



# The Scottish Parliament's time limits should be reformed

*by Alastair Stewart*

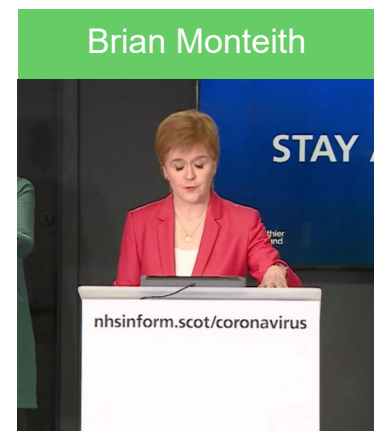
*article from Monday 27, November, 2017*

ON DECEMBER 17, 2014, the former Cabinet Secretary for Education and Lifelong Learning, Angela Constance, stood up in the Scottish Parliament to make an official statement on historic child abuse. The then Presiding Officer, Tricia Marwick, told her as a preamble that she had “ten minutes”. For an issue of such seismic personal importance to many and with considerable legal repercussions, a time cap was a painful juxtaposition.

The fault, however, was not with the Presiding Officer, who subsequently *allocated* 20 minutes for questions and allowed them to “run on for as long as necessary”, but with how the Scottish Parliament handles the length of debates in general.

Unless it is otherwise arranged, the Parliament finishes at 5.30 pm on a Wednesday come rain or shine. The

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Presiding Officer advised that more questions “will impact on the subsequent [Developing Scotland’s Young Workforce] debate, so those who are speaking in it should be prepared to cut their speeches.” The opening remarks by the former Cabinet Secretary for Fair Work, Skills and Training, Roseanna Cunningham, was only 13 minutes with even less time for contributions from other members.

Observers will note that the First Minister will not be given the same caveat, but the Presiding Officer must be informed of any ministerial statement so that she can thus plan for an ensuing debate with the Parliamentary Bureau. The problem is that it is merely moving the goal posts when it is the length of the field that should be changed too.

The Standing Orders, the *rules* by which the Scottish Parliament is governed, state that the “Parliamentary week is between the hours of 14:30 and 17:30 on Monday, 09:15 and 17:30 on Tuesday, Wednesday and Thursday and 09:30 and 12:30 on Friday.”

Options to manoeuvre away from this rigidity and to give the chamber extra time to debate are remarkably limited:

## **Rule 2.2 Meetings of the Parliament**

4. A meeting of the Parliament may continue to 19:00 on Wednesday if the Parliament so decides on a motion of the Parliamentary Bureau.

5. A meeting of the Parliament may continue beyond—



*Scottish Tories must emerge from life support soon to make any difference*



*Trigger warning: we are not an effing amusement park*

(a) 17:30 on Monday, Tuesday or Thursday;

(b) 17:30 on Wednesday where the Parliament has not taken a decision under paragraph 4;

(c) 19:00 on Wednesday where the Parliament has taken a decision under paragraph 4; or

(d) 12:30 on Friday,

*in any of the circumstances specified in paragraph 6.*

6. The circumstances in which a meeting of the Parliament may continue beyond any of the times specified in paragraph 5 are—

(a) *if it is necessary in order to complete any voting which is not adjourned to a later meeting under Rule 11.2.5;*

(b) *if it is necessary in order to complete the election of the Presiding Officer or a deputy Presiding Officer under Rule 11.9 or the election of a member or members of the Parliamentary corporation or selection of a nominee for appointment as First Minister under Rule 11.10;*

(c) *if the Parliament so decides, on a motion of the Parliamentary Bureau, in order to consider Members' Business; or*

(d) *in other cases, if the Parliament so decides on a motion of a member of the Government or of the member who moved the business under consideration at that time.*

## **Rule 8.14 Motions for closure or extension of a debate**



*Political narcissism  
always eats itself - the  
SNP will be no different*



*Scottish Conservatives  
need a leader to take the  
fight to Sturgeon – not  
make swipes at  
colleagues*

*3. Any member may, by motion without notice, propose that a debate be extended for up to 30 minutes beyond the end of the period of time allocated for that debate. Such a motion may be taken only with the agreement of the Presiding Officer. If the motion is agreed to, the debate shall be extended by the period of time proposed. If the motion is disagreed to, no further such motion may be moved during that debate.*

A 30-minute extension for debates on Wednesdays beyond 7 pm could very well be arbitrary if the issue to be explored or legislation to be discussed is complicated. Nevertheless, the Presiding Officer is required to ensure that the debate concludes at the agreed time, regardless of the importance of the discussion.

That there was a time cap for Ms Constance is symptomatic that the Parliament's regulated discursive style is dangerously ineffectual. Government ministers should have been able to go on for as long they please, in as much detail they please, and be inhibited only by the relevance of their remarks as judged by the Presiding Officer, rather than having to prepare a statement on the assumption of a mandated time frame.

By contrast to the Scottish Parliament, the *Standing Orders* of the House of Commons give the Speaker of the House, discretionary power in allocating time to members. As in the Scottish Parliament, UK Government ministers make oral statements to the House of Commons if the matter is significant. There is, however, no time limit and the time for a statement and subsequent questions is at the discretion of the chair.

The infamous late night/early morning sittings of the

Commons, however, are only allowed under certain circumstances. There are a variety of means for backbenchers to propose issues to *debate* before the House, but conditions which mean the House may continue until “any hour” and past the moment of interruption (the end of the day’s business) are limited. These include debating fiscal resolutions or a government motion which specifies the debate is open-ended. This was the case with the 2010 Finance Bill *debate* which lasted until 1 am.

If the Speaker finds that a member is making irrelevant remarks, or is tediously repetitive, or is otherwise attempting to delay proceedings, they may order the member to end their speech or a member may bring a *closure* motion to propose the debate be brought to an end. *Programme motions* and *allocation of time motions* have also been increasingly used to try to limit and organise the time to complete a legislative agenda and ensure business is not engulfed by delay.

Usually, the Presiding Officer attempts to achieve the same balance of opinion and political parties when selecting members to speak, with the opening debates of ministers or party leaders given between five and 20 minutes but subsequent speakers less time. The difference to Scotland then is that Speaker of the House of Commons may choose to limit time on front bench speeches, whereas restricted speeches are the standard working practice of Holyrood.

Perhaps fear of the filibuster in these politically charged times is the reason no substantive efforts have been made to remove impositions made on only 129 MSPs. In January 2012 Scottish National Party and Conservative MPs used filibustering to successfully block the Daylight Savings *Bill* 2010-12 that would put the UK on Central European Time. The debate ran out of its allocated time.



The Speaker will warn members who are trying to filibuster to come to the point and has the power to require a member behaving in this manner to stop speaking, but if the point is still relevant or if there are many contributions the debate will continue. The Presiding Officer should be able to officiate at their discretion like at Westminster.

A fine line between thorough examination and politicking is one which needs to be walked carefully. A Standing Order allowing MSPs to speak *ad nauseam* would never work, making the prospect of filibusters as a means of derailing legislation and votes a real one if the Scottish Parliament didn't change its Decision Time. Voting should work around parliamentary business, and not be something unalterable.

The entire argument for the Scottish Parliament was that it could efficiently and attentively dedicate itself to Scottish issues without them being drowned out in Westminster. 650 members at the House of Commons are all in a scurry of legislative activism, from debates, motions, questions, to Private Members' Bills to say nothing of Government's legislative programme which makes time a precious commodity.

Surely, with only 129 MSPs, the Scottish Parliament should explore issues in-depth and without hindrance?

The irony, of course, is that in recent years there have been calls to cap time spent on speeches and debates in the House of Commons. The 2001-02 *report* of the now-defunct Modernisation Committee of the House of Commons argued that while it did "not regard it as desirable to place a fixed ceiling [in terms of length] on frontbench speeches", it did recognise the benefit of placing a 10-minute limit on backbench contributions. This recommendation was implemented, but when the committee returned to the issue

in its 2006-07 *report* it subsequently found this implementation was too stringent, arguing that the Speaker should have “greater flexibility to vary time limits during debates.”

The Procedure Committee examined the issue of ministerial statements in a 2010-11 *report* and concluded that: “It is our view that the Chair is best placed to determine the appropriate length of time to be spent on a statement.” The problem with this is that the day’s pre-planned business is nullified, and is considered “injury time” to continue beyond the day’s scheduled end for unattended business. George Young, the then leader of the House of Commons, argued that MPs need some semblance of structure for their lives and as such “The House puts a premium on knowing when the House will rise. If you allowed injury time for statements, the certainty that the House will rise at 10 o’clock or 7 o’clock would disappear.”

Altogether the functions of the House of Commons have been praised. The Procedure Committee also examined the legislative calendar of the House of Commons and issued a 2012-13 *report*: “We conclude that the number of sitting days, and sitting weeks, should remain broadly the same as at present, that is, about 150 days, spread over about 34 weeks, per year”.

It later considered the effectiveness and merits of parliamentary programming in its 2013-14 *report* and praised the implementation of programming into the Parliament’s Standing Orders in 2004. The report concluded that: “Programming has become an established and broadly accepted feature of the transaction of Parliamentary business.” The Parliament First All-Party Parliamentary Group also *accepted* the principle of programming because “it quite properly focuses attention on the best use of the limited time available” and “the

alternative of filibustering, by extended time-wasting...is not a rational or defensible way of trying to defeat a Government bill.”

The self-reflective manner of the House of Commons to discuss its procedures is a watermark that the Scottish Parliament should aim for. Attempts at reform have been few. Noticeably, but with little fanfare, the Scottish Conservative Deputy Leader Jackson Carlaw produced his own 2010 *report* criticising how little time the Scottish Parliament spent sitting.

The closest thing to a substantive assessment was the 2009 Calman Commission *report* on the Scottish Parliament, but it makes no in-depth proposals beyond declaring that:

*“There should be a review of all other provisions in the Act that constrain the Parliament in terms of its procedures or working arrangements to ensure they are proportionate, appropriate and effective.”*

The independence referendum has seen contesting visions for the role of the Scottish Parliament, but little by way of how to change its procedures and processes to administer those extra powers with accountability of government and scrutiny by members. In June 2014, Reform Scotland published an *analysis* of what each of the major Scottish parties was proposing after the referendum – no party addressed the procedures and practices of the Scottish Parliament.

Carlaw has been the only MSP to comprehensively call to task how little time the Scottish Parliament gives to its own members. Regulated debates mean smaller parties are at a disadvantage next to their larger peers, having less of a



time allocation in debates. He calls for debates to be lengthened and for the removal of “arbitrary timescales” and makes the point that:

*“All speakers should be entitled but not obliged to speak for an equivalent length. Parliament should be sufficiently grown up to not feel the need to artificially extend the life of a debate when there are fewer members seeking to participate.”*

In the House of Commons there are around 150 Standing Orders relating to parliamentary business and public bills, and about 250 relating to private business, proposed and changed by a vote in the House of Commons. Changing the Standing Orders of the Scottish Parliament can be done similarly with a motion of the Standards, Procedures and Public Appointments Committee requiring an absolute majority for the Scottish Parliament to pass it. The fact that debates and time limits have not been reformed, despite the ease of doing so, is concerning.

That Westminster is centuries old is a fact and not a problem to be envied. The mother of all parliaments was not replicated whole in Scotland and nor should it have been. A modern parliament should rise above the contentions of the day, unhindered by precedent or convention and see itself in a context, and reflect in and of itself regularly. That this has not been done and is overdue.

It cannot and should not be acceptable to the electorate that issues of national importance are diluted to talking points because MSPs are unwilling to sit longer. The effects undercut and reduce our democracy, and deprive the nation of detailed legislative scrutiny and cross-examination of all issues. What Enoch Powell once observed of the House of Commons is true of Holyrood:

*“If the House had a stopping time as well as a starting time...either the government would always get its business or the government would never get its business. Finishing with a vote at a fixed hour means that the government need not debate but only need to watch the clock.”*

To put it another way: Would history have forgiven us for caveating “we shall fight them on the beaches” with “you have ten minutes Mr Churchill?”

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