



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE

Tuesday 8 November 2011

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STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE
6th Meeting 2011, Session 4

CONVENER

*Dave Thompson (Skye, Lochaber and Badenoch) (SNP)

DEPUTY CONVENER

*Helen Eadie (Cowdenbeath) (Lab)

COMMITTEE MEMBERS

*Margaret Burgess (Cunninghame South) (SNP)

Bob Doris (Glasgow) (SNP)

*Margaret McDougall (West Scotland) (Lab)

*Nanette Milne (North East Scotland) (Con)

*Paul Wheelhouse (South Scotland) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Roderick Campbell (North East Fife) (SNP)

Natascha Engel MP (House of Commons Backbench Business Committee)

Dr Sue Griffiths (House of Commons)

Dr Peter Lynch (University of Stirling)

Iain MacWhirter (The Herald/The Sunday Herald)

Henry McLeish

CLERK TO THE COMMITTEE

Gillian Baxendine

Alison Walker

LOCATION

Committee Room 2

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Tuesday 8 November 2011

[The Convener *opened the meeting at 14:16*]

Interests

The Convener (Dave Thompson): Good afternoon, everybody, and welcome to the sixth meeting in this session of the Standards, Procedures and Public Appointments Committee. I remind members to turn off their mobile phones and BlackBerrys.

Roderick Campbell has joined us as a substitute for Bob Doris. I invite him to declare any relevant interests, as this is the first time that he has attended the committee as a substitute.

Roderick Campbell (North East Fife) (SNP): I am not aware of any relevant interests.

The Convener: Okay. Thank you very much.

Reform of Parliamentary Business

14:17

The Convener: Our main item of business is the third evidence session in our inquiry into remodelling the parliamentary week. I have great pleasure in welcoming our first panel. Natascha Engel MP is chair of the House of Commons Backbench Business Committee, and Dr Sue Griffiths is a clerk to that committee in the table office of the House of Commons. I thank both of you for agreeing to come to the meeting to speak to us and answer our questions. Would you like to say a few opening words? We will begin questions after that.

Natascha Engel MP (House of Commons Backbench Business Committee): I did not intend to say any opening words, but as I am a politician, I will do so.

I thank the committee for inviting me to the meeting. This is a brilliant opportunity.

The Backbench Business Committee is relatively new—it is just over a year old. I spent the morning in the Scottish Parliament, which is a stunningly beautiful building. There are things that are quite interesting to read across, but things are done very differently here. That is a caveat to all the answers that I give about the Backbench Business Committee.

The Convener: Thank you very much. I am glad that you enjoyed your morning, and I hope that you enjoy the afternoon too. I promise that members will not be too hard on you. They are really quite a gentle lot.

As you said, the Backbench Business Committee is fairly new. How are topics selected for debate? Has the committee had any impact on the type of issues that come up for debate in the short time for which it has existed?

Natascha Engel: I will answer that question in two parts, as there is the period before e-petitions were introduced and the period after that. Those periods are quite distinct.

When the Backbench Business Committee was established, which was before e-petitions were introduced, among the only things relating to its business in the standing orders was the number of days that the Government allocated to back benchers. It allocated 35 days per parliamentary session, 27 of which were days on the floor of the House of Commons. We have two chambers: the main chamber and Westminster Hall, which is equal to the main chamber but no votes can take

place there. Obviously, time allocated in the main chamber is at a premium.

The way in which we allocate debates was not originally in the standing orders, so we had to make it up as we went along. We decided early on that it would be inappropriate for a committee of seven members plus a chair to meet in private to select their personal hobby-horses to debate in the chamber. We decided that we would be led entirely by business ideas or suggestions that back benchers brought to us. We opened up to public representation sessions, which someone called our salon and others have called the dragon's den. We do not like to call our sessions either of those things.

It is interesting that at first the process was quite slow because it was such a different way of doing things. Back benchers were entirely unused to being given control over what they do with their time. The process has taken quite a while to bed down, but now that it has done so we get a huge number of representations.

We select debates against a published set of criteria that includes topicality—a debate has to be relevant to today. A debate must have cross-party support. We are very strong on that. We are not a forum for the Government to gain general debates to promote its legislative agenda, nor are we a forum to create more Opposition days, because the official Opposition has its own days on the floor of the House. Cross-party support is extremely important to us. A debate must also be good. If the subject is something that everyone agrees on, it will not be a good debate. We insist on being persuaded that the subject for debate has more than one side.

After the representation is made to the committee, we go into private session and discuss how we are going to fill the days that the Government has given us. Sometimes they are allocated to us on a completely ad hoc basis. We meet every Tuesday at 1 pm and there are some Tuesdays on which we are given no time to allocate, so we park issues. There are other days on which we have Westminster Hall and the chamber and several days to allocate at the same time.

Having said that, I repeat that the situation has changed since the introduction of e-petitions. At the end of July, the Government announced the creation of the e-petitions website and said that any e-petition that breached the 100,000 signature threshold would be passed to the Backbench Business Committee for it to decide whether to have a debate. That has turned into a bit of a monster because it is quite easy to get to 100,000 signatures. While it is clear on the website that reaching 100,000 signatures triggers a letter from the Leader of the House to the chair of the

Backbench Business Committee, the public perception is that it means that there will be not just a debate but a debate in the chamber with a vote and a change in the law. Changing that public perception is quite difficult.

At the moment, we are finding it hard to manage outside expectations alongside the bread-and-butter issues that are still coming to us. A lot of it is about paying attention to what people outside are saying, because we represent them. However, rather than giving enough consideration to the merit of the issues that are brought before us, we are increasingly being guided by representations from members who bring to us e-petitions that have breached 100,000 signatures. We are here to see the Public Petitions Committee about that.

The Convener: It all sounds very interesting and quite difficult at times. Are the issues that are debated different from those that were debated in the past? What difference has the situation made in that respect?

Natascha Engel: I will focus on the time before e-petitions, because the Scottish Parliament has dealt with petitions in a completely different way.

What has changed is the culture of the way in which Parliament works. Previously, members on the back benches, whether they were in the Government party or one of the Opposition parties, had little access to legislation or even to time on the floor of the House. We have adjournment debates at the end of the day, which are decided by ballot. That is done by the Speaker on a raffle system. At the moment we are running at one debate per seven people putting in for debate and being selected, which is a low ratio.

Until now, debates have never been assigned according to the merits of the subjects that people propose. There are small debates in Westminster Hall and there are debates on private members' bills, but they never get very far. The feeling on the back benches was that members could not do their job of holding the Government to account and scrutinising it properly. The establishment of the Backbench Business Committee has empowered back benchers to a much greater extent than was the case previously.

The Convener: Has attendance at the debates increased because members feel that they are more meaningful?

Natascha Engel: That is an important point. It is not just that the debates are more meaningful but that members have ownership of them. We used to have set-piece debates—for example, the Government would schedule a general debate for international women's day—but those debates now fall within back-bench time and we schedule them on merit.

If a member comes to us to ask for an international women's day debate, they will lead the debate. If there is to be a vote, they must organise tellers and write the motion in conjunction with the clerks. Members are taking much more control of their own time, which has had a huge impact: all our debates apart from one have been enormously oversubscribed. We have time limits on speeches, which is not usual in normal Government debates, and the debates are very popular. It is an issue of ownership rather than whether the subjects are much more interesting—although they are, of course.

The Convener: Thank you. That is interesting. The other committee members want to raise some points with you, and as issues come to mind, they may want to pursue one or two a wee bit further. Helen Eadie will begin.

Helen Eadie (Cowdenbeath) (Lab): Good afternoon and welcome. It sounds as if you have the work pretty well co-ordinated, and there seems to be good collaboration. However, are there aspects that you think could be improved through even better co-ordination or collaboration with the Government with regard to Government and Opposition debates and private members' business? How would you set about improving the system, if indeed you think that it needs to be improved?

Natascha Engel: Certain aspects definitely need to be improved. This is the first session in which we are trying out the new system. We published a report at the beginning that should have been subtitled "Suck it and see", because we went out of our way to say that we will try everything and we do not mind failing.

One thing that has become clear is our lack of control over the time that is allocated to us by Government. We cannot schedule ahead, as we do not have the flexibility that Government has. We do not have a civil service. We have our fantastic clerk to the committee, Sue Griffiths, and her fantastic colleagues, but it is not the same as having the usual channels and the business managers who co-ordinate everything.

There is an issue with the set-piece debates that I mentioned earlier, which form part of our time allocation from Government. I cannot remember all of them, but they include five days of debates on defence. Defence would always be given five general debate days in any session by Government.

The European Union fisheries council meets at some point in December, so there would always be an EU fisheries debate and a Council of the European Union debate. I mentioned the international women's day debate, and there were also Welsh day debates—indeed, there were any

number of set-piece debates. Where members once expected to have those debates, we will now not necessarily schedule them unless members come to us, so those members feel quite hard done by.

We would like to continue to have most of those debates. It would probably be better if we could sit down with Government at the beginning of the session and say, "These are the debates that will definitely happen—we would like to have access to your calendar or your grid and slot in some back-bench days, rather than being told half an hour before the committee meets that we can have the chamber next Thursday."

14:30

The other problem concerns our sitting hours, which are slightly different. In the last session of Parliament, Thursday—while still a sitting day—became not quite a voluntary day, but a day when general debates with no votes were scheduled.

Many members would therefore go home to their constituencies on a Wednesday night, but we have been allocated almost exclusively those Thursdays. When we have a votable motion, it means that members have to stay down at Westminster.

At the beginning there was a bit of difficulty with the Government whips' office, which blamed the dreadful Backbench Business Committee for putting on votable motions. They said, "Of course, if it were down to us, we would let you go home." We have kind of overcome that now and have established that Thursday is a sitting day. If we want to take responsibility for our time, we have to take responsibility for it. That has worked out all right.

The one big thing is that we need to have access to the Government's entire calendar and a bit more say over when the debates happen. We could even be given a day or half day every week that would become back-bench time. That would work much better.

Helen Eadie: Thank you very much. That is helpful.

The Convener: You are looking for something that is a wee bit more structured.

Natascha Engel: That is right.

Paul Wheelhouse (South Scotland) (SNP): Thanks, convener. I welcome Natascha Engel; it is good to see you here.

We are wrestling with how to make members' business debates and parliamentary debates in general more topical and how to increase the spontaneity. You mentioned that the back-bench debates that you schedule must be topical. How

important is that, and what provision is there to ensure that they are topical?

Natascha Engel: When I say topical, I mean topical by Parliament's standards, which is not topical by normal people's standards. We cannot be topical in the sense of discussing something that happened today because, as I said, we sometimes have no time given to us for a month. That has certainly been the situation, so if there is a burning issue, we would probably have to talk to the Government and ask whether it could schedule a debate or give us a day. It has not happened so far that something topical has happened on which the Government has not itself scheduled a debate. For example, the Government schedules debates on the crisis in the euro zone.

It is significant when an e-petition breaches the 100,000 signature mark. You might have seen it reported in today's *Daily Mail* that the Migration Watch UK petition breached the 100,000 signature mark yesterday. A matter suddenly becomes topical when that happens, so the newspapers carry the story and it is in the news. That is a phoney kind of topicality; it is not because there has been an event.

Topicality might relate to an issue that is a running sore. For example, the EU fisheries summit, which is apparently the most important in the last four decades, is happening in December. If we schedule a debate on the matter in back-bench time in January, it will not be topical. There is that kind of topicality. We know that there is a date by which we must have the debate; it is not about something that happened today, but there is an event on which we hook a debate.

Paul Wheelhouse: That is helpful. Thank you.

Roderick Campbell: Good afternoon. Leaving aside the lack of control over the time that is allocated by Government, do you believe that the system is genuinely operating independently of front-bench influence?

Natascha Engel: Absolutely, yes. You can tell that that is the case, because they all hate us.

The Convener: Do not expect to be liked as a politician.

Natascha Engel: I gave up that hope a long time ago.

A big worry when the committee was first set up was that it would just form an expanded usual channel. It was feared that we would get sucked into that and that the business management would just become a little bit larger. That is still a risk, given that we are considering having a House business committee that operates as a parliamentary bureau, like the one in the Scottish

Parliament. It is something that we have to guard against.

We have been pretty successful. The committee's membership is politely called "independent minded"; the Government calls us something completely different. We are strongly independent. All of us are career back benchers and have not been front benchers.

We are guided by what back benchers bring to us. If the whips asked whether we could see our way to having a debate on something that they wanted to raise, we could not do that unless a back bencher proposed such a debate to us. We have mechanisms in place that prevent us from being sucked into such matters.

Margaret Burgess (Cunninghame South) (SNP): Good afternoon. Have speaking conventions developed for back-bench debates that differ from those in other debates?

Natascha Engel: That is the case in the chamber, but the debates in Westminster Hall tend to follow a more traditional pattern. In the chamber, what normally happens is that the minister opens—

Dr Sue Griffiths (House of Commons): Normally, the member who secured the debate opens it.

Natascha Engel: However, the normal process previously was that the minister opened the debate, the Opposition front bencher responded, back benchers had a debate and then wind-up speeches were made by the Opposition and the minister.

Dr Griffiths: Normally, the junior minister would do the wind-up speech.

Natascha Engel: That is right. Back benchers were sandwiched by front benchers and the Executive.

Now, the sponsoring member who brought the debate to the committee opens the debate and that back bencher or another back bencher winds up. Front benchers are—I must be careful about how I say this—invited to participate in the debate.

What was the foreign affairs debate that we had recently? It was on having an EU referendum—how could I forget? That debate was difficult because it was hugely oversubscribed, as we knew it would be. William Hague spoke in the middle of it. We thought about asking him to abide by the same five-minute time limit as applied to back benchers. Of course, if that had applied, he could not have taken interventions properly, so his speech went on for about 20 minutes, with interventions.

The aim is that the debate is led by back benchers and that front benchers participate in it.

That is a very different approach. It took quite a long time for front benchers to get their heads round that.

The Opposition's role is different in a back-bench debate. If the Government makes an announcement about the issue in the debate, that is significant, but the Opposition front benchers have an odd role and sometimes feel a bit left out. The arrangement is very different.

We go backwards and forwards, because the Speaker of the House of Commons chooses a member from one side and then the other to speak. How members interact differs—the normal raw partisanship in Parliament is not there. People agree or disagree on the issue rather than on party lines. That is partly because of the debates that are brought to us and partly because people come to us cross-party. That approach has also built up through the ownership of the debates. The debates are owned by back benchers who are concerned about the issue and are not about getting one over on the other side.

Margaret McDougall (West Scotland) (Lab): You mentioned that one speech ran on to 20 minutes. Is flexibility to extend the debates built in?

Natascha Engel: That extension was just for a front bencher, but flexibility is available. When the Speaker looks at the list of people who have asked to speak, a rough-and-ready calculation is done to allocate time without making the debate meaningless, as would happen with two-minute time limits, for example.

Some members keep their speeches very brief and go way under their five minutes to ensure that other members can speak. What I will say is a bit technical but, if a member takes an intervention, a minute is added to the clock. That applies to only two interventions and, after that, no time is added. Speakers used to invite people to make short interventions, because they would then have seven minutes instead of five. That no longer happens as much, because people want their colleagues to be able to make speeches, too. People are much more careful about how they use the time.

Dr Griffiths: The thing with speech limits is that they do not apply to the front-bench spokespeople at all; they can go on as long as they like. Having only one set of front-bench speeches can provide time for a number of back benchers to come in.

The Convener: To follow up on that point, we would want the ministers and front benchers to be there to respond to the points made; that makes sense. Are you formally obliged to have them there, or could you exclude them?

Natascha Engel: We could exclude them. There is no reason why they have to come in but, as you say, it is quite useful.

One of our first debates was on contaminated blood. That issue was a running sore that had been around since the 1970s and which consecutive Governments had refused to deal with. When we brought it forward for debate, it turned out that the figures held by the Department of Health over all these years were not right. It was only by having the matter debated and having the front bencher there at the dispatch box, having to make sure that the figures were right, that we got a resolution. That was important. Had we excluded the front benchers, the outcome would have been far less good.

The Convener: Thank you.

Nanette Milne (North East Scotland) (Con): We got to the issue of contaminated blood through a petition to our Public Petitions Committee. As a member of that committee, I am very interested to hear what you said. I think that you are meeting some of my colleagues this afternoon.

Natascha Engel: Straight after this.

Nanette Milne: I am sure that you will enjoy that. You have more or less dealt with my question, which was how much notice the Government gives you of back-bench days. It sounds as though it is very variable and sometimes very short.

Natascha Engel: It is, partly because we do not have such a formalised system as you do with the Parliamentary Bureau. The business managers of our "usual channels" work on a much more informal basis and business changes. Also, having a second chamber alters things slightly, because we are sometimes waiting for legislation to come back to the Commons from the Lords. It might be delayed or it might come back early.

While Government had complete control over its own timetable, it could move things about, but now that we are there, it has to have slight regard for us—it does not consider us too much, but it has to have slight regard. Sometimes it is obvious when there are slots available and nothing else will be scheduled, but there are other times when it is not. For example, before the summer recess, there was a lot of legislation going through the Commons—most of it is now in the Lords, so there is a bit more flexibility—and we had very little time allocated to us. There were a couple of occasions on which we were given a day and it was taken away again. The Government has the flexibility.

Nanette Milne: When you say that you were given very little time, how many days' warning would you have?

Natascha Engel: For it to be taken away?

Nanette Milne: For it to be put on.

Natascha Engel: We have refused to schedule debate on a day for which the notice was too little. We were given two days' notice once and we had to say that there was just no way that we could do it. We just could not. We would be making up a debate and not being led by back benchers coming to us. Also, when it is back benchers doing it for themselves, they have to get round people and organise for them to turn up and organise for tellers to be there, and it takes time. The whips' office has a whole operation that is very experienced at doing it, but the process for back benchers is much less formal, so we need much more time to do it.

Margaret McDougall: Does the new system of pre-recess adjournment debates represent a significant change or improvement over the previous system?

Natascha Engel: That is an interesting question, because it goes to the heart of how things worked before. A lot that is already in the ownership of back benchers—or not in the ownership of the whips' office—has been decided by ballot by the Speaker. In pre-recess adjournment debates before, we had six hours in which anybody could raise any issue that they wanted to. Over the years, it developed into a miscellany. If you had written a speech on, say, Trident, and you had sat in the chamber for six hours, but you had not got in, the debate was your opportunity to make the speech, so that it was on the record and not completely lost. All sorts of different subjects would come up, from all over the place. A person would put their name down to speak, but time would always run out. There would be a time limit of about three minutes, but some people would still not get in, even though they had sat in the chamber for six hours. It was quite difficult.

14:45

The Deputy Leader of the House would do the wind up, and would try to pick up everything that had been mentioned. There was such a variety—literally any subject could come up, and the Deputy Leader of the House would have had no warning about it. The convention was that he would then write to the relevant minister, and a letter would then come back to the person who had spoken. There were two schools of thought. Some people were not speaking in order to get a response; they just wanted to put what they wanted to say on the record. Other people did want a response, and wanted a minister to respond at the dispatch box. We wanted to address that issue.

If we divided the six hours into sections for departments, people could raise their debate and a minister would be at the dispatch box to respond. We could also have a miscellaneous hour at the end, during which any subject that was not covered by a particular department could still be raised and be followed by a response from the Deputy Leader of the House, who would then send letters. That would make the debates more meaningful, and would also be better at holding the Government to account. Otherwise, issues could just hang there, and ministers would not have to respond.

What I am about to say is anecdotal. New members who were elected in 2010 and who have been brought up with the Backbench Business Committee and do not really know what life was like before have welcomed the new format for pre-recess adjournment debates. Longer-serving members who used the previous debates three times a year do not like the new system so much. They just want to put things on the record. Whenever you introduce something new, you lose something else.

There is discussion over whether all the time that is currently allocated by ballot through the Speaker's office might be better dealt with by the Backbench Business Committee. Subjects for debate would then be decided on merit rather than by chance. Some people would prefer to leave things to chance, rather than have to make a case for their debate. I make no value judgment there; I am simply saying what people prefer.

Margaret McDougall: Is it an improvement to have a bit of a debate and to receive a response on the day, rather than get the speech on the record and wait for a letter?

Natascha Engel: Personally, I would say that it is a definite improvement to be able to focus on issues and have a minister at the dispatch box to respond. However, the time taken by a minister to respond is time taken away from a back bencher making a case. We will see. If there is an outcry because people really hate the new style, we will go back to the old system. At the moment, though, people are just getting used to it.

The Convener: Would you say something more about time-limited speeches? It is an issue that has been exercising us in our general inquiry. Here, if there is a two-and-a-half hour debate, back benchers are allowed six minutes. For debates of just over an hour, or for shorter debates such as a members' business debate later in the afternoon, we get four minutes. It is quite a discipline to get all the points that you wish to make into such a short time—sometimes it is a very good discipline. At Westminster, has the application of a five-minute limit improved

debates? Are debates now better than when people could go on for ever?

Natascha Engel: It is difficult to say. Back-bench debates tend to be issue led rather than on legislation, for example. For a bill, our first stage happens in the chamber, where we debate its general principles. If we had a health bill with loads of different things in it and members had something to say about all of them, it would be very difficult for them to put their comments into a four, five or six-minute speech. That is especially the case when someone has expertise in a subject. I do not think that people can get to the point in such a short time, and the speeches can become so vague as to be meaningless.

One of the more infamous debates that we scheduled was on the banning of wild animals in circuses. That is a very specific issue, and people are either for it or against it. It is possible to be succinct on such an issue, but the time is short. I have never been one to make long speeches, but I find that, in speeches of less than 10 minutes, I can deal only with the general principle rather than drill down into the detail. We have been lucky in that back-bench debates tend to be issue led rather than on complicated subjects.

The Convener: I understand exactly what you mean. I took part in a members' business debate here last week. We were given four minutes, and I could easily have gone on for 10, 20, 30 minutes, or longer, but I had to finish in four. I did not really make the points that I wanted to make in the way that I needed to make them, so I can sympathise with those comments.

We are beginning to look at speeches of up to 10 or 12 minutes in teasing out how to deal with debates. On certain simpler subjects, members might want to take a lot less because, as you say, they may want to make only a couple of points and sit down but, on issues in which people have expertise or knowledge, they would want to take their 10 or 12 minutes. Do you think that that pattern would work well?

Natascha Engel: At the other end, there are debates in which there are not many participants. I have sat in debates when people have spoken for up to an hour and I have struggled to remember what they said. When we look at that extreme, we must remember that we are all politicians and we all talk for the sake of talking, so it can be good to have a restriction to focus our minds.

For example, the Health and Social Care Bill is going through Westminster at the moment. If somebody speaks for an hour on it in the chamber, that is time taken away from somebody else saying something. I would much rather have a time limit of five or 10 minutes to ensure that everybody can put on the record what they want to

say, rather than have just one person taking up all the time. There are careful balances to strike, but we came down on 10 minutes as a happy medium.

Dr Griffiths: The other option that we have is to put debates in Westminster Hall—our parallel debating chamber. Time limits cannot be applied to speeches in Westminster Hall, so it tends to be suitable for more specialised debates that are attended by a smaller number of members but in which they can get into the detail of the issue.

Natascha Engel: As there are no votes in Westminster Hall, the debates also tend to be less heated. In the chamber, especially if there is a vote, debates can get very impassioned. If somebody is suddenly cut off after four minutes when they are just about to reach the climax of their argument, it feels wrong. It takes away the flow of the debate.

The Convener: Thank you. Do members have any other questions?

Helen Eadie: I have a final question—or what I think is a final question. Standing back and looking at your week at Westminster, what do you think are the strengths and weaknesses of the way in which business is structured at the moment? I understand, for example, that you might be there from Monday to Friday—indeed, I have read that 13 Fridays are set aside for consideration of private members' bills. What might you change about the current system?

Natascha Engel: The House of Commons Procedure Committee, from which I believe you will be taking evidence, is investigating the Parliament's sitting hours and will be able to give a far more detailed response to that question. When I gave evidence to it, I certainly expressed very strong views.

Over the years, the role of MPs has altered significantly; they have focused far more on their constituency work than on being parliamentarians. We have tried to squeeze everything together, but I simply do not believe that it is possible to do that. In that regard, we MPs have been quite dishonest and have invented many different mechanisms to make ourselves look busy. The fact is that, although we are ridiculously busy, I do not know how effective we are. After all, working ludicrously long hours does not necessarily make you very good at what you do. Indeed, at some point, you become less good at it. It would be better to focus on a few things, do them well and be very clear about what you are doing and how you are carrying out your constituency and parliamentary duties. The danger, certainly in the last Parliament, was that the focus on constituency work meant that there was almost no scrutiny of

the Government's legislative programme. That is clearly a bad and wrong situation.

Helen Eadie: How could the situation be improved?

Natascha Engel: We could consider the strengths of your committee system, which has evolved in the way that it has partly because there is no second chamber. The fact that, in your select committees, members become very expert in their subjects and carry out scrutiny in what we call the standing bill committee stage is very good and should be examined. At the moment, MPs do not have to have expertise or even an interest in anything that a constituent brings to them. Having some specialisation and expertise in a subject makes for better constituency members and parliamentarians. I will definitely be taking this example back down to Westminster with me.

Roderick Campbell: In allocating business, does the Backbench Business Committee take account of the substantial distances that certain MPs from outlying parts of the United Kingdom have to travel? If so, should we take that issue on board?

Natascha Engel: It is a real problem. Government generally allocates us a Thursday afternoon, and it takes Scottish MPs—and those in the north-west of the country, where access is quite difficult—a very long time to get home. When, for example, would we schedule a fisheries debate? Almost by definition, all the members who will want to take part in that debate will live in the most far-flung places but, if it has to happen on a Thursday afternoon, they cannot get home that night and have to travel on the Friday morning instead. We would like to pay due regard to that issue but, when you are allocated only one day for such business, you have to do what you can with it. The fact is that the way London MPs do being an MP is completely different from the way in which MPs with constituencies much further away do it. I do not know how one would take account of that—it might just be that that is how it is.

The Convener: Your evidence has been useful and helpful and I hope that you, too, have found the experience helpful. If you wish to draw anything else to our attention, feel free to drop us a line. When we produce our report, we will send you a special bound copy.

Natascha Engel: Thank you very much—I would be delighted to receive it. Thank you very much for inviting me today.

The Convener: I suspend the meeting for a few minutes.

15:00

Meeting suspended.

15:02

On resuming—

The Convener: Our second panel of witnesses is Dr Peter Lynch, senior lecturer at the University of Stirling; Iain MacWhirter, political commentator for *The Herald* and *Sunday Herald*; and Henry McLeish, former First Minister of Scotland. Thank you for coming along and being prepared to give evidence on the issue; indeed, I hope that the session will develop into a discussion. If any of you wish to say a few words of introduction, please keep your comments to a minute or two. The committee has many questions to ask.

Who would like to start?

Iain MacWhirter (The Herald/The Sunday Herald): I will. As you have rightly pointed out, convener, I am a hack for *The Herald* and *Sunday Herald*.

The Parliament has an image problem. As you know, people think that MSPs work only two days a week and that they all go home in the evening, that Holyrood is more interested in single-issue pressure groups than in real people's concerns and that it passes too much special interest legislation. Although that perception is wrong, it is difficult to dislodge, partly because the Parliament is invisible—or, at least, has great difficulty in keeping itself in the public eye. That is partly because Westminster still dominates the UK media. Invariably, the network news bulletins that are transmitted in Scotland are dominated by issues of concern to Westminster such as free schools, national health service reforms south of the border and even border controls. Such issues are very different in or do not apply at all to Scotland.

It is consequently very difficult for the Scottish Parliament to keep up its public profile and address its image problem. The Parliament has to do that, however uncomfortable people may feel about it, through the main media by which people gain their political intelligence: television and radio. I speak as someone who works for newspapers, so I am not talking out of self-interest. The Parliament must ensure that it has as clear a presence in the media as possible. I therefore agree with the former First Minister Jack McConnell that the Parliament should sit on three afternoons a week and that it should continue with business in the evening when there are important debates.

The time allowed for MSP's speeches is far too short. A speech needs to be at least 10 minutes long, otherwise there is no opportunity to develop

serious points and debates become perfunctory, routine and predictable, which is death to a Parliament.

I also think, perhaps more controversially, that both ministerial question time and First Minister's question time need to be addressed. First Minister's question time, which is held once a week, is almost the only occasion when the Scottish Parliament can be absolutely sure that it will get a presence on the news bulletins. That may be regrettable, but it is what politics is like. People want to see the man or woman in charge properly held to account. That is even more important now that the Government has an absolute majority in the Scottish Parliament. No one expected that situation to arise and there is no upper house in the Scottish Parliament to act as a check on the Executive. It is therefore even more important that the First Minister is held to account and is seen to be held to account. The most effective way for that to happen is for the First Minister to be subjected to questioning.

Scotland should hold First Minister's question time twice a week—that was the model at Westminster before 1997 and it worked extremely well. Its removal was a coup by Alistair Campbell, who ditched that model in favour of one longer session of Prime Minister's question time on Wednesday. That change would do a lot to ensure that the Parliament had proper projection.

There are lots of other issues, but we can talk about those later.

Henry McLeish: I agree with much of the context that Iain MacWhirter has outlined.

I will address the issue in three chunks. Previous discussions about changing the procedures in the Scottish Parliament have not gone very far. There has, understandably, been timidity and a lack of confidence. I would like, first, to put it on the record that this is the time for bold action on how the chamber and the committees do their work. We have 12 years of experience behind us and we have had time to assess weaknesses—real or imagined.

My second point is that when we look forward and see the changes that could be made to the Parliament, we must move on. Without becoming party political, or political at all, there is no doubt in my mind that this place will have far more powers and responsibilities in the years that lie ahead. Whether there is independence, devolution max or the status quo plus Calman, there will be far more for this Parliament to do. That suggests that some radical changes are required.

My third point, which perhaps concerns me most, is that there have been formidable achievements over the past 12 years. The Parliament's head should not be down. If you

consider the legislation that it has produced, the groundbreaking policies, its financial scrutiny and its financial competence in dealing with taxpayers' money, there is a lot that parliamentarians have done over the years that they can rightly be proud of. The Parliament has lacked the self-belief and confidence to take the radical steps that it should be taking.

Part of what I mean when I talk about a lack of confidence is the irritating noise about how we compare unfavourably with Westminster. I was there for 14 years and I know that in terms of talent, individuals, hard work, constituency interest and application there is no difference. There are a lot of excellent people in the Parliament but, as Iain MacWhirter said, you have to be confident enough to ensure that the Parliament has a more conspicuous place on the national agenda and is more conspicuous in debating national issues. Having more confidence in what you do in the Parliament could go some way towards that.

I agree entirely with Iain MacWhirter about the perception of the Parliament. I was on the consultative steering group that wanted a family-friendly Parliament, but there is now no doubt in my mind that the Parliament must meet over a much extended period from Monday through to Thursday evening. There must also be far more involvement in the committees. One of the weakest parts of the 12 years has been the select committee role of the committee structure. The committees are often overwhelmed by their lead committee function, because of the volume of legislation, and the select committee function has fallen down. There is much to talk about, much to inquire about and much evidence to be gathered and having the Parliament meeting—combining plenary and committee—for three full days and possibly an extra half day on Monday will hit through. It will also give parliamentarians a chance to develop their political skills. At the moment, members cannot always intervene in debates or take interventions. How much research goes into speech writing? Should a member have more than four minutes to speak to the nation on an important subject, to influence their constituents and the nation? Those are some of the bigger issues that I hope we might touch on later.

Dr Peter Lynch (University of Stirling): There are three things that I want to highlight, which you will know are problems. Two of them are constraints and the other is likely to be an issue to deal with in the future. The first is time and the second is resources. The problem with time is that, in deciding which things to discuss from the areas-of-interest brief, you realise that you are swapping one thing for another. Time is a constraint and there is a domino effect in that if you do one thing more, you do another thing less.

That is a difficult balance to achieve for different types of MSPs.

The second issue is resources. If you asked me in general terms what the Parliament might do to make improvements, it would involve finances. By that I mean more resources for committees and for research back-up for the Scottish Parliament information centre. An even larger problem is the fact that it is a small Parliament and the number of back-bench MSPs who are available to undertake scrutiny is relatively limited. I realise that that is not something that you can deal with but, when you get into resources, that is the kind of thing that you end up talking about.

The third issue relates to something that Henry McLeish talked about—the realisation that more powers are coming down the road. Even if you restrict yourselves merely to the Calman proposals that are being introduced through the Scotland Bill, that will result in a substantial change to the way in which the Finance Committee deals with the issues and the way in which SPICe will have to deal with them. Given that more powers for the Parliament is the direction of travel, you must realise that that will have a knock-on effect on committees, on MSPs' scrutiny and on everything else. That will present a challenge for you to deal with.

The Convener: Thank you very much. I am sure that we will have a lot of questions, as an awful lot of issues have been raised. I will kick off by looking at the length of the working week. The Presiding Officer has suggested that the Parliament meet on Tuesdays, Wednesdays and Thursdays, with the committees meeting in the mornings and the plenary sessions in the afternoons. We have also heard evidence that we should meet into the evening once or twice a week—maybe fairly regularly until 7 o'clock on Wednesdays—which would allow debates to run from 2.30 until 7.00 and would give us a good four and a half hours for stage 3 debates. Henry McLeish has even mentioned the possibility of the Parliament meeting on Monday afternoons, although there would be potential conflicts with constituency work. What are your comments on the sitting pattern and the potential conflicts? What are your views on what MSPs should do in relation to their constituencies and on the Parliament working into the evenings?

Henry McLeish: I will kick off with the admission that I have changed my view on that—ex-politicians are allowed to do that. Westminster hours were always frowned upon—it had a lot of bad practices and there were bad experiences when we were there. The idea for this Parliament was to have a family-friendly structure with more civilised hours and that we would do things in a more civilised way. After being out of it for a few

years, however, I feel that the Westminster model has some attractions, although I do not mean the late hours beyond 7 o'clock and traipsing through the lobbies at midnight.

At Westminster, there were meetings on a Monday, but the business was not whipped. There was business in the house that would attract those who were interested, but there was time for people to do their own work. My view now is that Tuesdays, Wednesdays and Thursdays here should be a combination of plenary and committee meetings. A more radical suggestion—although the number of members here would make it difficult—would be to have committee meetings running at the same time as plenary meetings. Fridays should be for constituency work.

15:15

When I was a member of Parliament, we were in London from Monday afternoon until late on Thursday night, and all the constituency business was done on Friday and Saturday. That sounds a bit onerous, but that was how we did it. In London, Friday was for private members' bills and, conceivably, any other business. It was a matter of choice; there was no whipping, and attendance was not required. Friday was therefore a dead day for most people—although there could be a lot of activity if members wanted to be involved in discussions on private members' bills.

The substantial change being proposed for this Parliament is meeting in plenary on Tuesdays, Wednesdays and Thursdays, with options for Monday and Friday. If the change is nuanced properly, it will not destroy the family friendliness. People working at Westminster were much further from home and had to stay there, which was quite demanding.

The Convener: Peter Lynch pointed out a big difference between Westminster and ourselves—the number of MPs and the number of MSPs. I believe that there are as many ministers at Westminster as there are MSPs in total. It is perhaps slightly easier to stretch the week when there are great numbers of people. Will that not be more difficult for us with our more limited numbers?

Henry McLeish: It will be. However, let us consider a scenario—one which I do not support, in case I am misconstrued. This could be Finland, Norway, Sweden or Denmark in 10, 15, 20, 25 or 100 years, with the onerous work involved in a nation state parliament. That might be the ultimate situation, but meantime, as Peter Lynch was saying, extra powers are coming here. A big effort will be required to expand the amount of work done with the current number of MSPs.

Suggesting that we increase the number of MSPs would not be very popular.

Dr Lynch: Earlier, we were talking privately about whether there is enough of a back-bench culture at Holyrood. In the Westminster committee structure, there is a group of MPs who will always be back benchers. That situation does not really pertain in the Scottish Parliament, where an awful lot of people are ministers or committee conveners, or have some other official function. The range of people left is not great.

When thinking about ways of allocating time, you have to consider what the best form of scrutiny will be. That scrutiny need not lead to more media coverage; it will be about making ministers more effective in the legislature. That is what you are supposed to be doing.

It is difficult to think of how many ways an MSP can be sliced up into different functions in order to make them effective, but using the committee system would be one way of doing it. From very early in the life of the Parliament, the committees were supposed to be where scrutiny was practised the most. However, because of the lack of a back-bench structure, it might be slightly less effective. We have been watching devolution for 12 years, and I am not sure how much that kind of thing has developed.

Iain MacWhirter: I spent 10 years in the lobby at Westminster, and many MPs were frustrated because there were 650 of them and they did not have enough to do. The Government therefore tried to create all sorts of extra jobs—advisers on this or that, bag carriers, and what have you—but often MPs were still very frustrated.

A suggestion that we need more MSPs in Scotland would be a lost cause; it would be laughed at. If Scotland became independent, or if there were a federal restructuring of the UK, the numbers would clearly become an issue; but, in the short term, that will not happen.

I do not think that extending the Parliament's debating hours, with the present number of MSPs, would cause any great difficulty.

There are two kinds of scrutiny. There is the visibility of the Parliament, the Parliament's front window, if you like, which is tremendously important. If you do not have the public behind this Parliament, people will lose faith in it; they will start to think that members are just a lot of second-raters, that the Parliament is like a big town council, and wonder why we need a big building for it. That does not necessarily mean, as some people think, that people will think that we should scrap devolution. That is most unlikely. It is far more likely that people will want to scrap this Parliament and have an independent one that actually does something. People ask what the

Parliament does. I know that it does lots of things, but unless people know that, it does not matter. You have to connect.

Helen Eadie: One of my concerns is about the way in which the media operate in all this. It is my perception that sometimes you have to spoon feed the media. There are some journalists who just do not want to dig into things and who are quite comfortable taking the press releases, speaking to one or two people, then going off and doing what they do. That only further entrenches the public perception that there are some issues about which journalists have a hobby horse—not so much the parliamentarians, but the journalists. I am thinking about one particular journalist, not you, Mr MacWhirter.

Iain MacWhirter: Name names. Name and shame.

Helen Eadie: Maybe afterwards. It is an issue, because a tremendous amount of work goes on, particularly as parliamentarians settle down—new members have just come into the Parliament. As the parliamentary session goes on, there is a tremendous push of business. A number of my colleagues and I were on three committees towards the end of the last session. I was on the End of Life Assistance (Scotland) Bill Committee, the Subordinate Legislation Committee and the Health and Sport Committee. I hark back to the point made by the convener that journalists do not really want to know the nitty-gritty of some of the key issues, so the public does not get to hear about the issues. It is not just about parliamentarians.

How can journalists respond better to parliamentarians here? I do not think that there needs to be a massive change here. There may need to be some change, but not a massive change. I do not agree with your point about a Monday night through to a Friday. How does a colleague such as Dave Thompson, who has to come from the Western Isles, contend with all the travel that he has to contend with as well? That applies to many other members around this table. It is not only parliamentarians who need to answer some of these questions; the media need to respond a bit better to the Parliament.

Iain MacWhirter: First, I said Tuesday through Thursday; I did not say Monday.

Helen Eadie: It was Henry McLeish who suggested Mondays.

Iain MacWhirter: I do not think that that would be an onerous workload. It would leave MSPs plenty of time to conduct their constituency affairs. As for the press, we get the press we deserve, just like we get the Parliament we deserve. There is no point in complaining about it. Some journalists are lazy, some are not, but what determines their

industry, or their effectiveness, is the demand for stories about the Parliament. If their editors are not saying, "We have to have stuff on this, we have to look into this, we have to dig deep here, we have to have this, we have to have that," then they will not lift much of a finger either. If they think that all they are doing is processing relatively uncontroversial or highly predictable legislation, or business transactions by committees that will not get into the paper anyway, they will largely give up. That is a cultural thing more than anything else and there is a demand pull here. It is the extent to which the people are engaged with the Parliament and are concerned about and interested in what is happening here that will determine the quality of the journalism.

Henry McLeish: Ian MacWhirter is in a better position to comment on the direct involvement of the press, but the general point to make is that there are huge sections of the press that are a problem for democracy anyway. That is a much bigger argument than merely discussing coverage of what goes on in this place.

That said, the public perception of what you do—and how it is manifest on people's television screens, on the radio or in the printed press—is important. You would not want an organisation or institution to function solely for the benefit of the media, but it is the conduit between the Parliament and the public.

People have talked about the effectiveness of the committee system. A single criticism that I make of the Parliament at the time when I was involved is that, in the main, the Government gets an easy run, because a lot of people believe that this institution is as much about Government as it is about Parliament. To me, a Parliament should be more about Parliament than it is about Government.

If there was less tribalism, less partisanship, more openness and more opportunities in the Parliament to expose Governments of whatever hue, such effective scrutiny would create interest not only in the media but elsewhere. Committee scrutiny can be a positive way of using time more effectively. When chamber proceedings are shown on television, the furniture design means that you can hardly see anyone anyway. If a committee had brought in a bunch of bankers from up the hill at the time of the crisis and kicked them around for a bit—deservedly so, because they pay business taxes in Scotland—that would have been important and it would have been dramatic. In addition to the hard slog that you are involved in every day, there needs to be a bit of excitement, a bit of drama and a bit of the spectacular. That cannot be stage managed.

Within the existing constraints of the number of members of the Parliament, there is lots of

opportunity for things to be done differently, better and more effectively.

Helen Eadie: Before Dr Lynch comes in, is it not more about topicality and relevance than how we restructure the hours of parliamentary meetings? It is about how we respond to the most urgent issues of our day.

Iain MacWhirter: It is about both. You are spot on about topicality. Committees can make a big impact if they are on top of events, as the Culture, Media and Sport Committee at Westminster has been on the phone hacking scandal. Look at how effective it has been. Those committees interrupt their schedule to ensure that they ask the questions that the public wants to see asked and that people are put under scrutiny. That is something that Holyrood could also do.

Dr Lynch: I will make two points. First, what do people see of this Parliament and of Westminster? It is mostly First Minister's or Prime Minister's question time. That is what they tune in to. They watch the drama for a little while and then it goes away again. How do they see committees or more complex issues being discussed? Often they do not. When they watch debates, they might see them taking place in empty chambers.

Secondly, if you have extended hours, what will you do with them? That is exactly the question that Helen Eadie is asking. You can have extended hours, but what is the most effective way of using them? Is it to have more chamber business? I do not have the answer to that question.

I read the *Official Report* of the committee's evidence session with Jack McConnell, Alasdair Morgan and Alex Fergusson. They ranged over all sorts of things, which might be helpful, because the discussion was wide ranging, but it was not always easy to focus on specific issues.

That is the difficulty when you are asked questions about such an issue. We can come up with all sorts of suggestions, but it is about figuring out what would be the most effective use of extra time. Would it be to have more committee inquiries to deal with the topicality issue? Would it be special topical debates that pick up on issues that are current—not necessarily current that day, but relatively current that week? Or would you look to spend the extra time on something else? How would the extra time look? The worst scenario is that you hold debates and they are very badly attended. The public's reaction to that might be negative. That is a problem.

Margaret McDougall: Much has been said already during the review about the number of inane debates and the lack of attendance. As Dr Lynch said, if we extend the time for debates, would we just create an opportunity for more inane

debates? How do we get over that? How do we ensure that we have focused, topical debates?

Dr Lynch: Here is a good question. What is the Parliament's most effective form of scrutiny? If you can figure out a pyramid that shows the most effective form of scrutiny, that is the one to pick—if scrutiny is what you are focusing on. If you are focusing on the public being more aware of what you do, you might pick debates in the chamber. It depends on what you want to focus on as your number 1 priority. From my reading, I am unclear about what that is. Perhaps you are, too. I am not sure.

15:30

Henry McLeish: The important point is that a Parliament will clearly do the technical stuff that must be done. There will be bill committees, bills must be dealt with, a lot of administrative work must be done in committees, and decisions must be taken that will affect water or whatever. However, there are 101 issues in Scotland every week that are often not picked up by the Parliament and on which it could exercise more influence and control. The topicality issue is important. If members vote on a Thursday, it will be the next Tuesday or Wednesday before anything stirs. Although Monday was a quiet day at Westminster and business was not whipped, it was a great day because you could clean up over the weekend. That is often where you get Sundays for Mondays.

It depends on how much influence the parliamentarians can exercise over the Executive and the powers-that-be who run the Parliament. You would have no difficulty in taking on issues that run with the grain of Scottish public opinion or that people want to be discussed. That is not the problem. Creating the space for that business is one issue. Once that is done, it does not need Albert Einstein to work out what to do. That would satisfy the concerns that Iain MacWhirter raised about public expectations and information, and would show the Parliament evolving and developing.

The idea that members who want to speak in a debate get four or five minutes means that, once they have opened and closed, there is no substance to what is said. Nobody's skills are being honed, nobody is becoming an orator, and no one can intervene. One of the great things about intervening is that it develops individuals. While it is clear that a lot of the criticism about inexperienced people coming into the Parliament is simply mischievous press coverage, why should we not be proud that, as parliamentarians we can evolve and take on political skills?

Paul Wheelhouse: Those remarks are timely. As a new MSP, I was going to ask about that very subject.

As Margaret McDougall said, it is not just a matter of choosing relevant debates that are interesting in theory; it is also about how debates evolve and whether they become interesting. Unfortunately, many debates that I have sat through have not been interesting and there has not been much point to them. Obviously, there are many filler debates, but even debates on important subjects do not seem to have a spark about them; they simply fizzle out. It is great that that issue has been touched on. Are there any particular measures that the Parliament could implement in that respect?

The second thing that I want to focus on is post-legislative scrutiny. How has post-legislative scrutiny worked out in practice in the development of the Parliament? Are there any specific measures that the Parliament should implement to increase the amount of post-legislative scrutiny that we undertake?

Dr Lynch: I used to go to the chamber in the old Royal high school building and observe. Timed debates are clever. Obviously, the aim is to have as many people as possible speaking in them. That is why there are time limits. It is up to members whether they want to trade that for fewer people speaking for longer. I suspect that when the Presiding Officer looks around the chamber, she sees many members who want to intervene. Henry McLeish made a point about members having four minutes to talk. If you have four minutes for a speech, all that you will do is talk without taking an intervention, as that would take out 30 seconds. That convention is a real constraint and truncates how the Parliament operates, but the reason for it is to have as many members speaking as possible. That may not be a great reason, but it is the reason. Getting away from that and having longer time allocations so that members can make more substantive speeches might help. New members might find it a bit strange that they get four minutes and then have to stop. That is odd, but that constraint has existed since the institution started in 1999.

The Convener: There is no doubt that it is a constraint, especially for a member who knows something about the subject and wants to elaborate a wee bit. Often, the Parliament would rather hear more from somebody who knows about the subject than give only four or six minutes to that person and to another two or three members who do not know much about it but have been brought in to fill space in the debate.

Perhaps we need to consider systems that would allow members to give their time to someone else, up to 10 or 12 minutes, and take

less if they wished. They would have to let the Presiding Officer know that they were not going to take their full time so that it could be built into the calculations about how long to let other people speak.

Iain MacWhirter: That is tremendously important now, because we have the unique situation of a Government with an absolute majority in a unicameral, proportional Parliament. It has absolute power; it is a steam-roller. The only means that you have to interrupt that steam-roller as it crushes its way through is the power of oratory and the ability of the Parliament to raise arguments.

Argument is extremely important. Governments have to respond to arguments if they are put well and effectively. Such points will find their way into the public domain as well. However, if members speak for only three minutes and are told by the whips what to say, that kind of scrutiny will not happen. You have to be able to develop arguments.

Henry McLeish: The US Congress has a system whereby members in the Senate and House of Representatives get 10 or 12 minutes but can give the representative from, say, Georgia two of them, for example.

However, that is not the key issue. There are two: one is that the more independently minded MSPs should start advocating some of the things that we are talking about and the second is having more time. It inevitably comes back to the fact that, in the current position—sorry, Helen.

Helen Eadie: I was just looking at you when you said “independently minded MSPs”. I have the scars, Henry.

Henry McLeish: I remember the good old days in Fife Council as well.

Independence of mind would involve demanding things as parliamentarians, not as Government hacks. The more time that you create for yourself and the Parliament, the more flexibility you will have in devising new ideas but, if you stick to the current formula, there will not be enough space to slice yourselves up into any smaller portions.

I had 30 years in politics. Westminster whipping was absolutely brutal. All the stories that you have ever been told about whips in Westminster are true. You do not want to return to that. Here, we still have an idealistic opportunity. Members will not forget their party affiliations but, for example, will we reach a point at which we elect committee conveners? Will we reach a point at which conveners are given far more independence and at which good ideas, good arguments and good rhetoric in the Parliament are listened to far more?

Even within a strong party structure such as we have in Scotland, much of that depends on individuals. That provides a way that a member can speak independently, still be part of a party, appeal to a wider cross-section of the public and attract a wider group of people to join parties and aspire to be members of the Parliament.

Paul Wheelhouse: Do the witnesses have any comments on post-legislative scrutiny?

Iain MacWhirter: Post-legislative scrutiny is important, if only because so much legislation goes through the Parliament and nothing is heard of it again. There are many cases. For example, the Arbitration (Scotland) Act 2010 is causing chaos in arbitration and divorces. However, as far as I know, there is no way in which MSPs are able to reopen such matters.

I am talking about real post-legislative scrutiny after an act has been implemented and we see the consequences. As far as I know, no one is doing that but someone needs to.

The Convener: You are right. There is a need for more of that. Nothing prevents committees from re-examining legislation that has been passed to find out how it is operating. However, time is an issue. There is huge demand from the Scottish Law Commission, which has many reports that need to be implemented to improve matters, but committees have to balance whether to consider the new legislation that everyone demands or spend time on post-legislative scrutiny.

Nanette Milne: I will change tack slightly. A fair amount of interaction with people from outside the Parliament falls well below the media radar and happens outwith plenary sessions of Parliament—in cross-party groups and so on, for example. I think that there are too many cross-party groups in the Parliament, particularly on the health side, which I have been involved with—I am a member of getting on for 20 of them. With a Parliament of 129 members, many of whom go home after decision time, it is quite difficult meaningfully to service them all, although they can serve a very useful purpose. What do the panellists think?

Iain MacWhirter: The Parliament does a fantastic amount of excellent work and I do not want to give the impression that Parliament is wasting its time when it is not on the air. I was given only a minute to make these points earlier, so I had to make them as briefly and as pointedly as I could. The Parliament does a fantastic amount of work and the cross-party committees are extremely good in that regard. I do not think that it is a matter of one thing or the other. It is possible to have debates while committees are in session—there does not have to be a full

complement of people in the debating chamber at any one time. There are evenings, too.

Like anybody, MSPs must focus, concentrate their efforts and husband their energies, and apply them in the most effective way. I echo what Henry McLeish says: MSPs are not only of equal calibre to MPs but, in my experience, they are far better informed about issues than MPs. MPs spend a lot of time in the committee corridor and only go into the standing committees when they are told to vote; they only go in for the vote and do not really engage. Many of them spend ages with very little contact with any kind of scrutiny or legislative process. MSPs in Holyrood have to become experts very fast, and that leads to good and effective legislation.

Henry McLeish: The last time I met members in private, there were some 80 cross-party groups. In a Parliament of 129 people, that could be regarded as a significant achievement that shows MSPs' wide interests. On the other hand, if they are all being serviced in one way or another there are resource and interest implications. One of the great things about the House of Commons was the spontaneity of all that. MPs could just form a group—although a minimum number of members was needed—and the subjects that they considered ranged globally. In my view, that was incredibly healthy.

While I am on my feet, as it were, let me mention the post-legislative situation, although perhaps I am wrong and I have missed it. One issue to which I was very much attached was the legislation on personal care that is free at the point of need. It was very popular and has done a lot of good things in Scotland, but you would not believe the amount of rubbish—complete and utter trash—that is printed about personal care by people with a vested interest, whether they are editors or owners of newspapers or whatever. You must ask, "Hey Parliament, you passed the legislation and that decision was nearly unanimous. What do you think of it?"

One reason why post-legislative work is important is that it allows the MSPs' leadership role to come up. The Parliament can say, perhaps on a cross-party basis, that although there are some problems, it took the matter on board on behalf of the public and agreed the legislation, and perhaps then it can then counter some of the abuses of democracy that we read about. To me, that is another role for MSPs. You could come up with some objectivity, take evidence and say, "Okay, there is a healthy debate, but, by the way, here is a contribution from the Parliament, acting on behalf of the public we represent."

Helen Eadie: As a point of information, the only bit of post-legislative scrutiny that the Parliament has done was carried out by the Health

Committee, on which Nanette Milne and I both served.

Margaret Burgess: I want to ask again about First Minister's question time. All three panellists have said that it is important and that it is the point at which the public engage, to an extent, with the Parliament. I know that Iain MacWhirter suggested that we have First Minister's question time twice a week, but is the timing right at the moment? Do you feel that it could be improved in any way, in relation to both how the questions are formed and put to the First Minister and the length of time that they must be lodged in advance?

15:45

Iain MacWhirter: Obviously, they have to be lodged as near to First Minister's question time as possible, which is why that particular question time has lapsed into the open question format. It is tremendously important for questions to be as open as possible and to allow as much scope as possible for topical questions. For example, if Edinburgh's £1 billion tram system is stopping 2 miles from the city centre, people want to hear the First Minister questioned on it. Broadly speaking, the current approach probably works.

Dr Lynch: I am not sure that I would do anything with First Minister's question time. As it is the most visible bit of the Parliament, I suppose that people tend to keep thinking about how it might be changed. What goes on at it? You get the partisan bit at the beginning, the constituency interest bit, some sympathetic questions and so on. Given that that is how institutions deal with such things, I am not sure that you can do much more with it other than just leave it as it is. If, for example, you pick up Iain MacWhirter's suggestion for creating more time, you simply rob yourself of time for something else. If you were to follow Paul Wheelhouse's suggestion about adding on post-legislative scrutiny, you will be adding on another committee function, which brings us back to the whole juggling issue: if you do more of this, you have to do less of that. I suggest that you simply leave FMQs alone and think more about scrutiny.

Iain MacWhirter: First Minister's question time does not gobble up a great deal of parliamentary time. Westminster used to have two very short 15-minute sessions.

The Convener: I am just not sure that there would be the same focus with two 15-minute sessions as there is with a 30-minute session, which, for example, allows back benchers to ask questions.

The issue of back benchers takes us quite nicely to the subject of question times in general. How do we increase back benchers' ability to ask

more supplementary questions and dig down into subjects? At the moment, they ask the question in the *Business Bulletin* and get only one supplementary. The Presiding Officers can allow more than one but in practice that does not happen because they are always rushing to get through the 10 or 20 questions in the bulletin. Should we have fewer questions in the bulletin and allow members to develop points and question not only the First Minister but ministers? If we moved to plenary sittings on Tuesday, Wednesday and Thursday, we could have half-hour ministerial question times on Tuesday and Wednesday along with FMQs on Thursday, with the six different ministerial portfolios going round every three weeks or so. That would give back benchers the ability to fire two, three, four or even five supplementaries at the minister. Would that pattern work?

Dr Lynch: The idea is interesting but you have to think what it would be like in practice. The two 15-minute question time sessions that Iain MacWhirter proposed would be very partisan and generate a lot of heat but perhaps not much light. If you want more back-bench involvement, you have to figure out some way of ensuring that ministers and shadow ministers do not hog all the time. In any case, I am not quite sure how you would reserve more time for back benchers, apart from stipulating it in the rules.

Henry McLeish: I share Peter Lynch's view that there is not much you can do to FMQs or indeed ministerial questions. At both Westminster and, to a certain extent, here I accepted that Prime Minister's or First Minister's question time was just a piece of theatre. I do not think that there is any scrutiny involved. One of the biggest criticisms just now is that, because the current First Minister is so dominant, the Opposition cannot make any impact unless it gets to ask about something embarrassing or that has just come up.

I realise that I am digressing, but my greatest achievement at First Minister's question time came in 2001 at the start of the general election campaign. The Conservatives were about to launch their campaign in Edinburgh with Malcolm Rifkind and all the Scottish Parliament dignitaries. They had one of those massive stands that gets driven round the city, but when the cover was taken off, the stand showed an advert for Tesco. I just stood at First Minister's question time with my Tesco card, and the place fell apart laughing. I am not sure that that was good democracy or politics, but it was hell of a funny and good theatre.

There is a problem, because the process is all about personality and trying to get an issue on which somebody can be tackled. Westminster tried to do a lot to make question times interesting. If individual MSPs want to be serious about it and

to ask not lackey questions but questions about their constituency, the trams or whatever, that might make copy and it will show them not in a legislative role, but in a leadership role and as being concerned about issues that affect the country. Other than that, I am not sure that a great deal can be done.

Iain MacWhirter: First Minister's question time is theatre, but a lot of politics is theatre. To allow the Parliament to get on with all the important work that it does, the theatrical side must be handled as effectively, efficiently and directly as possible. Exchanges at question time are an opportunity for Opposition parties to put First Ministers on the spot, especially given that a lot of supplementary questions can be asked at Holyrood. Question time is not an easy play for the First Minister—it is hard. If Salmond is getting it easy just now, that is partly because, frankly, the Opposition is rather feeble. If that is the case, people have a right to see that. We can tell a lot from question time. I am not saying that it is in-depth scrutiny or productive in that sense; I am just talking about the theatrical side, which is an important part of politics.

Helen Eadie: I have a question on timings. If we move to having only afternoon meetings of Parliament, First Minister's question time would no longer be in the morning. Would that have any unintended consequences? One of the changes that Jack McConnell introduced was to move First Minister's question time to the morning so that we could get schoolchildren in for it and get the lunch time headlines in the news. Would there be any unintended consequences in moving FMQs to the afternoon?

The Convener: Does anyone have any views on that?

Iain MacWhirter: I cannot think of anything.

Roderick Campbell: I have a more general question. What features of the Scottish parliamentary system are the best and the worst, and what would you would therefore want to expand or change?

Dr Lynch: That is one of those questions that I ask my students, which is why it is so difficult to answer.

Roderick Campbell: Now you have a good anecdote.

Dr Lynch: Exactly.

The committee functions are problematic, as you probably know. The committees were supposed to be one of the Parliament's centrepieces, and it was assumed that they would be where the work was done, rather than in the chamber. However, some of the committees are, shall we say, overburdened with legislation. Some members will remember when there were two

justice committees, which was an indication that there was an awful lot of a particular type of legislation. That was a problem. I am not sure that the committees have functioned as intended. They were supposed to be permanent, which they kind of are, and to have permanent memberships, which they kind of do and kind of do not. They were supposed to be well resourced, but I am not sure that they are as well resourced as they might be.

The reason for talking about these issues is to make you think about what you are as MSPs. Are you policy experts in particular areas? Has the committee structure enabled you to develop expertise in an area, scrutinise legislation effectively and have effective inquiries? The question about post-legislative scrutiny is really about how many Government decisions are reviewed a year after they are made. Is there space for the committees, among all the petitions, subordinate legislation and legislation, to have more inquiries and to carry out more effective scrutiny in that traditional way?

I realise that the issue does not affect the outside world and how people see the Parliament, but the internal question about how you make yourself more effective as parliamentarians is key.

Iain MacWhirter: On what is good and bad about the Scottish Parliament, the proportional system is very good. Unfortunately, the SNP's sensational election victory causes a problem for a proportional Parliament. I am not making a party-political point, because that was quite an achievement and it is down to the Opposition parties to explain why it happened. However, it works against the idea of the Parliament having a co-operative ethos. That notion is not entirely fictional—it was evident during the SNP minority Administration, when Alex Salmond said that the SNP did not have a monopoly of wisdom and would work with other parties and not ride roughshod over them or use the fact that it was the largest party to get its way. To some extent, the Parliament worked well during that period. Of course, there were some things that the SNP was forced to accept, such as the trams, which subsequently turned out to be an unfortunate disaster, but that is a side issue. The point is that the Parliament was working in a different way.

As I said earlier, the way in which the committee system operates in the Scottish Parliament leads to MSPs becoming much better-informed and more capable legislators than the vast majority of back-bench MPs in Westminster.

Paul Wheelhouse: May I go back to the issue of question time, convener?

The Convener: Absolutely.

Paul Wheelhouse: As a new member, I find some of the housekeeping questions irritating, particularly during First Minister's question time. I appreciate that they have a function, and that their use means that the First Minister is not given advance notice of the subject matter that will be raised by the Opposition leaders. That is fair enough. However, could we have a compromise position whereby those questions would be lodged but not spoken, and we could just go straight to the supplementaries? The present procedure is a waste of time and looks odd on television. It does not really work for me.

On the same point, with regard to any question time, is it necessary to read out the question that has been lodged, which is in the *Business Bulletin*? The relevant minister could simply answer the question and then the member could ask their supplementary question. That would allow more time for questions and scrutiny.

Henry McLeish: On the latter point, at Westminster, they just say the number.

Paul Wheelhouse: It could be on the screen, perhaps.

Henry McLeish: Yes, but it is also on the order paper. Asking a question takes only seconds but those seconds might add up to a substantial amount over the question time period. I do not think that it is necessary to ask the question. I do not think that people should be spoon fed. We could go straight from the words "Question 1" to the answer, and then have the supplementary question.

With regard to First Minister's question time, looking at it from two perspectives—from inside and outside—I am not sure that a lot can be done to make it a more workmanlike part of the parliamentary edifice. It seems to me that you get what you get. As Iain MacWhirter said, it is about partisan points. You know that the First Minister is going to knock heads off and that the other three are going to try to knock his head off. If you got completely away from that, you would kill it as a spectacle. You would also lose the momentum. Prime Minister's question time and First Minister's question time highlight issues that travel around the country, but they are primarily for the psychological benefit of the back benchers, who can say, "My man's doing well", or "My woman's doing well". At Westminster, that is very much the case, because of the two sword lengths, the green benches, the tribalism and the fact that the opponents could almost hit each other over the dispatch box, if they wanted to. It is all just part of the—fun is the wrong word—parliamentary theatre.

Paul Wheelhouse: So the ritual is an essential part of the theatre.

Henry McLeish: I think so.

Iain MacWhirter: I disagree with Henry. I think that it is important for the question to be put, partly because there is an audience that might not know what is going on. Also, I think that it is quite good for MSPs to put the question because the way in which it is put is sometimes quite important.

The Convener: Would it help if there were time limits on the questions and answers?

Iain MacWhirter: That is a difficult one.

Helen Eadie: In relation to which—the questions or the answers?

Dr Lynch: The problem is that we would be removing time limits from elsewhere and reintroducing them here, so we would be just moving things around. I would leave FMQs alone and think about other areas.

16:00

Roderick Campbell: The convener touched on this point earlier, but is there any real distinction between First Minister's questions and ministerial questions in general? I would like a few thoughts on scrutiny in that regard, particularly in relation to ministerial questions.

The Convener: Who would like to answer that one?

Iain MacWhirter: Pass.

Henry McLeish: There should be a distinction. I unashamedly support the idea that First Minister's question time is probably beyond change. I accept Iain MacWhirter's point that part of it is about catching the First Minister out on big issues. However, ministerial questions could be far more about scrutiny, because any minister has a substantial portfolio of interests that hits not only constituencies but the general environment of Scottish life. So, if any further thought is given to changes, it would be better to consider improving ministerial questions, because First Minister's question time is pretty much set as it is. Ministerial question time should be an opportunity for back benchers to ask decent questions and get decent, interesting answers that could be taken further—that must be a key consideration.

Margaret McDougall: Does the panel have any comments on the financial implications of expanding the MSPs' working week in Parliament? What would be the knock-on effect on staffing and staff time?

Dr Lynch: I suspect that you have hit on a problem. For example, I referred earlier to having more SPICe staff, but that has resource implications that I am not sure can be addressed. If you ask for more but there is no more, you are in

a very difficult situation. In that sense, you will have to deal with a constraint if you start to expand from where you are now. I do not know the answer to that, but I can see the problem, as can you. The real difficulty is how you go beyond where you are now, given the resource implications for what is another public sector institution with a tight budget.

Henry McLeish: The media will not love the idea of expansion in that regard. However, there is the analogy of the House of Commons library at Westminster. Aside from the Library of Congress, it is probably the most impressive place of its kind in the world, because it has a research facility as well. That resource does not come cheap, but it has been part of the House of Commons for centuries, so there is no cost issue.

If MSPs are to be briefed properly but SPICe is under pressure and constraints, two possibilities arise. One is that you could expand the service to try to mirror what happens in London, and the other is that you start to use academic resources and the think-tankery that is around, although that is poor in Scotland.

When I appeared before the Public Petitions Committee on one occasion, I felt that the members were incredibly badly briefed. I was the butt of some remarkably stupid questions. However, I do not think that that was the MSPs' fault. They were dealing with a complicated subject, but they had not been given the tools. If you want a bigger edifice with more parliamentary involvement, you may well have to look carefully at how you can resource that work—and that might not necessarily just be in hard cash terms.

The Convener: I tend to agree with you. MSPs need the resources if they are going to do their job properly. They need resources not just to ask questions of ministers or get information to run a campaign; they also need them to ensure that cases that come into their offices are dealt with quickly and effectively by their staff so that they can do their parliamentary work. If an MSP gets caught up in doing a lot of constituency work, by definition it is difficult for them to lift their head and pick up on their parliamentary work. Resource is an issue but, as Dr Lynch said, it is not a popular subject to raise in the current economic climate. However, if we do not address that issue, it is going to be very difficult for MSPs to do all the things that people want them to do.

Dr Lynch: The striking point is that, once you take on more financial powers, how is the Parliament going to be resourced? How are SPICe and members going to be resourced? It will be complicated to deal with that, and the powers are not notional or something that might happen in the future. The Calman elements will have to be phased in during the next three or four years. You

know that it is happening and you will have to ask whether SPICe and parliamentarians will have enough resources to deal with that. My argument is that, in essence, you need more Parliament. That is the bit that you need to boost a little bit, and I suppose that that is what has been going at Westminster for a decade. Stronger select committees have been electing their chairs and getting more resources. That sense of building Parliament is quite important because it is going to be a solution to some of the problems that we are talking about today.

Henry McLeish: You will not have a problem with MSPs' salaries because it is just a question of extending what they do just now. That is an important consideration.

For what it is worth, the most powerful and best functioning committee that I have ever seen is the Public Accounts Committee at Westminster, because it attracts all the different parties in a non-partisan way. It deals with hard cash and the evaluation of the outcomes of particular projects. It carries weight and has clout, and it works incredibly well, but it is well resourced—

Iain MacWhirter: And it has the National Audit Office.

Henry McLeish: It has the National Audit Office. On the other hand, if more powers are coming, especially financial powers, and there is a need for a Treasury committee and all that, there is an unarguable case, if it is made properly, for the Parliament to have the resources that it requires.

The Convener: Yes, and I do not think that we should be frightened to make that case when the time comes.

Henry McLeish: Correct.

The Convener: Thank you, gentlemen, for coming along this afternoon. It has been an interesting session; I hope that you enjoyed it. If you think of anything that you should have said, please feel free to write to us. You will get a special copy of the report once we complete it.

We will have a five-minute comfort break.

16:07

Meeting suspended.

16:11

On resuming—

Cross-Party Group

The Convener: Under item 2, we have one application for a cross-party group, from the proposed group on colleges and universities. Members will see from the papers that the group meets all the criteria for registration. Are there any questions about the group?

Paul Wheelhouse: I think that there might be a typo. Mandy Exley is one of the college principals, and she is on the list as "Mandy Exlen". It is just an observation.

The Convener: We will make sure that that is corrected. Thank you for bringing it to our attention.

Do members agree to accord recognition to the proposed cross-party group on colleges and universities?

Members indicated agreement.

16:13

Meeting continued in private until 17:16.

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