ascertain some more information.

Alex Johnstone: I am appalled to discover that.

Karen Gillon: Shocked and appalled. Having seen interpellations working abroad, I think that they offer something extra that would be of interest to members—if they were properly explained—and would add something to the parliamentary process that is more meaningful than the current format of question time. Often, a member stands up and asks something and then sits down while the minister gives them half a reply. They stand up again and they get a wee bit more, but it really does not get to the meat of what they are trying to find out.

The Convener: The time issue is not too difficult. The Executive has a lot of time and, especially when there is not too much legislation, there would be no great problem with finding time for interpellations.

Cathie Craigie: I agree that it would be difficult to sell interpellation if we were to take time away from question time. I take Karen Gillon's point that the interest from members at question time can sometimes be poor but, nonetheless, as far as I understand, a large majority of back-bench members lodge questions every week. The way that themed question time has turned out is disappointing. When we discussed introducing it, we anticipated that we would get to question 5 or 6 and more debate would be allowed for each question, but we are increasingly getting further down the list of questions than that.

We do not have the time to introduce interpellation. We are saying that we want members to have more notice of what the business will be for the next couple of weeks and beyond, but interpellations would have to interfere with the existing business. It is not the right time to change. By the time that we get the report finished and discussed by the Parliament, it will be October. The Parliament will begin to wind down come the turn of the year, as dissolution will be in March.

We might want to flag up the idea in our report as one for a future Procedures Committee to consider in more depth. I apologise that I was not at the previous committee meeting when the matter was discussed in depth. It is not the right time to move along these lines; we must discuss the matter more widely with members. I do not know how back benchers would feel about interpellation biting into time for members' business. Members' business is a popular and useful tool for raising issues that are important to members and their constituents. It allows people to come along and engage with the Parliament. The proposal to reduce the opportunity for such engagement would not be popular with back benchers. I do not want to be seen as trying to be populist, but it is back benchers' parliamentary time and we must ensure that we are represented.

We should flag up interpellation as another means of raising issues in the Parliament, but we should not change the system now.

Mr McFee: I thought that what we were doing was flagging up our ideas, so there would be nothing distinctive about flagging up this one. I suggest that what we might want to flag up is the possibility of having two or three trials of interpellation. It is hard to look at something on paper and decide what it would look like and how it would work out. The suggestion that we are prepared to trial it on two or three occasions might allow members to consider the idea more fully. It would probably be the third parliamentary session before we implemented it fully, but there could be room to have a couple of trials in the second session. For goodness' sake, let us not be timid.

The Convener: Are you suggesting that we should have trials during this session?

Mr McFee: Yes. We should have two or three trials.

Karen Gillon: What we have known is always safe. What takes place now is what we have known. We have known questions and members' business. That is the system that we were given and have come to know, so we feel comfortable with it. I am not convinced that it is the best system for holding an Executive to account or for parliamentary democracy. There is something to be gained through interpellations for both Executive and Opposition members but, more important, for the Parliament and the people of Scotland so that they can get to grips with some of the issues. If we had had interpellations on free personal care, we might have got to grips with the detail of the policy and might have identified the difficulties to do with interpretation that have now become apparent.

I am not resistant to having trials in this session because interpellation could be a useful part of our parliamentary process. I accept that members' minds may well be elsewhere towards the latter part of the session. If we were to have a trial, there would need to be some buy-in from members that it was not a narrow party political broadcast but part of the parliamentary system. I understand that there may be resistance to having a trial in the theatre of the last three months of a session, because the procedure may be abused when it is new. If we were to do it, there would have to be some buy-in as to what it was about.

Mr McFee: Karen Gillon's point that it would not be a party political broadcast is a good one. The more in-depth our investigation of a subject, the more the party political broadcast is seen to be shallow. The beauty of interpellation is that it would enable us to get underneath the party political broadcast.

The Convener: Is it the general view of the committee, apart from Cathie Craigie, that we should progress with trials during this session?

Mr McFee: We could suggest to other members that they may wish to take up interpellation. We should not treat it differently to the other things that we are asking members for views on.

The Convener: There is a new concept.

Mr McFee: We should flag it up. We should also flag up the point that members might wish to consider trialling interpellation. We should not determine the minds of members on that one issue, because we are not doing so on any other issue. We should ask them.

Karen Gillon: I hope, convener, that everything that we flag up in the report is a new concept. If not, we are not doing our job. If we come up with a report that basically recommends the status quo, we will not have listened to the evidence that we have received, because there has not been huge support for the status quo. Although not everybody who gave evidence agreed with all the suggestions, there have been suggestions for change from all parties in the Parliament. The purpose of having a debate is to say where we are, to say whether we think, having listened to the evidence, there are areas in which we can move forward, and to get feedback. It is quite a new concept for a committee to do that in the middle of an inquiry rather than at the end, when the die is cast and the report is written. We are looking for Parliament to direct us on our final report and recommendations, and we should be flagging up everything that we have learned, suggesting ideas that we think are worth developing and asking members what they think.

The Convener: Should that go into the report that we are about to discuss in private?

Mr McFee: There are one or two minor alterations to be made, to make things clearer, but I think that it should. If we are going to ask members to consider the suggestions, we have to give them the information. We can ask them seriously to consider the possibility of having two or three trials, and the good thing is that we would not need to change anything else to conduct those trials.

Karen Gillon: They might say that it is rubbish.

Mr McFee: Exactly. If we have a trial members might conclude that it is no use.

The Convener: Right. The paper can elaborate on decisions about the number of supporters needed and so on.

Mr McFee: We should also clarify the first part.

The Convener: Yes, we can do that.

There was some discussion at a previous meeting about trying to avoid the breaks for five minutes or so before decision time. A paper has been circulated setting out the present position and the arrangements to do with division bells and so on. Do members wish to pursue the matter?

Karen Gillon: It is absolutely bizarre, in light of the discussion that we have just had about there never being enough time for debates, that we should find ourselves having to suspend business for four minutes. There must be a way of knowing that that is going to happen. Rather than having a new system for pulling decision time forward, people should be encouraged to spend more time on their speeches. If we have just spent an hour discussing why people do not have enough time to take interventions or cannot make long enough speeches, or why the Greens and the SSP cannot get to speak, there is something not quite right in the mix if we are now discussing the need to suspend before decision time.

The Convener: That is a fair point.

12:00

Mr McFee: The problem is rigid timetabling that does not allow us enough flexibility. I have been in the chamber a number of times when business has been suspended for three minutes. When the Presiding Officers decide on how many speakers may speak, perhaps they could create some latitude by taking out two or three speakers and adding another minute to speeches, instead of allowing so many people in at the end. I think that that happened on a rare occasion, in a procedures debate, when not many people had requested to speak. However, the Presiding Officer normally has an indication of how many people wish to speak. Perhaps gaps of two or three minutes could be avoided with a bit of filibustering.

We seem to be hoist by our own petard when it comes to having a five-minute break. If we did not have a five-minute suspension to get to decision time, we would have a five-minute suspension for the division bell to ring.

Karen Gillon: That is another one of those procedures that just happened without Parliament taking a decision on it, and now it has developed into something that cannot be changed.

It is bizarre that we have a five-minute division bell before the first vote in stage 3 proceedings. There should be no requirement for a five-minute division bell. We should be in the chamber during stage 3 debates and we should be able to move to votes. Until the division bell was introduced, we did not have that five-minute luxury; we had to be in the chamber listening to the debate before we voted.

There is nothing wrong with sounding the bell for decision time at 10 to 5, because if you are at your computer it is nice to be called away from it. However, that does not need to be set in tablets of stone and it is not in standing orders, as I understand it. There is nothing to say that we cannot ring the bell earlier to announce decision time.

As someone who has, on occasion, asked to come back for a 5 o'clock vote, and only made it into the building at 5 to 5, I understand why the whips are not keen to have a flexible decision time. If the Opposition parties will not operate a pairing system, we will not have any flexibility to allow people not to be in the Parliament preceding a 5 o'clock vote.

The Convener: Would it be helpful for the Presiding Officers to indicate in the later stages of debates that more time is available, so that other people could press their request-to-speak buttons or speakers could have more time to speak? In that way, the Presiding Officers could fill in the time.

Mr McFee: The Presiding Officers already know that. Analysis of when and why suspensions happen before decision time might be useful. There are examples of Presiding Officers indicating that we could finish early and using more flexibility, but that is not taken advantage of on every occasion.

Karen Gillon is right about two and three-minute delays—they are almost inexcusable. I cannot remember when business has collapsed before quarter to five—although perhaps there have been one or two occasions at the most. Perhaps we should ask the Presiding Officers to be more inventive and resourceful.

The Convener: We should indicate that the solution is to fill up the time for debates rather than muck about with decision time or suspensions.

Karen Gillon: We should certainly try to fill up the three and four-minute divisions. Members say that they do not have enough time to speak, so we should recommend that flexibility be used to give them more time.

If business is going to collapse at 3.30 because we have overextended the time of a stage 3 debate, we should be big enough to accept that that is when business collapses and that members will have to stay to vote at 5 o'clock. We cannot have it both ways. If we want to extend stage 3 debates, we will have to say that business will sometimes finish earlier than projected and just get on with it.

It is the silly three or four-minute suspensions that make us look unprofessional. They make the Parliament look stupid and we need to ensure that they stop happening.

Mr McFee: In extreme circumstances, if we finished at half past 3 we could bring decision time forward. Maybe we should say, "There now follows a short musical interlude."

The Convener: We will try to encourage the Presiding Officers to encourage members to fill up the time constructively.

Members' Bills

12:05

The Convener: The next item is members' bills and substitution. We discussed the matter before at some length, and we agreed that the member in charge of a bill should not be a member of the committee that considers it. A substitute from their party should be found, but only for the agenda items on the bill.

Another question that arises is whether the same should apply to ministers. At the moment, there is a sort of convention that ministers do not become members of committees. Would it be desirable to make it clearer in standing orders that ministers should not be on committees?

Karen Gillon: I do not think that the point is that ministers should not sit on committees, although I am not averse to our considering that. However, when ministers take through Executive bills, the same rules should apply to them. In Wales, there has been some benefit from ministers sitting on committees. We do not have that system in Scotland, but we might want to try it in future. We should not rule it out. However, ministers should be treated in the same way as any other member of the Parliament in relation to bills.

The Convener: All right.

Should we also say that, when an ad hoc committee considers a committee bill at stage 2, no member of the initiating committee should be on the ad hoc committee, or should we just state that the convener of the initiating committee may not be a member of the ad hoc committee?

Karen Gillon: There is some benefit in having members of the initiating committee on the ad hoc committee because that helps with the passage of the bill, but if we are serious about committee bills having the same level of scrutiny as other bills, members of the initiating committee probably should not be on the ad hoc committee. The ad hoc committee should be made up of members who have not considered the proposal in detail.

Mr McFee: That is right in theory, but I wonder whether it would work well in practice. We are saying that one member of a committee should be excluded for certain items of business, but if we then potentially exclude up to half of what could be a committee—

Karen Gillon: For a committee bill, we create a whole new committee—

Mr McFee: I understand that. You are saying that, for stage 2, you want a new committee that is entirely new to the issue.

Karen Gillon: Yes.

Mr McFee: Is that practical?

Alex Johnstone: In general terms, the ad hoc committee sits in judgment on the views that were expressed by the initiating committee. It has a quasi-judicial role. It is almost like the situation with planning: it is important that one does not have somebody from the initial committee whose job it is to go on to the ad hoc committee to campaign for the views that the initial committee expressed. For that reason, there is good cause to say that there should be a completely fresh look.

The Convener: I support that. Obviously, the convener of the initiating committee can be the member in charge of the bill and can give evidence to the ad hoc committee on the various issues. Other members of the initiating committee can attend meetings of the ad hoc committee, just as they can attend any other committee. I think that I have been persuaded that a complete separation of the initiating committee and the ad hoc committee would be a good thing. Is that a general view?

Members indicated agreement.

The Convener: I think that we agree on all those points.

12:10

Meeting continued in private until 12:47.

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

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

The deadline for corrections to this edition is:

Monday 3 July 2006

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

Meetings of the Parliament annual subscriptions: £350.00

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

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at Document Supply.

Published in Edinburgh by Astron and available from:

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

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

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

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

Telephone orders and inquiries
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

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

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

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

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers

Printed in Scotland by Astron