INTERESTS OF MEMBERS OF THE SCOTTISH PARLIAMENT BILL COMMITTEE

Wednesday 15 March 2006

Session 2

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2nd Meeting 2006, Session 2

CONVENER

Mrs Margaret Ewing (Moray) (SNP)

DEPUTY CONVENER

*Susan Deacon (Edinburgh East and Musselburgh) (Lab)

COMMITTEE MEMBERS

*Margaret Jamieson (Kilmarnock and Loudoun) (Lab)
*Mr Jamie McGrigor (Highlands and Islands) (Con)
*Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

COMMITTEE SUBSTITUTES

*Stewart Stevenson (Banff and Buchan) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Brian Adam (Aberdeen North) (SNP)
Tommy Sheridan (Glasgow) (SSP)

CLERK TO THE COMMITTEE

Jennifer Smart

SENIOR ASSISTANT CLERK

Sarah Robertson

LOCATION

Committee Room 5

Scottish Parliament

Interests of Members of the Scottish Parliament Bill Committee

Wednesday 15 March 2006

[THE DEPUTY CONVENER *opened the meeting at 10:01*]

Interests of Members of the Scottish Parliament Bill: Stage 2

The Deputy Convener (Susan Deacon): Good morning. I welcome everybody to the second meeting in 2006 of the Interests of Members of the Scottish Parliament Bill Committee. I remind everybody to switch off their mobiles and any other noisy devices that they may have in their possession.

We have received apologies from the convener, Margaret Ewing, so, with the committee's agreement, I will take the chair again this week.

I remind members that they should have with them the bill, the second marshalled list of amendments and the groupings of amendments.

I should also mention that Stewart Stevenson, the other missing committee member, has indicated that he must attend to some other committee commitments but will endeavour to join us as soon as he can.

Schedule 1

REGISTRABLE FINANCIAL INTERESTS

The Deputy Convener: Amendment 30, in the name of Margaret Jamieson, is grouped with amendments 31 to 33. I draw to the committee's attention the fact that, if amendment 30 is agreed to, amendments 31, 32 and 4 will be pre-empted.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): Amendment 30 seeks to delete in its entirety paragraph 7 of schedule 2. It is wrong that only overseas visits should be registrable, as all visits should be treated in the same way. As recently as six months ago, I had to undertake a visit with the Audit Committee and, because the Audit Committee had not received prior approval for it from the Scottish Parliamentary Corporate Body, the visit had to be registered. That is one of the reasons why we should remove paragraph 7. It makes a mockery of the system. A visit within the United Kingdom might cost more than an overseas visit, but it would not be required to be registered in the same way.

I move amendment 30.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I cannot agree with what Margaret Jamieson said about amendment 30. A mistake by the Audit Committee in not gaining approval for a trip is no reason to remove paragraph 7 of schedule 1. The United Kingdom Parliament put the article on overseas visits into the Scotland Act 1998 (Transitory and Transitional Provisions) (Members' Interests) Order 1999 for a reason. That reason was to ensure that any trips abroad that parliamentarians made were open and transparent. We needed to know about them, otherwise trips to the Paris Ritz, for example—which happened, although I am not referring to MSPs travelling to the Paris Ritz—could be hidden from the public.

I will now focus on amendments 31, 32 and 33. The paragraph of schedule 1 that deals with overseas visits—paragraph 7—is extremely clear. Paragraph 7(1) states that

"Where a member makes, or has made, a visit outside the United Kingdom",

it must be registered. Six categories of exemption are listed. I will not go through all six because members all know what they are. Everyone thought that the article on overseas visits in the members' interests order was clear, until one MSP was accused of breaching its provisions and the Scottish parliamentary standards commissioner interpreted one of the exemptions in such a way as to drive a coach and horses through the provisions. The standards commissioner ruled that because no bill had been run up for the MSP in question, no costs could have been incurred for them to meet.

I found that ruling to be both bizarre and contrary to the letter and the spirit of our rules, which were clear. By interpreting the rules in that way, the standards commissioner undermined them. For example, according to the standards commissioner's interpretation of the provisions on overseas visits, if a friend of mine—a property developer, let us say—invited me to stay with him in one of his company villas in Cyprus, as long as neither he nor I incurred costs, that would be okay. However, in my view, that would not be okay. That hospitality should be declared because it would amount to a free holiday in a Cypriot villa with a property developer and we need to know about such things. If there is to be transparency, such hospitality must be registered.

It is my belief that the members' interests order is clear. The problem is that the standards commissioner's interpretation of it has created a loophole, which I feel we are duty bound to close.

That is why I seek to have travel and accommodation included in the rules. I want the position to be unambiguous, because there is no question but that such matters should be declared. My proposal is not about preventing any MSP from taking his or her holiday abroad with whomever they wish, including the property developer in my example; it is about ensuring that people know about such activity.

Amendments 31, 32 and 33 are needed to restore the credibility of the provisions that deal with overseas visits and to restore the meaning that they were understood to have before the standards commissioner's interpretation. I think that my amendments would give integrity and meaning to paragraph 7 of schedule 1. I know that that paragraph has been lifted straight from the members' interests order and has not been changed at all, but that is my point. We have moved on since the members' interests order was drafted, following the standards commissioner's interpretation of the rules. I want to reinstate the original intention.

The Deputy Convener: Are there any aspects of the amendments that members wish to discuss?

Mr Jamie McGrigor (Highlands and Islands) (Con): I have a question for Mike Rumbles. What is the difference between accepting hospitality abroad and accepting it in this country? We live in the European Union. It is quite possible that a member might live in France; after all, under EU law, EU citizens have equal rights to jobs. With great respect to Mike Rumbles, I do not see the point of any of what he has just said. I think that what he is proposing amounts to extra intrusion and I do not agree with a word that he has said.

The Deputy Convener: Do you wish to reply to that, Mike?

Mike Rumbles: I am happy to do so. I have set out what I believe and Jamie McGrigor has made clear his position—he is opposed to my amendments. Like Margaret Jamieson, he does not believe that paragraph 7 of schedule 1 should be in the bill at all, even though the provisions that it contains were given to us by the Westminster Parliament. Overseas trips are an important issue. Abroad covers more than the EU. Jamie McGrigor talks about intrusion. There is a limit on gifts, but we are not discussing gifts; we are discussing paragraph 7 of schedule 1, which is about overseas visits.

If we take the legitimate view that the provision is not important and we should not bother with it, that is fair enough. That is not a view that I share and do not think that most MSPs would share it.

Mr McGrigor: I reiterate that I do not see the point. We might as well say that we should have to declare every time we go and stay with someone in their villa in Bognor. What is the difference? I do not think that the fact that the villa is abroad is relevant at all.

Margaret Jamieson: The wording of paragraph 7(1) of schedule 1 mentions the "United Kingdom". If someone was to go on a visit to the Western Isles, for example, the flight could be more expensive than a flight to somewhere else within the European Union. Jamie McGrigor is right to say that the term "United Kingdom" is too narrow. I want to take the whole thing out and bring everything into line so that account is taken of gifts given within the United Kingdom. I do not think that there should be a difference.

The Deputy Convener: Thank you. I am keen for Brian Adam to talk about his amendments; I am sure that he will be able to shed some light on the issues. However, before I bring him in, it would be helpful if he could clarify the genesis of the provision and expand on the recurring theme of overseas visits.

Brian Adam (Aberdeen North) (SNP): I would like to be able to provide that clarification. I do not have the details but I think that Mike Rumbles is right; it is because of events that happened in Westminster some time ago now. It was quite controversial at the time and I suspect that that is why the issue was singled out. Hopefully I can offer Mike Rumbles some comfort through some of what I will say, in agreement not necessarily with his solution but with the interpretation of the bill.

The registration requirements for overseas visits are detailed in paragraph 7 of schedule 1. The bill restates the provisions in the existing members' interest order. As Mike Rumbles quite rightly says, that was given to us by Westminster. It requires the details of all visits made for whatever reason or purpose outside the UK to be registered subject to exceptions in paragraph 7(2) of schedule 1, which excludes visits

"the travel and other costs of which—

(a) are wholly met––

(i) by the member;

(ii) by the member's spouse or cohabitee;

(iii) by the member's mother, father, son or daughter;

(iv) by the Parliamentary corporation; or

(v) out of the Scottish Consolidated Fund"

—the latter would relate to ministerial visits, for example. Paragraph 7(2)(a)(ii) of schedule 1 is the only marginal change or update to the law.

Registration is also not required if visits are approved in advance by the Scottish Parliamentary Corporate Body. That covers the point that Margaret Jamieson mentioned. Errors

and omissions by committees are just that and we should not legislate to cover them.

As the bill stands, hospitality is registrable if it involves provision of an overseas visit or if it falls under the provision on gifts. However, where a member pays for travel but no accommodation cost is incurred because the member stays as a guest in a friend's or someone else's home outwith the UK, nothing is registrable. I hope that that clarifies the situation to which Mike Rumbles referred. That is the detail of the intention. Nothing is registrable if a member stays as a guest in a friend's or someone else's home outwith the UK.

The provisions in paragraph 7 set out the coherent and easily understood policy for registration of overseas visits that has operated since 1999. Where any uncertainty exists at present—I do not accept that it does—it is open to members to register such hospitality. That can be done on a voluntary basis.

10:15

Amendments 31 to 33, in the name of Mike Rumbles, seek to extend the registration requirements for overseas visits to include any hospitality—which he defines as including travel and accommodation—that a member receives on a visit outside the United Kingdom. However, the additional requirements that the amendments would create would make it more difficult for members to interpret the provisions. In the event of a complaint, the standards commissioner would be required—as under the current arrangements—to make a determination on the evidence presented. Therefore, the amendments would not prevent questions of interpretation from arising. Indeed, they might widen rather than narrow the scope for such questions, although that is not their intention.

For a number of reasons, I cannot support Mike Rumbles's amendments. They would not add to the transparency of the bill and they would place an additional and unnecessary requirement on members. Uncertainty would be added to the registration requirements by the open-ended nature of Mike Rumbles's proposed provisions, which would require registration of overseas hospitality regardless of who provided it and whether it was related to the member's parliamentary work. For example, hospitality provided by a mother-in-law or father-in-law would become registrable. Such an unnecessary incursion into the private lives of members is the very thing that the Standards Committee sought to avoid. For precisely that reason, in a number of areas, registration was made subject to the prejudice test. Amendments 31 to 33 would move the policy into an area in which we would interfere for no good reason.

I ask members to consider whether Mike Rumbles has presented sufficient evidence to justify changing the overseas provisions, given that no such evidence was forthcoming during the committee's evidence-taking process. That process invited responses and comment on multiple occasions and involved consideration by two separate incarnations of the Standards Committee.

Regardless of whom a bill might affect, when we act as legislators, we must avoid the temptation to accommodate the odd circumstance rather than take a considered policy approach. I ask the committee to reject amendments 31 to 33.

Amendment 30, in the name of Margaret Jamieson, seeks to remove the requirement to register overseas visits as a registrable financial interest. As I have already explained, paragraph 7 of schedule 1 to the bill simply restates the provisions of the members' interest order. Members have registered interests under this heading since the establishment of the Parliament.

Section 4.3.40 of the "Code of Conduct for Members of the Scottish Parliament" provides guidance to members on what information should be provided when registration is required. The guidance states:

"members should provide details of the dates, destination and purpose of the visit and where appropriate specify the Government, organisation, company or individual which met any of the costs, and the amounts involved."

The provisions in paragraph 7 assist in the transparency of registration of members' visits overseas. They provide an appropriate category of financial interests that is distinct from gifts so that members of the public can easily identify the types of visits that MSPs have made and the frequency of such visits. Such an approach supports the purpose of the register as set out in section 4.1.1 of the code of conduct, which states:

"The main purpose of the Register is to provide information about certain financial interests of members which might reasonably be thought by others to influence members' actions, speeches or votes in the Parliament, or other actions taken in their capacity as members."

Successive standards committees have looked at the registration requirements for overseas visits and consulted on this category. The December 2000 consultation paper considered extending the categories of overseas visits that are exempt from registration so that they included those that were funded by the UK Government or the European Union. The committee's 2004 consultation paper also asked whether registration should be required of overseas visits the costs of which were met wholly or partly by a UK public body, EU agency or foreign Government. The fact that respondents to the question considered that all overseas visits should be registered demonstrates that the public

who took the opportunity to respond had no appetite for extending the exemption of overseas visits.

Amendment 30 would mean that members would need to rely on the registration provisions for gifts at paragraph 6 of schedule 1 for the registration of overseas visits. Under paragraph 6, any gift that a member receives, or has received, exceeding 0.5 per cent of the member's salary on the date when it was received is a registrable interest if, in addition to meeting that financial threshold, it also meets the prejudice test.

One immediate observation might be that, by introducing a financial threshold for overseas visits where there was previously no threshold, some visits that would fall to be registered under paragraph 7 would now be exempt. That would clearly weaken the transparency of the bill, but it would also add uncertainty where none exists at present. Far from reducing the burden on members, it actually makes it more difficult for them to decide what needs to be registered. Registration of overseas visits under the gifts provision in paragraph 6 would also require members to measure costs—for example, where the member has received an uncosted benefit or hospitality—to determine whether the visit exceeds the threshold. At present, the overseas provisions make it clear, as Mike Rumbles says, that all overseas visits should be registered if they do not meet the exemption criteria in paragraph 7(2). I hope that my interpretation of an area in which people believe that there is uncertainty will be helpful.

We must also look at the bill's provisions through the other end of the telescope. As a Parliament, we have successfully looked abroad, cultivating contacts, seeking ideas and studying innovations elsewhere. We have shared our own practice as Parliaments elsewhere have sought our expertise. The registration of overseas trips, as currently proposed, provides an opportunity to demonstrate our ability and willingness to look overseas, to learn from what is happening there and to share our experiences. We have nothing to be afraid of in so doing and should not shirk openness. It is important that the scheme that is put in place is clear, particularly bearing in mind the fact that a breach of the rules, for whatever reason and however innocently done, lays the member open to the possibility of criminal charges. We cannot change that position, as the Scotland Act 1998 requires it.

In view of the potential lack of clarity for members in determining whether to register an overseas visit, I suggest that members should take a cautious approach to amendment 30, however well intentioned it may be, and should reject it, particularly as the fuller impact of opting for a less stringent test on the registration of overseas visits has not been quantified. As we did throughout our consideration of the matter, the Standards Committee examined the existing requirement, consulted on it and reported its findings. We concluded that the provisions worked and fitted in with the policy objectives of openness and accountability and, at the same time, provided valuable information on members' knowledge and efforts to learn from others and to share our experience, while not being an undue burden. In my opinion, retaining the status quo is a clearer, neater and safer alternative to making the change that is proposed by amendment 30, so I ask Margaret Jamieson to withdraw that amendment.

The Deputy Convener: As I did last week, I will allow the member in charge to make a few brief points of clarification if members have questions for him.

Mike Rumbles: With all due respect to Brian Adam, he did not actually address the issue that I raised, which was pretty fundamental. As he knows, I am his predecessor and was convener of the Standards Committee in the first session of Parliament. He referred to the previous consultation that the Standards Committee undertook under my convenership, and I can assure him that my interpretation and the Standards Committee's interpretation of the provisions in paragraph 7, on overseas visits, was that any visit was included. He seems to imply that we were content with what is now the status quo, but we were not. We were quite clear, and the rules were quite clear, about what was and was not declarable. The point that I was making, which Brian Adam did not address is that, since then, as the result of an investigation involving one MSP, the standards commissioner has made a ruling interpreting that provision and changing it from what we thought it meant. My amendments are designed to put the situation back to what it should originally have been.

Brian Adam: With great respect, Mike Rumbles's amendments do not actually achieve that, and I have explained why.

In light of interpretation being a matter of concern to this committee and the wider membership of the Parliament, I delineated the current committee's view, which reinforces the previous committee's view, that where a member pays for travel, but no accommodation cost is incurred because the member stays as a guest at a friend's or someone's home outwith the UK, nothing is registrable. That is not open to any interpretation other than the one that nothing is registrable. That addresses the case to which Mike Rumbles referred. That is now on the record as being the committee's view and so it will give guidance not just to all members but to the

standards commissioner and, indeed, will address any challenge to a view taken by the standards commissioner.

Mike Rumbles: Right. I do not want there to be any misunderstanding about this. What Brian Adam is saying to us is that it is his and the committee's view that for example, any regular trip to Cyprus to stay in a friend's villa—let us say that of a property developer friend—no matter how many times it occurs, as long as the MSP is not presented with a bill, is fine as far as the rules go.

Brian Adam: That is the case provided that the member himself—

Mike Rumbles: That is not the intention—

Brian Adam: That is the case provided that the member stays with a friend.

Mike Rumbles: But that is not the intention of the members' interests order. What you suggest repeats the members' interests order. We are now down to the nub of the issue, which is the interpretation of paragraph 7(2) of schedule 1. Contrary to what Brian Adam said about creating ambiguity, I am doing the exact opposite; my amendments make it clear that travel and accommodation should be declared.

Brian Adam: The difference between the two sets of amendments is that Margaret Jamieson's intention was that we should not draw any distinction between overseas visits and any other kind of hospitality or gift and Mike Rumbles wants to make the distinction clearer by registering more detail.

I, on the behalf of the committee, might not be going as far as Mike Rumbles would like, but I have tried to address the particular circumstances in which there was room for interpretation. I understand his concern, but I do not share it. We must trust people's honesty if they make repeated visits abroad. If there is any dubiety in interpreting the bill, people can seek assistance in my comments as the member in charge of the bill.

The standards commissioner's decision in the case to which Mike Rumbles referred was based on the fact that the visit was not registrable on the facts. I understand that there are concerns about interpretations that have been made, but the bill is intended to help both members and the public to understand what goes on here.

Margaret Jamieson: I ask for clarification. Perhaps it is just a slip of the tongue, but individuals keep talking about trips when amendment 30 relates to visits.

Brian Adam: It was a slip of the tongue.

Margaret Jamieson: There is a significant difference and it means a lot to members of the public and to MSPs. We need to ensure that we use the right terminology.

My amendment beefs up and underpins the prejudice test. I do not accept that an overseas visit should be registered if a member goes to southern Ireland and then goes on to Belfast—which visit should we register? One place is considered to be outwith the United Kingdom and the other is not, which causes particular problems.

There should be no exemptions. However, those in paragraph 7(2) of schedule 1 do not refer to brothers or sisters, and members may have holidays with a brother or sister. It would be much clearer if paragraph 7 of schedule 1 was removed and such overseas visits were included under the registration of gifts. It is inappropriate that members could make several overseas visits in a year or in a parliamentary session under the auspices of the corporate body, a committee or the Commonwealth Parliamentary Association, for example, without members of the public hearing about them. Leaving out paragraph 7 would make things more open and transparent and much clearer.

10:30

Brian Adam: The effect of Margaret Jamieson's amendment 30 would be that there would be less openness because gifts that members received from a brother or sister that meet the prejudice test—she is right to say that members' brothers and sisters are not included in the bill—would not be registered. However, I am happy to recognise that there is a range of views on the issue. I have represented as best as I can the view of the Standards and Public Appointments Committee and am happy to leave the Interests of Members of the Scottish Parliament Bill Committee to make the appropriate representations, although I intend to support the schedule at stage 3 because I have not been persuaded that a particular problem exists. Perhaps all members of the Scottish Parliament should engage in the debate. We have covered—and we will cover—several areas that are probably matters for all members.

Mike Rumbles: I wonder whether Brian Adam is willing to take back to the Standards and Public Appointments Committee the issues that my amendments raise so that it can reconsider matters before stage 3. I am concerned about the interpretation of the current rules and believe that not declaring recurring visits abroad at somebody else's expense is wrong. However, my amendments may not be the best way to proceed, so I will not move them if Brian Adam gives me a commitment that he will take the issues back to the Standards and Public Appointments Committee, which can consider whether they should be discussed at stage 3.

Brian Adam: In the light of our discussion, I am happy to give Mr Rumbles a commitment that I will take back to the Standards and Public Appointments Committee the matters that we have discussed and other matters that I have said that I will take back to it, although I cannot guarantee what will happen then. However, I will ensure that that committee's deliberations are made known to the Interests of Members of the Scottish Parliament Bill Committee and to members in general in sufficient time for amendments to be lodged at stage 3 if it is thought that those deliberations have been unsatisfactory. Perhaps it might be helpful for us to consider the application of the prejudice test in the bill as it currently stands. On that basis, I ask Mike Rumbles and Margaret Jamieson not to press their amendments.

The Deputy Convener: That is a helpful response, which has helped to inform the discussion and will facilitate it.

Margaret Jamieson: I do not intend to press amendment 30 because I am satisfied with Brian Adam's response.

Amendment 30, by agreement, withdrawn.

Amendments 31 and 32 not moved.

Amendment 4 moved—[Brian Adam]—and agreed to.

Amendment 33 not moved.

The Deputy Convener: Amendment 42, which is in my name, was debated with amendment 41. It may be helpful to remind the committee that, at last week's meeting, and with the agreement of the committee, I withdrew an amendment on this issue. However, the procedure is that we come to all related amendments in turn. I therefore indicate that I will not move amendment 42.

Amendment 42 not moved.

Amendment 5 moved—[Brian Adam]—and agreed to.

The Deputy Convener: Amendment 23, in the name of Margaret Jamieson, is grouped with amendments 24 and 25. I will put the question on the amendments to amendment 23, which have already been debated, before putting the question on the amendment itself.

Margaret Jamieson: Amendment 23 attempts to tighten up the types of heritable property interests that are to be registered. It does so by extending the provision to trusts, and it clarifies the position that is set out in the bill. Amendments 23, 24 and 25 are technical, and I wait to hear what the member in charge of the bill has to say.

I move amendment 23.

The Deputy Convener: Let us hear what the member in charge has to say. We await his response with anticipation.

Brian Adam: Margaret Jamieson's amendments are technical and seek to clarify what is meant in paragraphs 8 and 9 of schedule 1 by the holding or ownership of heritable property and shares. I think it is fair to say that, although the amendments appear to extend the registration requirements, what they do in reality is to set out more clearly the circumstances in which those assets incur registration.

I will consider heritable property first. The introduction of the new subparagraph by amendment 23 makes it clear that holding or owning heritable property covers not only property that the member, or their spouse or cohabitee, holds in their own right but any holding of property jointly with others and any holding in a trust where the member, or member's spouse or cohabitee, has an interest as a beneficiary. In all those cases, the member may have a registrable interest but only if the prejudice test is met.

Amendment 24 prevents an interest in heritage that is part of partnership assets from becoming registrable under more than one category of registrable financial interest. Without the amendment, property that is used for the business premises of a firm of solicitors, or land that is operated as part of a farming partnership, could theoretically require to be registered under heritable property, even though the remuneration from those partnerships was already registered under paragraph 2 of schedule 1.

If the committee supports amendment 23, amendment 24 is entirely necessary to avoid double registration. Amendment 25 has a similar effect in relation to paragraph 9 of schedule 1, this time in relation to shares.

These matters were not considered by the Standards Committee either in the first session of the Parliament or in this session. The focus of the committee has been on refining the existing provisions, while balancing the obligation on members to disclose certain information against any unreasonable requirements to disclose information.

Amendments 23, 24 and 25 seem to me to fall into line with the overarching registration policy developed by the committee in relation to heritable property and shares. When a member has an interest that could benefit them and which meets the prejudice test, registration should be required. If you accept that policy premise, I suggest that the amendments add to the transparency of the bill. They also ensure that a potential anomaly that could lead to members registering the same interest under different categories of interests is

avoided. It was never the purpose of the register for information about an interest to be held under more than one category.

This is a good example of how the bill scrutiny process is effective in highlighting issues for further consideration. I am happy to leave it to members of the committee to determine whether the amendments will assist the bill in achieving its objectives while not overburdening members.

Margaret Jamieson: I am delighted that the member in charge agrees that the amendments in my name will add clarity for members. It is for members of the committee to decide whether to agree to the amendments.

Amendments 23A and 23B not moved.

Amendment 23 agreed to.

Amendment 43 not moved.

Amendments 6 and 7 moved—[Brian Adam]—and agreed to.

Amendment 24 moved—[Margaret Jamieson]—and agreed to.

Amendment 44 not moved.

Amendment 8 moved—[Brian Adam]—and agreed to.

Amendment 45 not moved.

Amendment 9 moved—[Brian Adam]—and agreed to.

Amendment 46 not moved.

Amendments 10 and 11 moved—[Brian Adam]—and agreed to.

The Deputy Convener: Amendment 40, in the name of Tommy Sheridan, is in a group on its own.

10:45

Tommy Sheridan (Glasgow) (SSP): I listened to the debates at last week's committee meeting and I have listened to today's debates for almost an hour. It is obvious that the committee wants there to be the maximum clarity about registrable interests, so that MSPs are not just above reproach but can clearly be seen to be above reproach. I therefore seek the committee's support for amendment 40, which I lodged because probity and integrity could be threatened if we do not amend the bill to include a requirement to register interests in relation to the purchase of property with financial assistance in connection with the Edinburgh accommodation allowance.

The Edinburgh accommodation allowance was designed for a specific purpose. George Reid has said that it is to ensure that MSPs who are deemed to live more than 90 minutes' travel time from Parliament are not out of pocket in providing an effective service to their constituents and the Parliament. I am sure that everyone supports such a purpose.

However, since the allowance was introduced, it has been used to purchase properties that have then become the private property of MSPs, who are at liberty to sell them and make a personal profit. According to the Parliament's allowances department, of the 48 MSPs who have since 1999 used the allowance to purchase private property, seven members have bought a property, sold it and bought another, and several other members, who were elected in 1999 but were not returned in 2003, have made quite substantial sums of money from selling their properties.

The public would support an expenses scheme that sought to ensure that, in representing their constituents, MSPs were recompensed for out-of-pocket expenses. However, they would not stand for the idea of very well-paid politicians who live more than 90 minutes away from the Parliament being able to qualify for a very substantial allowance that allows them to purchase a property, which then becomes a personal asset that they can sell on for a personal profit.

No one is suggesting that any MSPs who have done that have broken the law; quite clearly, that is not the case. However, any publicly funded expenses scheme that allows an MSP to profit personally from the purchase of a property and to retain all the profit that is generated from its subsequent sale is clearly morally unacceptable, perhaps not just to the public but to the majority of members. When the scheme was originally conceived, I do not believe that members realised that it would have such an effect. No one is to blame; the situation has simply developed over the past six years and must be addressed.

One way of doing that would be to compel MSPs to register the purchase of such properties and any profit that is made on the back of this publicly funded allowance. Such a move would not just ensure that there is transparency, but act as a spur to changing the scheme itself. After all, I do not think that members would wish to profit personally in this way if the profit had to be exposed in the register of members' interests.

I seek support for amendment 40 as a means of improving the transparency of the business that is conducted in Parliament and between MSPs and the Parliament and of acting as a spur to changing an allowances scheme that at the moment is not being used solely for its original purpose.

I move amendment 40.

Mike Rumbles: Tommy Sheridan says that amendment 40 is about the purchase of property using the Edinburgh accommodation allowance.

He says that the scheme allows MSPs to purchase property, which, according to him, is morally unacceptable. I would have to totally agree with him—if that were in fact the case.

Let us look at some facts, because I think that Tommy Sheridan's argument shows a complete misunderstanding of the process. MSPs are not given one penny piece of public money to purchase properties. MSPs are given an allowance to allow them to live in Edinburgh if their constituency—such as mine, West Aberdeenshire and Kincardine—is not commutable. The allowance can be claimed for rent, mortgage interest or hotel costs and is fixed; there is a financial limit based on the number of a member's hotel nights.

Mr Sheridan knows that that is true. He also knows that the allowances scheme, which he agreed to on 8 June 1999, contained all that information, as it set up the Edinburgh accommodation allowance. Mr Sheridan voted against the amendments to the scheme that day because he was concerned that they would discriminate against him as a list MSP—it was interesting to read the *Official Report* of that debate again.

Those are the facts. The guiding principle of the bill is that any financial interests that might have a bearing on an MSP's parliamentary duties should be registered and declared. That is absolutely correct, but I do not see any way in which the situation that is addressed by Tommy Sheridan's amendment 40 comes into that category or how it could possibly come into it. To put it simply, amendment 40 is not about MSPs' registrable interests; Tommy Sheridan is objecting to the contents of the allowances scheme that he approved on 8 June 1999. He is entitled to change his mind about it, as he has done. That is right and proper, but it is not right and proper to try to amend the bill, which is about members' declarable and registrable interests, when his objection is to the allowances scheme itself. If he disagrees with the scheme, which he is entitled to do, he will have the opportunity to amend it when it comes before the Parliament for renewal and amendment. The Edinburgh accommodation allowance is clearly not an issue for the bill.

Of course, all the information is in the public domain anyway. The point of the bill is to ensure that such information goes into the public domain. If anybody looks at my published accounts, they will see that I claim the Edinburgh accommodation allowance. I could not properly do my job—representing the people of West Aberdeenshire and Kincardine—without that allowance and it is right and proper to have such an allowance.

Tommy Sheridan says that the allowance is about purchasing property, but he knows that that is not the case. MSPs have not received one penny piece of public money to purchase property. The bill is completely the wrong place to raise the issue.

Margaret Jamieson: I agree with Mike Rumbles that the bill is not the appropriate place for the issue that Tommy Sheridan raises. Tommy Sheridan's remarks related to the allowances that are available to MSPs. Unlike the members about whom he spoke, I have not purchased a property in Edinburgh; instead, I rent from a private landlord, who will make a profit if I give up that property at some point. There is no reference in amendment 40 to such an individual's profit, so it appears that Tommy Sheridan is saying that members of the Parliament cannot make a profit from the Edinburgh accommodation allowance, but it is all right for others to make a profit from it.

The scheme is not an expenses scheme, but an allowances scheme. The allowances are all claimable and they have to be receipted. Members have to go through hoops to get them and the Parliament publishes the claims regularly. It is not appropriate to try to alter the allowances scheme via the bill. For that reason, I will not support amendment 40.

Mr McGrigor: I appreciate the point that Tommy Sheridan is making. I know perfectly well that the media can make an enormous amount out of a supposed doubling of money by an MSP who buys a property and then sells it for enormous gain. I can see that, if that is shown in the wrong light, it can be detrimental to the image of the Parliament. However, I remember Phil Gallie speaking for the Conservatives a while ago in the Parliament and saying that, while he was at Westminster, he purchased a property and came out very much worse off. The value of property does not always rise; often it goes the other way. Anyone who lived through the 1970s saw the value of property rise and fall a great many times. So, it is a gamble for any MSP to purchase property, which it is perfectly legal for them to do. I agree with Mike Rumbles that the place for Tommy Sheridan's complaint is in the review of allowances. I see the point that Tommy Sheridan is making, but I do not think that members profiting is something that will always occur. It will occur sometimes.

Brian Adam: Amendment 40 is technically defective in several areas and gives rise to difficulties in both its operation and its intention. Paragraph 8 of schedule 1 makes provision for a member's interests in heritable property to be a registrable interest. The provision also applies to the interests in such a property of a member's spouse or cohabitee, even if the property is in the name of the spouse or cohabitee. Paragraph 8(3) sets the thresholds to be exceeded in order for such interests to be registrable. Paragraph 8(2)

applies the requirement to register heritable property to any such property that a member's spouse or cohabitee owns, holds, has owned or has held. As for property that is owned by the member, the requirement is subject to the holding satisfying at least one of the thresholds. The prejudice test that is set out in section 3(2) also applies.

Let us consider the purpose of amendment 40. Under paragraph 8(4) of schedule 1, the property that is used as a residential home by the member or the member's spouse or cohabitee is exempt from the registration requirements for heritable property. Amendment 40 would apply in direct contradiction of that restriction and would alter the purpose of the provisions on heritable property. The amendment would require all properties that could be said to have benefited from allowances to be registered separately but, as it is drafted, it would affect only those properties that had been acquired after a member was returned. It would not affect existing properties that were acquired by a member during a previous session if that member was re-elected.

Secondly, under amendment 40, profit achieved from a property that was used as a residential property would require to be registered if assistance was provided by a Scottish Parliamentary Corporate Body scheme. Once again, only profit from property that was acquired and subsequently disposed of in a current session would be covered, and profit would be calculated only by reference to the purchase and sale prices—no allowance would be made for costs and outlays for legal fees or stamp duty on either acquisition or disposal of the property.

Further, amendment 40 upsets the carefully considered and crafted balance of the policy behind the bill by creating an unequal situation whereby those who represent constituencies that are within commuting distance of the Scottish Parliament would be subject to less rigorous registration requirements than those who live beyond the central belt.

The bill is consistent with the purposes of the register. Section 4.1.1 of the code of conduct for members of the Scottish Parliament states:

"The main purpose of the Register is to provide information about certain financial interests of members which might reasonably be thought by others to influence members' actions, speeches or votes in the Parliament, or other actions taken in their capacity as members."

As Mike Rumbles rightly pointed out earlier, amendment 40 does not provide greater transparency about the matters that may influence a member's actions. It has the converse effect of intruding into a member's private and family life while penalising those who live in any area that is remote from Edinburgh. If there is a case for greater transparency about the Edinburgh accommodation allowance, that should be dealt with under the allowances scheme, not in a bill that is designed to create a register to provide information about a member's experience and expertise and to set the member's contribution to political debate in context.

11:00

I turn now to the practicalities of amendment 40. The amendment is not wholly fit for purpose. It provides for the value of any profit to be registered if a member acquires heritable property after the date on which they were returned and if Scottish Parliamentary Corporate Body assistance was provided for the purchase of that property. What about a situation in which someone enters a second session as an MSP having purchased a property with such assistance during their first term? Such property would not require to be registered, because the amendment does not take account of prior holdings. Therefore, if the property was sold during a subsequent session, the value of the profit would not require to be registered.

Amendment 40 has further unintended consequences. The Edinburgh accommodation allowance provides assistance with costs to members who are buying a property closer to the Parliament to help them to undertake their parliamentary duties. However, the allowance can also be used to provide assistance with removal costs or factoring charges, or even assistance to pay for a television licence, and not necessarily to help with mortgage costs. The effect of amendment 40 is that members who have made limited use of the Edinburgh accommodation allowance for such purposes would also have to register the profit made on the sale of their residential home, despite not receiving payment of the interest on the capital that was required to purchase their property. That is clearly inequitable. That would be an unfair intrusion into members' private affairs.

During the stage 1 debate, Tommy Sheridan made great play of the profit that would be made by members in these circumstances being returned to the public purse. He said:

"I do not think that anyone in the chamber would disagree with a member choosing to purchase a property, rather than to rent or to pay hotel bills, if any personal profit was then paid back to the Parliament".—[*Official Report*, 14 December 2005; c 21710.]

If a member makes a profit from such a sale, they could incur a personal liability for capital gains tax, as the residence qualifying for assistance under the Edinburgh accommodation allowance cannot, under the rules for obtaining the allowance, be the member's main residence. Even the tax man is more charitable than Tommy Sheridan, as he

allows the profit figure to be offset by buying and selling costs and by what the tax people call "enhancement costs", for example the costs of improvements or adding something new to the property.

In any event, amendment 40 does not achieve Tommy Sheridan's stated aim of requiring repayment from any member. All that it does is to require registration. The bill is not the appropriate vehicle for what he seeks to achieve. I therefore respectfully suggest that his efforts would be better directed towards amending the Scottish Parliament's allowances scheme. I invite the committee to reject amendment 40 for all the reasons that I have just given.

Tommy Sheridan: The debate has clearly illustrated the need for amendment 40. It was interesting to hear from both Mike Rumbles and Margaret Jamieson that there is apparently nothing to worry about in relation to the purchase of properties and the personal profit that that generates. If there is nothing to worry about, why not declare it?

A smoke-and-mirrors situation is being generated here. Everybody knows that members are allowed to claim up to £10,600 per annum, and that that money can be used to pay the interest on a mortgage. With an interest-only mortgage, that sum would allow a member to purchase a property in the region of £190,000 to £200,000 at current rates. If a member chose to take out a mortgage without a capital deposit, they would be having their mortgage paid for a period of four, eight or 12 years—for however many years they remain a member of the Parliament. The property will increase in value. When the member sells the property on, they will pocket the difference. They have not paid for the mortgage. Mike Rumbles says that the information is in the public domain. In the interests of clarity, for more than two years, I have asked the allowances department to provide information on which of the 48 purchases involved a capital down payment from the MSP and which were interest-only mortgage schemes, with no capital down payment or commitment from the member. In those cases, the public paid entirely for the mortgage. The allowances department has refused to release that information, although I am sure that Mike Rumbles and other members are willing to tell us whether they have personally paid deposits to purchase properties or whether the properties have been paid for entirely via mortgage payments through the allowances scheme.

It is unacceptable for Margaret Jamieson to try to turn the argument on its head. If Margaret Jamieson used her allowance to pay a private landlord to rent a property, she would not profit personally. That is the crux of the matter. Whenever an allowances scheme is used to reimburse members for hotel expenses, I presume that the hotel makes some money from that. The argument that we should be angry if a private landlord makes money from a scheme is patently nonsense. We are arguing that members of Parliament should not profit personally from a public allowances scheme.

Members have suggested that the committee is not the place to raise the issue and that I should raise it when the allowances scheme comes up for review. That is an interesting idea. Perhaps those members whose parties are represented on the SPCB will tell us when the allowances scheme will come up for review. I have tried to achieve a review of the allowances scheme via the SPCB and have been told that it does not need review. My party and other smaller parties in the Parliament are not allowed a seat on the SPCB, so we are not allowed to amend or suggest amendments to the allowances scheme until the SPCB decides to put it up for review. However, as members will know, the scheme has not been up for review for five years and there is no plan for that to happen.

It is a red herring for members to suggest that the committee is not the place to discuss the issue and that we should discuss it elsewhere. The committee is the place to discuss it, because the committee is discussing the registrable interests of MSPs, with a view to ensuring maximum probity and integrity in all the business that MSPs conduct. Any MSP who has utilised the Edinburgh accommodation allowance for the purposes of purchasing a property and who has had the interest paid on the mortgage for several years and then sold on the property at a personal profit has not broken any law or abused any scheme. However, the fact remains that that was not the original intention of the allowances scheme. It was introduced not to be a property gravy train for members but to recompense members for expenses and to ensure that they could conduct their business without being out of pocket. However, that is not how the scheme has been applied.

Amendment 40 would add a type of registrable interest that would ensure maximum transparency to deliver maximum probity among MSPs. Brian Adam is just wrong that amendment 40 is not fit for purpose and that it would dilute the bill's intentions—the amendment is an add-on, not a replacement for any of the regulations or stipulations in the bill. Given that Mike Rumbles and Margaret Jamieson believe that there is nothing to hide in any case, let us make the matter registrable and ensure that the aim of the amendment is achieved. If Brian Adam thinks, "Wait a wee minute—the amendment is not technically correct and needs to be fine tuned and

honed," that is fine. Let us hear that that is what should be done, so that by stage 3, we have a properly fine-tuned and honed amendment. Unlike him, I do not have a team of advisers and helpers to produce amendments.

I urge the committee to support the amendment or at least not to reject it at this stage, in recognition of the fact that it deserves further consideration.

The Deputy Convener: The question is, that amendment 40 be agreed to. Are we agreed?

Members: No.

The Deputy Convener: There will be a division.

AGAINST

Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
McGrigor, Mr Jamie (Highlands and Islands) (Con)
Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
Stevenson, Stewart (Banff and Buchan) (SNP)

The Deputy Convener: The result of the division is: For 0, Against 5, Abstentions 0.

Amendment 40 disagreed to.

Amendment 47 not moved.

Amendments 12 and 13 moved—[Brian Adam]—and agreed to.

Amendment 25 moved—[Margaret Jamieson].

Amendments 25A and 25B not moved.

Amendment 25 agreed to.

Amendment 48 not moved.

Amendment 14 moved—[Brian Adam]—and agreed to.

Amendment 49 not moved.

Amendment 15 moved—[Brian Adam]—and agreed to.

Amendment 50 not moved.

Amendments 16 and 17 moved—[Brian Adam]—and agreed to.

Schedule 1, as amended, agreed to.

Schedule 2

REGISTRABLE NON-FINANCIAL INTERESTS

Amendment 34 not moved.

Amendment 35 moved—[Mike Rumbles].

11:15

The Deputy Convener: The question is, that amendment 35 be agreed to. Are we agreed?

Stewart Stevenson (Banff and Buchan) (SNP): No.

Mike Rumbles: It is a technical amendment resulting from what we agreed last week, as is amendment 36.

The Deputy Convener: Are members clear where we are? We have covered quite a lot of ground.

Stewart Stevenson: It is worth taking a moment to make sure.

Mike Rumbles: I did not move amendment 34, because that was the option to change schedule 2, on non-financial interests, which we rejected last week. We decided last week that we would agree to amendments to remove schedule 2. We are coming to the votes on technical amendments that are consequential to that. That is why I am moving technical amendments 35 to 38. Last week, Stewart Stevenson expressed objections, but then approved the technical amendment, because he did not want to cause difficulties.

Stewart Stevenson: I am obliged.

Amendment 35 agreed to.

The Deputy Convener: The question is, that schedule 2 be agreed to. Are we agreed? [*Interruption.*] Sorry, I do not have to put that question, because we agreed to the removal of schedule 2. I was just checking that committee members were paying attention; I am pleased to see that they are.

Section 3—Initial registration of registrable interests

The Deputy Convener: Amendment 36, in the name of Mike Rumbles, has been debated with amendment 26.

Amendment 36 moved—[Mike Rumbles]—and agreed to.

Section 3, as amended, agreed to.

Sections 4 to 11 agreed to.

Section 12—Declarable interests

The Deputy Convener: Amendment 37, in the name of Mike Rumbles, has been debated with amendment 26.

Amendment 37 moved—[Mike Rumbles]—and agreed to.

The Deputy Convener: Amendment 38, in the name of Mike Rumbles, has been debated with amendment 26.

Amendment 38 moved—[Mike Rumbles]—and agreed to.

Section 12, as amended, agreed to.

Section 13 agreed to.

Section 14—Prohibition of paid advocacy etc

Amendment 18 moved—[Brian Adam]—and agreed to.

The Deputy Convener: Amendment 19, in the name of Brian Adam, is in a group on its own.

Brian Adam: Amendment 19 brings the terminology in section 14, on paid advocacy, into line with chapter 9B of the standing orders, which is entitled "Consent in relation to UK Parliament Bills", which refers to a "legislative consent motion" rather than a "Sewel motion".

The Procedures Committee considered the Sewel convention last year and recommended in its seventh report of 2005 that a new procedure be provided in the standing orders and that the terminology used to describe this type of motion be changed to a "legislative consent motion". The timing was such that that issue could not be addressed prior to the introduction of the bill. I therefore ask members of the committee to accept this necessary tidying-up amendment.

I move amendment 19.

Amendment 19 agreed to.

Section 14, as amended, agreed to.

Sections 15 to 18 agreed to.

Section 19—Interpretation

Amendments 20 and 21 moved—[Brian Adam]—and agreed to.

The Deputy Convener: Amendment 39, in the name of Mike Rumbles, was debated with amendment 26.

Mike Rumbles: This is the last of my technical amendments. I move amendment 39.

Amendment 39 agreed to.

The Deputy Convener: Amendment 51, in my name, is in a group of its own. In lodging amendment 51, I am seeking to tidy up some of our existing arrangements. I hope that I can convince members of the logic of my argument.

It has been brought to my attention that the consequences of certain of our existing rules do not make a lot of sense. Let us say that a member participates in a conference or seminar as a speaker. The existing rules require us to register the expenses—and I use the term deliberately—that the conference or seminar organiser reimburses, as remuneration. Most members who participate in that way do not expect to be paid or to gain financially from doing so—I think that very few members seek payment. If they do, the payment absolutely requires to be registered.

Most members of the public do not expect an MSP to be out of pocket for so participating; people think that it is reasonable for travel expenses and the like to be reclaimed. It is therefore disproportionate for the bill, as it is currently drafted, to require all such reimbursed expenses, which often involve only relatively small amounts of money, to be formally registered. Indeed, failure to do so is treated on a par with failure to register other categories of remuneration that are covered by the bill.

Amendment 51 attempts to treat such expenses proportionately. It seeks to remove from the registration scheme any expense that is incurred in the way that I have described. As I said, those expenses involve relatively small amounts of money. They would therefore fall below the threshold that we have agreed, which is approximately £250.

In raising the issue, I wanted to give the committee an opportunity to consider the matter and agree whether we should put in place an arrangement that would be more proportionate and workable than the current arrangements appear to be. I look forward to hearing what colleagues and the member in charge of the bill have to say.

I move amendment 51.

Stewart Stevenson: There is a genuine difficulty with the proposal. The expenses incurred in the member's participation in the conference or seminar may come under the parliamentary allowance scheme, in which case they can be reclaimed. As a result, the expenses will be declared and put into the public domain. It seems slightly perverse therefore that, when a body other than the corporate body happens to be paying for the expenses, the information is not put into the public domain. I am not persuaded that the change would be in the interests of greater openness and transparency. I understand where Susan Deacon is coming from, but I am not minded to support her amendment. I will listen to what others have to say on the issue, however.

Mike Rumbles: I would like to be guided by the member in charge of the bill.

Brian Adam: I am grateful to Mr Rumbles for his confidence in me. Mr Stevenson is absolutely correct to say that these expenses can be claimed under members' support allowances. However, this is not just about parliamentary duties, and the issue might arise when a member attends a conference. In such circumstances, it might not be inappropriate to have the public purse relieved of the duty to pay expenses. The point that Mr Stevenson made is, nevertheless, valid. The amendment would reduce transparency.

Paragraph 2 of schedule 1 sets out the registration requirements in relation to

remuneration. Generally, all remuneration other than a member's salary requires to be registered. Remuneration is defined in section 19 and includes any salary, wage, share of profits, fee, expenses or other monetary benefit or benefit in kind. That would include, for example, the payment that a member receives for writing for a newspaper.

There are two reasons for requiring registration of remuneration under that heading: first, to meet the requirements of openness, integrity and probity; secondly, to demonstrate a member's breadth of interests and to set their contributions to political debate in context. The definition of remuneration is not unrelated to the definition of what is required to be declared for tax purposes: income is income, from whatever source it is received. Under the current arrangements, the reimbursement of any expenses of whatever amount for speaking engagements, such as a £10 train fare or a meal, falls under the heading of "other work" in paragraph 2(1)(f) of schedule 1 and, therefore, requires to be registered.

Amendment 51 seeks to amend the definition of remuneration to introduce a threshold for payment of expenses above 0.5 per cent of a member's salary to trigger the requirement of registration. I have some sympathy with the aim to remove the requirement to register an occasional, one-off sum, but I cannot support the amendment because, as drafted, it is technically defective for several reasons. For the amendment to operate effectively, "expenses" would need to be defined. Because none of the other components of remuneration are covered by the exemption, the provision of a travel ticket or voucher, for example, is likely to be treated as a benefit in kind rather than as expenses. The value of such a ticket or voucher would then require to be registered, whereas reimbursement in money for the same travel costs would almost certainly be treated as expenses and would be exempt.

It is also not clear whether expenses are expected to be cumulative over the session. In any event, amendment 51, as drafted, does not have that effect. It appears that the amendment provides for registration of a single payment that exceeds 0.5 per cent of a member's salary, which is currently £258. By default, that would provide an opportunity for members to receive several single payments—monthly, weekly, daily, or perhaps even multiple single daily payments—that did not require to be registered because the value of each fell below £258. A payment of £258 every day would not require to be registered as long as it was called "expenses". I cannot believe that that is the purpose of the amendment.

In the absence of a definition of "expenses", any reimbursed cost for any outlay—whether directly or indirectly related to a position that is held by a member, and whether financial or non-financial—is covered, as long as it is called "expenses". The absence of a definition of "expenses" will, inevitably, cause confusion as to what members require to register. Because of the requirements of the Scotland Act 1998, contravention of the provisions is automatically a criminal offence; therefore, we should be careful of making changes to the registration requirements and the resultant implications for members. A definition is not currently required, as expenses are part of an inclusive list of items, all of which form "remuneration".

11:30

I also draw members' attention to the issue of consistency of approach to the registration of remuneration. Members should consider what effect amendment 51 would have on the overall policy of registration of remuneration. By introducing a threshold for triggering the registration of expenses within the definition of remuneration, the amendment sets expenses apart from other kinds of remuneration. If the rationale is that that exempts low payments from registration because they hold no influence over members, why does the amendment not extend that treatment to the other items of remuneration? The lack of a definition of "expenses" and the disparity of treatment of other forms of remuneration introduce complexity and, potentially, confusion where previously the rules were transparent.

The bill restates the existing provisions in the members' interests order. No evidence was presented to the Standards and Public Appointments Committee on the matter, and both the present committee and the previous Standards Committee considered that the registration of remuneration was meeting its broad aims and was unproblematic. Both committees therefore recommended that the current approach be retained in the replacement legislation.

If, however, this committee considers that there is evidence that parts of the provisions on remuneration are causing difficulties for members, or even if there is a genuine desire to transfer some of the costs elsewhere, I can take those comments back to the Standards and Public Appointments Committee and consider lodging an amendment that is fit for purpose, which would allow the payment of expenses—including benefits in kind and, perhaps, other remuneration—to be debated at stage 3.

I ask Susan Deacon to withdraw amendment 51 on the grounds that is it technically defective and could create a massive loophole that would allow

significant payments to be received that are not registrable.

The Deputy Convener: If colleagues are content, I will wind up the debate on amendment 51. I ask members to note that—as was the case last week—when I lodged my amendments, I did not realise that I would be convening the committee. The arrangement is therefore slightly more complicated than it would normally be.

I listened with great interest to what Brian Adam said. I would like to make a number of comments, some of which raise wider questions about the procedures that we have for consideration of matters such as this. I am struck by the robust case that the member in charge of the bill has made about my amendment being technically defective. We are all trying to put in place legislation that governs the operation of the Parliament. I am struck—not for the first time in the deliberations of this committee—by the fact that when we, as parliamentarians, seek to secure legal advice and so on from within the Parliament, that advice seems to be at variance from time to time. It is one thing to have disagreements over policy intent; it is another to disagree when we are trying to make legislation that is effective and creates a set of rules that we can all clearly understand and work within.

I and colleagues have made some observations about this process as we have gone through it, which we will perhaps need to pick up on in the future. That said, I would not attempt to put on the statute book something that is technically defective. I acknowledge what Brian Adam says.

I note what Brian Adam said about his willingness to explore these matters more fully with the Standards and Public Appointments Committee. He used the word “criminal”, which always causes a deep intake of breath by members around the table. It is worth noting that the same condition applies to existing provisions: failure to register the sort of sums that have been discussed would attract criminal sanctions.

The member in charge of the bill wishes to come back into the debate. If the committee is happy, I will allow him to do so.

Brian Adam: I hope that this will be helpful. This is an offer that I make to all members of the Parliament, but particularly to this ad hoc committee.

The Standards and Public Appointments Committee will consider again the items that we have discussed and on which there has not been universal agreement. I am not averse to any member of the Parliament, including members of this committee, coming to the Standards and Public Appointments Committee when we consider those matters before stage 3. I think that there is nothing inappropriate about that and therefore issue that invitation. I hope that it is taken in the spirit in which it is intended.

This is perhaps the second time that you have made suggestions about the advice that has been available to members, deputy convener. I understand that a technically fit-for-purpose amendment was available but did not quite meet your wishes. I can say only that I am happy to make that technically competent amendment available. If you wish to discuss with the committee where that does not meet your wishes, we can try to have a meeting of minds before we get to stage 3. The same thing applies to the similar comment that you made last week.

As I am sure you will have discovered, deputy convener—although perhaps it is more relevant to us in the Opposition—you can lodge amendments that are competent in terms of their ability to be debated but which are not necessarily technically fit for purpose in terms of delivering what a member wants. I know that the advice that is available is given with the best of intentions. It is a bit inappropriate to suggest that we are getting legal advice that is at cross-purposes. There is a distinction between something that is competent for the committee to discuss and something that is competent in terms of being fit for purpose. Those of us who are in opposition regularly suffer on that score.

I assure the committee that if there are areas in which members are looking for further assistance with producing fit-for-purpose amendments for stage 3, we will do all that we can to accommodate members’ wishes.

The Deputy Convener: I have listened with some interest to those comments on the substance of the bill and the process. I suspect that, today, it would be neither helpful nor appropriate to protract the debate on issues that relate to the process. However, I have to say that I take issue with some of what has been said about the process that has led us to where we are now in terms of advice on the lodging of amendments and so on. Having said that, I think that we should heed Brian Adams’s suggestion that, on completion of our formal deliberations, we take the opportunity to reflect on whether there are any areas for improvement with regard to the organisation of these matters or the communication surrounding them. I think that we are all keen to do that.

I would like to return to the point of substance for a moment and suggest that there are issues of clarification that need to be addressed. In the earlier debate, it was pointed out a couple of times that the MSA could be used for the kinds of expenses that I referred to. At the very least, there is ambiguity around that—and, in a strict sense,

perhaps the reverse might be true. For example, there is at least a presumption that if you are undertaking a speaking engagement for a national organisation's conference, the Parliament's resources should not be used to pick up the tab for your train ticket. However, practice is probably quite mixed in that area at the moment. There are definitely areas that require clarification. I think that we should press this point of substance to ensure that we get a transparent scheme. However, I am happy not to press the amendment and to address some of the wider issues elsewhere. Accordingly, I seek leave to withdraw amendment 51.

Amendment 51, by agreement, withdrawn.

Section 19, as amended, agreed to.

Sections 20 and 21 agreed to.

Long title agreed to.

The Deputy Convener: That ends stage 2 consideration of the bill. I thank all members who have contributed to our proceedings and all the officials who have supported us. I hope that we can continue to work in a spirit of co-operation with colleagues in the Standards and Public Appointments Committee, formally and informally, as the bill progresses through the Parliament.

Meeting closed at 11:41.

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