

# **LOCAL GOVERNMENT AND TRANSPORT COMMITTEE**

Tuesday 17 January 2006

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2006.

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

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

---

# CONTENTS

Tuesday 17 January 2006

Col.

ITEM IN PRIVATE.....	3211
LOCAL ELECTORAL ADMINISTRATION AND REGISTRATION SERVICES (SCOTLAND) BILL: STAGE 1 .....	3212

---

## LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

2<sup>nd</sup> Meeting 2006, Session 2

### CONVENER

\*Bristow Muldoon (Livingston) (Lab)

### DEPUTY CONVENER

\*Bruce Crawford (Mid Scotland and Fife) (SNP)

### COMMITTEE MEMBERS

\*Mr Andrew Arbuckle (Mid Scotland and Fife) (LD)

Mr David Davidson (North East Scotland) (Con)

\*Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)

\*Dr Sylvia Jackson (Stirling) (Lab)

\*Paul Martin (Glasgow Springburn) (Lab)

\*Michael McMahon (Hamilton North and Bellshill) (Lab)

\*Tommy Sheridan (Glasgow) (SSP)

### COMMITTEE SUBSTITUTES

Colin Fox (Lothians) (SSP)

Mr Bruce McFee (West of Scotland) (SNP)

John Farquhar Munro (Ross, Skye and Inverness West) (LD)

Dr Elaine Murray (Dumfries) (Lab)

Murray Tosh (West of Scotland) (Con)

\*attended

### THE FOLLOWING GAVE EVIDENCE:

Russell Bain (Scottish Executive Finance and Central Services Department)

Rab Fleming (Scottish Executive Finance and Central Services Department)

Norman Macleod (Scottish Executive Legal and Parliamentary Services)

Paul Parr (General Register Office for Scotland)

### CLERK TO THE COMMITTEE

Martin Verity

### SENIOR ASSISTANT CLERK

Alastair Macfie

### ASSISTANT CLERK

Euan Donald

### LOCATION

Committee Room 3



## Scottish Parliament

### Local Government and Transport Committee

*Tuesday 17 January 2006*

[THE CONVENER *opened the meeting at 14:02*]

### Item in Private

**The Convener (Bristow Muldoon):** I welcome committee members, members of the public and our first group of witnesses to today's meeting of the Local Government and Transport Committee. Under agenda item 1, it is proposed that we consider in private agenda item 4, which concerns arrangements for stage 1 consideration of the Planning etc (Scotland) Bill. Is it agreed that we consider that item in private?

**Members** *indicated agreement.*

**Tommy Sheridan (Glasgow) (SSP)** *indicated disagreement.*

**The Convener:** That is agreed. Tommy Sheridan's dissension is noted.

## Local Electoral Administration and Registration Services (Scotland) Bill: Stage 1

14:03

**The Convener:** Agenda item 2 is consideration of evidence at stage 1 of the Local Electoral Administration and Registration Services (Scotland) Bill. Our first witnesses are from the Scottish Executive. I welcome to the committee Rab Fleming, who is the head of division in the local governance and licensing division; Russell Bain, who is from the local democracy team in the same division; Norman Macleod, who is from the office of the solicitor to the Scottish Executive; and Shazia Razzaq, who is also from the office of the solicitor to the Scottish Executive.

I believe that Russell Bain intends to make introductory remarks on the content of the bill and the policy intentions behind it.

**Russell Bain (Scottish Executive Finance and Central Services Department):** The Local Electoral Administration and Registration Services (Scotland) Bill makes provision in two subject areas: electoral administration for Scottish local government elections, and registration services in Scotland. The bill aims to make improvements in those two nationally important services that are delivered by Scotland's 32 local authorities. We hope that by combining the two subject areas into one bill we can make best use of parliamentary time and subsequently effect both sets of reforms in the most time-effective way.

The provisions in part 1 of the bill aim to improve access to and participation in elections, enhance security and improve administrative effectiveness. Although the administration of Scottish parliamentary elections is reserved to the United Kingdom Parliament, the administration of local government elections in Scotland is devolved.

The bill mirrors some of the changes that are set out in the UK Electoral Administration Bill, which stem from several Electoral Commission reports and recommendations about parliamentary and local government elections in England and Wales. The Scottish bill will help to ensure uniformity in electoral procedures. We intend to replicate the relevant electoral administration provisions in the UK bill, but it is worth noting that the means of implementation may be different. For example, some measures that are implemented as primary legislation in the UK bill will require changes to secondary legislation in Scotland.

By necessity, the Scottish bill is very technical, but I hope that a brief overview of the main themes

will help to explain its overall purpose. I will briefly run through the provisions in part 1 in order.

Sections 1 to 3 are intended to improve the efficiency of electoral administration by introducing performance standards for returning officers and allowing them and their staff to correct procedural errors. Sections 4 to 6 are intended to clarify which election documents are available for inspection and to regulate their subsequent supply and use. Sections 7 to 9 are intended to promote the transparency of the electoral process by facilitating the attendance of observers at various stages. Sections 10 to 13 are intended to enhance security and reinforce confidence in the electoral process. Sections 14 to 17 and the schedule relate to election expenses. Section 18 makes miscellaneous amendments that are linked to the procedure at elections that involves voters who are registered anonymously. Section 19 makes several amendments that will allow Scottish local authorities to pilot the use of personal identifiers at local government elections. Sections 20 to 26 contain a range of miscellaneous provisions.

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** I am sorry that I was a few moments late for the meeting and I hope that my question was not answered before I appeared. Section 1 says:

“Scottish Ministers may ... determine standards of performance for returning officers”.

By what yardstick would performance be measured? Would it be measured by the returning officer's speed, efficiency or accuracy in undertaking a count, by a variety of those criteria or by other criteria?

**Russell Bain:** The intention of section 1 is generally to increase the efficiency of electoral administration by allowing, through the standards, the sharing of best practice, for example. The section mirrors similar provisions in the UK bill. It was felt that it made sense to give Scottish ministers the same powers in relation to local government elections.

The standards have not been set. We intend to work closely with the Electoral Commission and electoral administrators as the standards that emerge from the UK bill are developed. We will consider whether different standards need to apply in Scottish local government elections—for example, the introduction of the single transferable vote system might mean that different standards need to apply. However, it would be impractical for standards to be in place for some elections and not for others. The standards will generally be in step with the provisions that emerge from the UK bill.

**Fergus Ewing:** I asked the question because I do not know the answer. When the bill says that

ministers can set performance standards, the first question that I ask is: by what means will performance be judged? The examples of criteria that I gave seem apposite. Can you elucidate no further? You did not really seem to explain how performance would be judged. If you cannot explain that, I cannot understand it.

**Russell Bain:** The Electoral Commission has begun an exercise to determine the standards—not the level of standards—that will be set as a result of the UK bill. As I said, exactly what those standards will relate to is not clear at this stage, but they are intended to allow the sharing of best practice, for example. So, where a local authority was able to carry out a particular part of the process more effectively or efficiently as judged against the standard, we could look to use that as a following standard to improve best practice.

The other key part of the standard is to ensure that there is more uniformity, so that candidates and political parties can expect to receive the same level of service from electoral administrators in one local authority area as they would receive in the next.

**Fergus Ewing:** I am afraid that I am still no wiser. My impression, such as it is, of attending more counts than I care to remember is that most of them have been conducted with what appears to have been fairness and efficiency in difficult circumstances—most of the parliamentary election counts in my part of the world are done in the early hours of the morning. However, that is being looked at.

When I read section 1 before the meeting, my problem was not just that I did not know what “performance” meant, although that is a fair question. We are passing law, so we must have an idea of what the law means to be able to understand and enforce it; the public also need to be able to understand it. In addition, I want to know what is meant by “standards of performance”. I am afraid that you have not elucidated that.

I wonder whether you can clear up my second concern. Section 1(3) states:

“When the Scottish Ministers publish standards under subsection (1) they must lay a copy of the published standards before the Scottish Parliament.”

Does that mean that the Parliament would not have the opportunity to scrutinise the standards document? The language in the bill does not indicate that such a document would come to the Parliament in the form of a statutory instrument, which we would have the right to challenge according to our procedures. You have not explained what is involved in section 1 and it seems that that document would bypass the Parliament. Does section 1(3) mean that the

Parliament would be bypassed when the standards are published because the statutory instrument procedure will not be used?

**Norman Macleod (Scottish Executive Legal and Parliamentary Services):** It is correct to say that the standards will not be laid out in a statutory instrument; therefore, it is also correct to say that such a document will not be subject to any of the statutory instrument procedures. Subsection (3) envisages the final performance standards being laid before the Parliament, as opposed to a draft thereof. As for the means by which the performance standards will be developed—

**Fergus Ewing:** Subsection (1) does not refer to a draft.

**Norman Macleod:** I know; I do not disagree with that.

**Fergus Ewing:** Yet you implied, unless I picked you up wrongly, that the final document would be subject to statutory instrument procedure. Is that correct?

**Norman Macleod:** No; I am not saying that at all. The document will not be a statutory instrument, it will not be subject to those procedures and the final document will be laid according to section 1(3). The process by which the standards are provided and the ultimate document is produced will not be governed by the provisions of the bill.

**Fergus Ewing:** That provision seems to be fairly unsatisfactory, particularly given the importance of non-political meddling in electoral law. At the very least, the Parliament should have the opportunity to scrutinise a document of such importance.

Unless I have misunderstood the evidence, it seems that the term “performance standards” has not been defined. We do not quite know what the term means, and ministers will decide what it means and bypass Parliament when they have made that decision so that we will not have the opportunity for scrutiny. I do not suggest that anything suspicious is happening, but the provisions seem less than satisfactory.

**The Convener:** It is obvious that Fergus Ewing is not getting what he is looking for from the witnesses’ responses. It would be useful if the witnesses would reflect on the questions and correspond with the committee in the next week or two to try to give a fuller explanation of the performance standards and to answer Mr Ewing’s points.

**Russell Bain:** Yes.

**Michael McMahon (Hamilton North and Bellshill) (Lab):** I want to take the witnesses forward to section 4, “Access to election documents”. For the sake of clarity, can you

explain to us what types of documents may be meant? Can you differentiate between those documents and documents that might otherwise become available or to which access might be given under the freedom of information regime? Why do we need to have a separate piece of legislation to deal with documents that may already be covered under FOI legislation?

14:15

**Russell Bain:** The election documents that may be available and to which section 4 refers include the tendered voters list, the list of voters with disabilities who were assisted by companions at the poll, declarations that were made by companions of voters with disabilities, the list of votes that were marked by the presiding officer and related statements. The Scottish Parliament information centre briefing refers to those documents. I am not 100 per cent sure how the provisions relate to freedom of information legislation. Norman Macleod may be able to help.

**Norman Macleod:** I do not think that this regime and the freedom of information regime are intended to sit together. The bill concerns very tight regulation of certain types of documents that are used in connection with elections. If the freedom of information regime is to bite here, it will operate independently. I envisage that any restriction that the bill imposes will read across if someone seeks one of the documents under the freedom of information regime.

**Michael McMahon:** Am I right in suggesting that we need these documents to be defined because they are not covered by FOI legislation?

**Norman Macleod:** No. The intention is to regulate the availability of the documents within the framework of the bill.

**The Convener:** I want to follow up on Michael McMahon’s questions. It seems to me that some of the documents are already available. Are they available at the moment only at the discretion of the returning officer? Is there a legislative basis on which they are available? For example, the marked register of people who have cast their vote in an election is a document to which candidates can gain access.

**Russell Bain:** As you say, that document is available to political parties. The provisions in sections 4 to 6 are intended to clarify exactly who can see which documents and what they can do with them afterwards. Section 5 stipulates a penalty for contravening those provisions.

The provisions mirror those in the UK bill. The background to them is the subsequent use of documents such as the register or the marked register by organisations such as direct marketing

companies. The aim is to ensure that individuals' rights of privacy are not infringed, but that there is access to election documents by those who need it, such as political parties.

**The Convener:** I want to look a bit further into the future. As I am sure you are aware, it is common practice for political parties to try to sample the votes at an election count, in order to identify areas in which they have strength. It seems likely that, at some stage in the future, votes in elections that are held under STV will be counted electronically rather than manually, because of the complexity of the vote. Does the bill provide any future flexibility for political parties to have the right to access sampling, if votes are counted by a computer? At the moment, political parties have observers who take samples and estimate their share of the vote in each area.

**Russell Bain:** It is difficult for me to answer the question without considering it further. I do not think that the bill will change the access that political parties have at the stage of the counting process to which you refer, regardless of whether counting is electronic. I need to consider further exactly how the provisions will relate to the possible future introduction of electronic counting.

**The Convener:** I would appreciate it if you could provide us with some further thoughts on that issue before we complete stage 1 consideration of the bill. I am sure that most of the political parties would be interested to hear your response.

Does Sylvia Jackson have a question?

**Dr Sylvia Jackson (Stirling) (Lab):** We raised the issue of the possibility of not being able to sample, so I just wanted to reinforce your point about electronic voting, convener.

**Fergus Ewing:** Section 3 relates to the correction of procedural errors. Can you give me an example of the type of error that the section is designed to deal with?

**Russell Bain:** It would cover a spelling error on a nomination form, for example. Previously, if the name of a ward had been spelled incorrectly, the electoral administrator would have had to go back to the person who had completed the form and ask them to redo it. The provision will allow that type of straightforward and relatively minor administrative error to be corrected.

**Fergus Ewing:** So, the nature of the error would be clerical or administrative.

**Russell Bain:** Yes.

**Fergus Ewing:** Do the provisions encompass errors that are made in connection with the conduct of the count? That seems to be the intention. The only correction that the returning officer cannot make is one

"after the result has been declared."

After the count, the returning officer has done his duty and his role is defunct. I assume that section 3 will give the returning officer the power to correct an error in connection with the count.

**Russell Bain:** I think that that is the case, but I seek clarification from my colleagues on the matter.

**Norman Macleod:** I think that that is the correct interpretation of the provision.

**Fergus Ewing:** Right.

On reading section 3, I was reminded of the most common problem on polling day—or at least the most common one that I encounter—which is that someone suddenly finds that they are not on the electoral register. People are not happy when that happens. In trying to work out the source of the confusion, one can often become involved in lengthy discussions about whether the person has changed their address or whether anyone else lives in their house. I see nothing in section 3 that will enable those problems to be sorted out so that someone who is not on the electoral register can cast his or her vote. Is that right?

**Norman Macleod:** That is correct. The provisions do not deal with the entitlement to vote.

**Fergus Ewing:** I wanted to be clear on the matter. I do not know what the solution is, but experience tells me that the problem is a major one, which must be widespread.

**Paul Martin (Glasgow Springburn) (Lab):** Another issue that we face on polling day is that of ballot papers not being franked properly. Does the bill contain provisions to simplify that procedure? Given the possibility of electronic counting, how does the Executive intend to tie in the need to frank ballot papers properly with the requirements of an electronic count?

**Russell Bain:** I understand that a bar code or other form of marker is included on the ballot paper in any electronic counting process. The bar code or other marker relates to a corresponding bar code or marker on the electoral list, which ensures that the paper is genuine. Any move to e-counting would change the way in which ballot papers are validated; in other words, there may not be a need for polling station staff to make a unique mark on each paper. Such provision will not necessarily be made in the bill; it will be covered in the election rules that will be made in secondary legislation. If electronic counting is to be introduced, changes will need to be made.

**Paul Martin:** On the issue of the registration of births, deaths and marriages, the bill contains some discussion of the possibility of online registration. Will you go into more detail on—



**The Convener:** I am sorry, but that question is not for this panel.

**Paul Martin:** I am sorry, convener.

**Mr Andrew Arbuckle (Mid Scotland and Fife) (LD):** I turn to the question of observers. The aim of trying to get more transparency in the system is laudable. To the suggestion, "Let's have observers", I say, "So far, so good." I take no issue at all with the suggestion that the returning officer should have the power to refuse or revoke applications.

However, on turning to section 9, one sees that

"The Scottish Ministers must prepare a code of practice on the attendance of observers at local government elections."

Therefore, my question might relate to the first question that Fergus Ewing asked. We have no idea what that code of practice will say. It might discriminate against observers. Section 9(4) states:

"The Scottish Ministers must ... publish the code in such manner as they may determine."

The code might detract from the transparency that is intended.

**Russell Bain:** Again, we envisage that the code of practice that is drawn up will sit closely alongside the code of practice that is developed from the UK Electoral Administration Bill and which will apply to Scottish parliamentary elections. There are provisions on consultation and, in order to get to the point at which the code is produced, we will need to discuss the matter closely with electoral administrators, the Electoral Commission and other interested parties.

**Mr Arbuckle:** Does my point not remain? It is one thing to link the code with the UK situation—I have no problem with that—but it seems that decisions on things that we feel strongly about will be made not by us but elsewhere.

**Russell Bain:** I do not think that they will be decided elsewhere. The bill contains the power for Scottish ministers to make the decision, but, as I said, if the code is to be useful and practical for returning officers and other electoral administrators to use, it needs to sit closely with the code of practice on access to elections generally.

**The Convener:** Section 19 is on "Personal identifiers: piloting etc." I am aware that the purpose of using personal identifiers is to prevent the electoral fraud that occurs through impersonation, but I note that, when the initiative has been piloted in the past, there have been drops in registrations. Do you have any intelligence on whether such drops are due to the exclusion of people who have been fraudulently

impersonating others or whether they are due to other factors?

**Russell Bain:** The collection of personal identifiers at registration is not a matter for the bill. The provisions in section 19 are designed purely to allow the use of personal identifiers in a pilot.

Information on the matter comes largely from Northern Ireland, where the introduction of the use of personal identifiers coincided with a drop in registration. That was the position taken by the UK Government in relation to their introduction across the board. I do not have any further information on the link between the use of personal identifiers and drops in registration.

**The Convener:** The power to require personal identifiers is part of the Electoral Administration Bill at Westminster. Is that correct?

**Russell Bain:** As I understand it, the Electoral Administration Bill will allow the piloting of the collection of personal identifiers. Obviously, personal identifiers need to be collected before local authorities can use them in elections.

**The Convener:** What is the Scottish Executive's intention in section 19 of the Local Electoral Administration and Registration Services (Scotland) Bill? Does it plan to run pilots in Scotland once the various pieces of legislation are in place, or is the provision included in the bill in case it chooses to do so in the future?

**Russell Bain:** The provision is there so that, if it is decided that we are in a position to attempt a pilot or a local authority comes to us and says that it would like to try a pilot, we will have the ability to do so. As you mentioned, the provision is part of a move towards greater security—that is the intention behind the use of personal identifiers. We want local authorities to be able to pilot that if they wish to do so.

14:30

**Tommy Sheridan:** I apologise if I have not picked this up in your remarks, but will you give me two or three concrete illustrations of how the bill will improve turnout at elections?

**Russell Bain:** It is always difficult to link provisions directly to turnout. Section 24 deals with the display of some documents at polling stations, polling places or any place for the purposes of a local government election and it will allow those documents to be made available in Braille or a language other than English. That might improve people's access to elections, but it is difficult to link anything directly to improving turnout.

**Rab Fleming (Scottish Executive Finance and Central Services Department):** I can add two or three examples that are in themselves

small, but when added might make a significant contribution. The bill will provide an opportunity that does not exist at present to correct registration errors and errors on ballot papers. That will mean that almost up to the time of the election, errors in the registration system can be corrected, so more people will be able to vote, as the registration data will be more accurate.

Children will be able to accompany voters into polling stations, so people who cannot find someone to watch their children will be able to take them to the polling station and to vote.

The bill contains additional measures to protect the security of postal voting and to reduce fraud. We think that that will increase confidence in the postal voting system, which will encourage people to use it more.

The bill provides a better facility to use tendered ballot papers, so that if somebody applied for a postal vote but did not receive the papers in the post, they could fill in a different-coloured ballot paper on polling day, which would be taken into account as part of the election.

Russell Bain mentioned that election documents will be able to be produced in languages other than English, in Braille and in graphic formats to aid voters at polling stations. There are about four or five measures that will contribute to improving turnout.

**Tommy Sheridan:** My question was prompted by the policy memorandum, which says:

"These changes also link into the wider policy objective of reforming voting arrangements in order to increase participation as set out in the Partnership Agreement."

I hoped that the bill would talk about text message voting, e-mail voting and voting at post offices and supermarkets and that it would make a bit more of an effort to take the voting process out to voters. What you have told me about, such as the ability to correct registration errors, applies to people who want to vote but who find that they are not registered. Unfortunately, that does not affect the greater percentage of people who do not exercise their vote.

It is excellent that children will be able to accompany voters to polling stations, but all the research in past psephological studies has suggested that access to polling stations is the problem, which is why supermarket voting, for example, has been proposed.

I have read lots of reports on postal voting and some of its problems, but I have read no accounts of people who have said that they did not apply for a postal vote because they were concerned about fraud, although I have read reports that returning officers have said that they were worried about fraud. The tendered ballot paper change that you

mentioned also relates to people who have already made an effort to apply for something.

That is where my disappointment lies. The policy memorandum to the bill talks specifically about increasing participation in elections, but nothing in the bill grabs me to say, "That's good—that might work and improve turnout." What is your response to that?

**Rab Fleming:** A couple of the measures that you mentioned will not affect turnout, but they will affect the number of people who can cast a valid vote, so they will alter the number of votes cast, rather than the number of people who turn up at polling stations.

As for increasing turnout generally, the bill's purpose is to tighten rather than to change administration of the existing electoral system. Outside the bill, the Executive still has a commitment to find methods of increasing participation. We have not found anything that we can implement in time for the May 2007 elections, but there is an on-going programme of work in that area.

**Tommy Sheridan:** So you are saying that there are plans somewhere in the Executive's vaults to bring forward the exciting proposals to increase participation that we have been promised.

**Rab Fleming:** That is right.

**Tommy Sheridan:** I turn to the section on replacing the word "publisher" with the word "promoter" in publications and the various sections on the creation of an offence for producing material that is not in the new prescribed format. Is there any concern about the proposed creation of a crime, particularly in relation to proposed new section 110A(16) of the Representation of the People Act 1983? A person may be found guilty if the published material is not in the prescribed format, although the candidate's name is not on the material. I am a bit worried. Has the possibility of mischievousness been investigated? People could be set up. Is the law flexible enough to ensure that that does not happen? Have any concerns been expressed about that matter and is it worth considering?

**Russell Bain:** I am not aware that any concerns have been raised. Obviously, I am happy to study the wording of the section in order to ensure that it captures only what it is intended to capture. It is clearly not intended to penalise someone who has been set up for an offence, as you put it. As I say, I am happy to consider the wording, particularly if there are any specific issues that you think might give rise to concern.

**Tommy Sheridan:** We are talking about election material that breaches the proposed prescriptions for such material. Somebody will be

held responsible for such a breach. You say that a candidate's name does not necessarily have to be on the material. I am worried about a person trying to get someone into soapy bubbles by publishing material that does not have the candidate's name on it and that is not in the proper format.

I am also interested in the section that aims to ensure that no one stands for election as an independent when they are not independent. In Fergus Ewing's part of the country, there is a long history of independents standing for election who are—to give them another name—Tories. How do you expect to work out whether a person is standing as a party-political representative under a flag of convenience?

**Russell Bain:** I am sorry, but could you tell us the section that you are referring to?

**Tommy Sheridan:** Proposed new section 65B(3)(c) of the 1983 act would apply to a candidate who stands as an independent and gives an incorrect

“statement that he has not been selected or authorised to stand in the name or on behalf of any registered party, organisation or other person.”

How can that be proved? What would happen if I stood as an independent and somebody said, “Ach, you're only standing because the wee baker's doon the road wanted you to stand to stop it getting shut,” or a person stood as an independent because they would get duffed if they stood as a Tory and the local Conservative association had decided to give them a free passage without standing anybody against them? The provision seems very broad.

**Russell Bain:** The section refers to a statement from the person that they are not standing

“on behalf of any registered party, organisation or other person.”

That would clearly need to be proven before someone could be found guilty of the offence. There is a clear definition of registered party. Some link would have to be shown between the person and the registered party if the section was to be called into play; similarly, with an organisation or other person. It would be for a court to determine whether that link existed and whether the person had made a false statement to the effect that there was no link between them and that party, organisation or other person.

**Tommy Sheridan:** So why is the provision in the bill? Is there a worry behind it?

**Russell Bain:** It is part of the overall package that is designed to prevent fraud at elections, in cases where people claim to represent an organisation or the interests of a party, but do not.

**Tommy Sheridan:** I take it that there is no provision to take that further, so that people who stand on the basis of certain policies but do different things after the election could be charged with fraud. I am thinking of the Lib Dems, obviously, in 1999.

**The Convener:** You are being mischievous now, Tommy.

**Tommy Sheridan:** Sorry, sorry.

**The Convener:** The supplementary arising from Tommy Sheridan's question that interests me is whether membership of a political party on the part of a person who stands as an independent would see them deemed to be in breach of this section, or whether they would need to have the active support of that party to be in breach of the provision. Tommy Sheridan makes the point that there are parts of Scotland where independents stand who are believed to be members of political parties. Would that be sufficient for them to be deemed to have breached the law?

**Russell Bain:** I do not think so. The proposed new section 65B(3)(c) of the 1983 act states:

“selected or authorised to stand in the name or on behalf of any registered party”.

It would have to be clear that they were standing in the name of party X or on behalf of that party. There would have to be a firm link.

**Bruce Crawford (Mid Scotland and Fife) (SNP):** First, on the broad thrust of the bill, many of its provisions obviously flow from the UK Electoral Administration Bill. The policy memorandum states that some of the Scottish bill mirrors the changes in the UK bill. Can you indicate what proposals in the bill are new and different from the proposals in the UK Electoral Administration Bill?

**Russell Bain:** So the question is, which provisions do not mirror or otherwise flow from—

**Bruce Crawford:** No. I am asking whether there is anything new in the bill that is not in the UK Electoral Administration Bill.

**Russell Bain:** A number of provisions do not relate to the current UK bill. A number of miscellaneous changes are related to tidying up the administration of elections. Those changes have previously applied to other elections in the UK and we seek to make those changes through the bill.

**Bruce Crawford:** So they are minor and miscellaneous changes to the process rather than substantive new proposals.

**Russell Bain:** Yes.

**Bruce Crawford:** Okay. What about provisions—other than minor ones—that are in the

UK Electoral Administration Bill but that we have decided not to go with? Is there anything in particular that the bill has not encapsulated?

**Russell Bain:** The bill deals with the devolved elements around the conduct and administration of elections. For example, the bill does not include a number of provisions that are in the UK bill about the registration of electors, which is a reserved issue.

**Bruce Crawford:** I understand that.

**Russell Bain:** I do not think that there is anything else.

**Bruce Crawford:** The policy memorandum states that the changes

“also link into the wider policy objective of reforming voting arrangements”—

I encourage and applaud that—

“in order to increase participation as set out in the Partnership Agreement.”

What you are effectively saying is that the material in the bill is the same as has appeared before the UK Parliament in the Electoral Administration Bill. Not much has come in from the partnership agreement at this stage.

**Russell Bain** *indicated agreement.*

14:45

**Bruce Crawford:** As far as the detail is concerned, the policy memorandum says that participation in elections is important. I think that we would all support that view. However, with particular reference to voters who have not voted, I would like your thoughts on the idea that fees will continue to be prescribed for access to the marked register. If we are serious about trying to increase turnout in Scotland and improve the participation of those who are able to cast their votes, surely having the marked register available at minimum or zero cost would be an encouragement for parties in particular to identify those who had not voted and use the appropriate campaigning methods in future to encourage them to come out and vote. I would have thought that any fee structure would get in the way of doing that.

**Russell Bain:** Local authorities can currently charge for access to the register. The intention in the bill is to adopt a more consistent approach to that. On the regulations that would be put in place, we would obviously listen to those who would want access to the register when deciding what the appropriate fees and regulations should be.

**Bruce Crawford:** Unfortunately, the committee does not know what the fee level will be because it will be the subject of secondary legislation. Similarly, under section 4 of the bill, access to

election documents will be subject to regulations that ministers will be given the power to make and that will impose conditions on that access. I would like at some stage in this process to understand a lot more of the thinking about what ministers will say, because section 4 will give them wide powers. I understand that any regulations will be subject to the parliamentary process, but having fee levels and access provisions on the face of the bill might not be a bad thing, because that would allow everyone to see exactly what was being suggested. I just make that comment; you can do what you will with it.

**Dr Jackson:** To return to electronic voting and counting, when the committee considered local government elections and STV in our stage 1 report on the Local Governance (Scotland) Bill, one of our recommendations was that the Executive should move forward on electronic voting and counting. I know that you will go away and consider how the bill might encompass that important issue, but I have gone through the policy memorandum again and I do not think that any section deals with it. If you find out that, in fact, there is nothing in particular in the bill that deals with the issue, is it your considered opinion that it might need to be added? If not, should the minister be given a power so that it can be added at a later date? I am a bit worried because this important aspect is just not included at the moment.

**Russell Bain:** We would need clarification of what aspects of electronic counting you felt needed to be included.

**Dr Jackson:** If you went back to the report that the committee produced when we were considering local government elections and the STV system, you would see that one of the recommendations was to move as quickly as possible on electronic voting and counting, but obviously to do so with safeguards and procedures. I just wondered therefore why that issue is not, or does not appear to be, in the bill.

**Rab Fleming:** The short answer is that the bill is primarily about the processes of electoral administration, not about the technology and what is used to facilitate the processes. On our current plans, we are certainly looking at electronic counting in the short term, but I do not think that that affects substantially the processes that are defined in this bill. As regards electronic voting, that is certainly some way in the future. On how we implement electronic counting for the next set of elections, which are scheduled for May 2007, the rules for those elections will certainly reflect any provisions that we need to make to account for electronic counting, but I regard that as being outwith the scope of this bill.

**Dr Jackson:** Just to clarify, although this bill talks about local electoral administration, it does not, or should not, include anything about electronic counting and voting.

**Rab Fleming:** Correct.

**The Convener:** Are you saying that ministers would not need new legislation to introduce electronic counting but would have it in their power to do so if and when they found a proven system?

**Russell Bain:** That is correct.

**Fergus Ewing:** Does the bill tighten up the loopholes that led to the well-publicised incidences of voting fraud—in particular, postal voting fraud—in local government elections in the English midlands?

**Russell Bain:** Certainly, the offences sections—that is, sections 10 to 13—are all intended to tighten up the process in different ways. In particular, section 10, which covers false information in applications relating to absent voting, and section 13, which concerns offences relating to applications for postal and proxy votes, are intended to tighten up the security around such voting.

**Fergus Ewing:** Will you explain in what way they tighten up the process?

**Russell Bain:** Section 13 lists a number of actions that will constitute offences:

“(a) applying for a postal or proxy vote as some other person ...;

(b) ... making a false statement in, or in connection with, an application for a postal or proxy vote;

(c) inducing the registration officer or returning officer to send a postal ballot paper or any communication relating to a postal or proxy vote to an address which has not been agreed to by the person entitled to the vote;

(d) causing a communication relating to a postal or proxy vote or containing a postal ballot paper not to be delivered to the intended recipient.”

Those actions are all included.

**Fergus Ewing:** I read sections 10 to 13 and section 13 in particular. I have not read all the previous acts, but it seemed to me that most of those specific provisions must already be electoral offences. Is that not the case?

**Russell Bain:** It is not the case that they all are. One of the Electoral Commission's recommendations on false information, to which the bill responds, was that

“There should be a new offence of intending fraudulently to apply for a postal or proxy vote.”

That applies to section 13, so the offence is new, as far as I am aware.

**Fergus Ewing:** I accept what you say, although it comes as a surprise to me, as I thought that it already was an offence. In fact, I thought that the problem was not so much that such conduct was not an offence as that the law was quite easy to pervert, as the cases in the midlands demonstrated. Could you think that over and come back to us on it? I am slightly concerned that the provisions might not entirely deal with the ease by which people could obtain postal votes. Is there any concern that the current system does not allow for a sufficient method of checking the identity of the person who applies for a vote or the identity of the person who appears at the polling station?

**Russell Bain:** We will happily take that away and consider whether anything needs to be added to the provisions, but the offences go a long way to tightening up the process of postal and proxy voting.

**Fergus Ewing:** There is one specific matter that I ask you to consider and come back to us on. You have already said that the Scottish ministers would be able to publish standards, bypassing the Parliament—Mr Macleod said that the standards would not be subject to parliamentary scrutiny because they would not be contained in a statutory instrument. Would it be possible for the Scottish ministers to provide in the standards that, to check the identity of any individual in connection with any local government election in Scotland, identity cards would have to be produced?

**Norman Macleod:** The performance standards will relate only to how returning officers perform their duties under the local government election rules.

**Fergus Ewing:** So you can rule out absolutely any prospect that regulations could be produced that required people to produce identity cards to be able to vote in Scotland.

**Norman Macleod:** The performance standards that are mentioned in section 1(1) can relate only to how returning officers do what they are required to do. If the officers are not required to check any personal identification cards under election law, those would not bite on them at all.

**Fergus Ewing:** Yes, but earlier you could not say what the performance standards will be.

**The Convener:** We are to receive further guidance on that.

**Fergus Ewing:** The witness admitted that he cannot really define what the standards of performance are, but the returning officer must have a duty to ensure that clerks at polling stations check individuals' identity where there is any doubt. My question is whether, under the bill, identity cards could be introduced through the

back door, without parliamentary scrutiny. I would like the witnesses to rule out that possibility completely, perhaps in writing.

**The Convener:** That issue does not relate to the performance standards, although you may wish to raise it in relation to the section that deals with identification of voters and personal information. I am more than happy for the Executive officials to respond in that regard, but the issue of identity cards does not relate to the performance standards issue that you raised originally.

**Paul Martin:** Mr Fleming said that ministers will not be required to legislate for electronic counting, but I have a question about scrutiny. Traditionally, the counting process can be scrutinised by those who are in attendance from the various parties. There must be a link to the electronic counting process, so that process will require legislation. I cannot envisage a situation in which we have an electronic counting process but no scrutiny of it.

**Rab Fleming:** That is correct. The matter will not be covered in the bill, but in the rules that are published for elections that use electronic counting. That is separate from the bill.

**Paul Martin:** So the matter will be covered in separate secondary legislation.

**Rab Fleming:** Yes.

**Paul Martin:** So it is not, as we said previously, that ministers will be able to go ahead with electronic counting. There will be some kind of parliamentary scrutiny of the measures.

**Rab Fleming:** Yes. The rules that define the electronic counting procedure will be scrutinised.

**Dr Jackson:** From where would that secondary legislation emanate? Would it be the STV legislation?

**Russell Bain:** Yes; it would be made under section 3 of the Local Governance (Scotland) Act 2004.

**The Convener:** I have a final question, which is on the provisions on offences, particularly section 12, which is on undue influence. The section will amend section 115 of the Representation of the People Act 1983, of which I must confess that I do not have detailed knowledge. However, I am intrigued by section 12(2)(b), which states:

“after ‘prevails upon’ insert ‘, or intends so to compel, induce or prevail upon,’”.

Under one interpretation, members of political parties who campaign try to induce or prevail upon people to vote for particular candidates. Obviously, a point can be reached at which that is undue influence, but where does the line lie? For example, if Mr Ewing appeared on my doorstep and prevailed upon me to vote for the SNP, he

would be doing so in vain, but it is his democratic right to do so. Where do we draw the line between prevailing upon somebody and undue influence?

**Norman Macleod:** I will help put that in context. Section 115(2)(b) of the 1983 act refers to:

“abduction, duress or any fraudulent device or contrivance”.

We are not talking only about persuasion.

15:00

**The Convener:** That brings us to the end of questions for the panel. Thank you for your evidence; you have given us a good start and helped our understanding of various aspects of the bill.

I apologise to members of the committee that I did not make it clear that the first panel was going to deal only with electoral administration aspects of the bill. The second panel, from which we are about to hear, will deal with registration services aspects.

I welcome our second panel. We have with us Paul Parr, who is the deputy registrar general; Alex White and John McCafferty, who are from the General Register Office for Scotland; and Graham Fisher, who is from the office of the solicitor to the Scottish Executive. I believe that Paul Parr will make introductory remarks on part 2 of the bill.

**Paul Parr (General Register Office for Scotland):** My voice is a bit weak as a result of a cold. If it fades, please let me know and I will try to speak up.

I will talk about part 2, but I thought I would start by giving a bit of background about the registration service in Scotland. The framework for the registration of births, deaths and marriages is set by the Registration of Births, Deaths and Marriages (Scotland) Act 1965, so the legislation with which we are working is about 40 years old. Arrangements for marriage preliminaries and the solemnisation of civil marriages are governed by the Marriage (Scotland) Act 1977.

The procedures in both pieces of legislation have generally worked well, and major improvements have been made in the past quarter of a century within the existing legislative framework. The Marriage (Scotland) Act 2002 allows civil marriages to be carried out in places other than registration offices. We have also made administrative changes. For example, 98 per cent of what we call vital events—births, marriages and deaths—are now registered through computers in local registration offices that are linked to the General Register Office for Scotland. Nevertheless, information technology changes could be made to improve the service to our customers.

The registration service in Scotland is a partnership, of which we are proud, between the General Register Office for Scotland, which is part of the devolved Scottish Administration, and the 32 local councils, which employ registrars and meet the individual needs of their areas. Councils are responsible for the pay, conditions and accommodation of local registrars, but the registrars operate under the legislation that I have mentioned, to instructions issued by our office. The partnership has worked well, and there are no plans to change the basic structure.

Through the bill we would like to provide a high-quality, modern and efficient service; put the needs of the citizen before the convenience of service providers; use information technology to make improvements in meeting the needs of citizens; and link closely policy formulation and service delivery. With that in mind, I will attempt briefly to summarise part 2.

Sections 27 and 28 would adjust the registration district boundaries and the opening times of registration offices to make them more convenient for customers. Sections 29 to 32 would allow births, stillbirths and deaths to be registered anywhere in Scotland; currently, they can be registered only at the local office. We want to pave the way for online registration, which I am happy to discuss. We also want, in certain circumstances, to devolve to local registrars the handling of birth reregistration which, at present, is done centrally.

Sections 33 to 36 would provide for speedier examination and correction of the statutory registers and for the registers to be made available in electronic formats if it becomes desirable and safe to do so. Provision is also made for electronic notification of events to private sector bodies; for the opening up of opportunities for local authorities to provide family history search centres; for an abbreviated death extract to be provided free of charge at the point of initial registration; and for the change-of-name service to be provided at an earlier stage.

Section 37 would introduce a new offence of giving false information to the registrar general. That is the only new offence in our part of the bill.

Sections 38 to 43 deal with marriage and civil partnership, and would clarify the arrangements for marriages that are solemnised in Scottish waters and enable civil partnerships to be registered in Scottish waters. They also deal with a number of administrative arrangements that relate to marriage and civil partnership, and would introduce an all-Scotland list of intended marriages.

Sections 44 and 45 would allow people who have a Scottish connection to record events that

occur abroad in a book that will be held by the registrar general.

Sections 46 to 48 would allow public information that is held by the registrar general to be used to assist Government and businesses in the delivery of their services. The bill would put the national health service central register on a clear statutory footing and facilitate the carrying out of health board and local authority functions. For example, the operation of the citizen's account would be facilitated by the provision of a unique identifier to any citizen who applies for an account. Finally, the bill would give local registrars access to minor records that are held centrally in Edinburgh by GROS.

I am sorry if that was a rather speedy run-through of the provisions. Part 2 covers a lot of ground, but its emphasis is on improved customer service.

**The Convener:** You talked about informing third parties, including parties in the private sector, about certain events. Is that to prevent fraudulent activity, for example by someone who applies for a loan using the name and personal information of someone who has died?

**Paul Parr:** That is one example, but it could be simply an administrative matter. There are provisions in the bill to allow the informant—that is, the person who goes along to the registration office to register a birth, marriage or death—to ask the registrar to notify automatically a range of bodies that have applied to us and are on a prescribed list. When that happens, the information will go straight from an authoritative source to a point of contact in a bank, a building society, an insurance company or a department in local or central Government. That will reduce fraud. The bill would also allow our office to inform prescribed bodies and local and central Government of an individual's death. That would allow list clearing and ensure that the death was taken into account. In fact, one of the coincidences between parts 1 and 2 is that electoral registration officers would be informed quickly of the death of someone who is on the electoral register.

**The Convener:** Presumably that would be of significant benefit to Government organisations such as the Driver and Vehicle Licensing Agency and the United Kingdom Passport Service.

**Paul Parr:** Yes.

At the moment, because the information that we hold in our registers of births, marriages and deaths essentially is public information, organisations such as those can obtain information from us on payment of a prescribed fee. We are allowing the movement from a paper-based system to an electronic one, which will

facilitate communication of information to a range of departments in central and local government.

**Mr Arbuckle:** Why is there a need for coterminous boundaries with local authorities? In the consultation exercise, you seemed to run into a fair line of objection from people who value the traditional registration areas.

**Paul Parr:** We certainly received some comment against the proposal. One of the concerns that was raised was the loss of a local identity, for example if, instead of identifying Hawick registration district, the birth registration document showed only Scottish Borders as the place of registration. However, we approached Scottish Borders Council and, indeed, Highland Council to address some of their concerns. We have agreed a mechanism that would allow us to record by administrative means—it does not have to be in the bill—a birth in Hawick, say, as being in “Scottish Borders registration district, Hawick”. A Hawick lad would therefore always be known as a Hawick lad, even though his place of birth and the address of his mother would be on the Scottish Borders birth register. As far as we understand, that modification has addressed the concerns of Scottish Borders Council and Highland Council.

The other reason why we want to change the boundaries is to make life more convenient for customers. The initial 1,100 or so registration district boundaries that were set up in 1855 were based on the old parishes and counties of Scotland. Their boundaries do not naturally follow the boundaries of existing local authorities. Indeed, in some cases the registration district boundaries cross two or three local authorities.

Until the Marriage (Scotland) Act 2002, which allows registrars to go out of their offices to conduct civil marriages, that was not much of an issue, although it caused some confusion among consumers. However, since the 2002 act, a local authority can approve for a civil marriage a place that is within its local authority district but which is not within its registration district, which requires a registrar to come from another local authority to conduct the civil marriage in that location.

Also, some registration district boundaries are not particularly clear to customers. An example of that is in Lanarkshire, where people in the Uddingston area tend to be confused about which registration office they should go to for a birth or a death registration. They turn up in Bellshill and are told that they have to go to Hamilton, or vice versa. We are trying to prevent that type of confusion.

We are not trying to lose local identity; we are trying to preserve it through the naming of individual registration places and offices, while

maintaining behind the scenes our own registration district numbering system.

**Bruce Crawford:** Thank you, Paul. That was a useful explanation and the length of your introduction was just what we needed—I am grateful for that.

I can understand the argument that you just put to Andrew Arbuckle about the need to have coterminous boundaries. It was well explained. We need to have registration districts and it makes sense to have them aligned with local authority boundaries, but does it mean that we need 32 separate local registration authorities? I understand that there are 32 because you are following the local government boundaries, but is not there a system for regionalising the authorities and making a saving for the public purse?

15:15

**Paul Parr:** The reason why the bill refers to the 32 local authorities is because under the existing 1965 act, each local authority represents a local registration authority. We did not want to change the structure because it works rather well, as I said in my opening remarks. Admittedly, it could be argued that changing the structure could allow larger registration authorities that may in some way be more efficient. However, we have argued for the status quo and for a partnership that works well. Each of the 32 local councils is responsible for its own registration authority and the structure works well because it allows them to focus on the needs of their area. Each area has different characteristics, ranging from a large geographical area such as Highland to the wee county of Clackmannanshire. Each can reflect its customers.

**Bruce Crawford:** I would have thought that the main interface with the customer would be the local registrars, so I understand why you have gone for the district approach. Did you examine the possibility of forming boards across an authority or a group of local authorities?

**Paul Parr:** No. We did not specifically consider that option because in our initial consultation in 2000 we sought views on whether we should concentrate on the existing partnership, which had been and still is working well.

Another provision that might help is the one that opens up where someone can register a birth or death, so that they may do so anywhere rather than at a place within each local authority area. There will be a certain freedom for customers, in that if they feel more comfortable going to one area than going to another, they will be able to do so. We are also future proofing the registration system for any future changes that may occur to local government boundaries.



**Bruce Crawford:** That is useful. It is also useful that the bill will allow the electronic format to be used. For many people, that will advance their access to information. Is primary legislation required to make that happen?

**Paul Parr:** Yes. Primary legislation is required partly because the 1965 act places a duty on a person physically to attend the local registration office within a given timescale and to sign when they are there. The bill changes the emphasis by taking away the duty to attend physically at a registration office and replacing it with one that requires them to submit certain information to a registrar by a given deadline. Instead of requiring the person to provide a signature to attest to the veracity of the information, we will prescribe in regulations that will be laid before the Scottish Parliament what we mean in each circumstance by "attest". In essence, that paves the way for electronic registration, which might take the form of providing information through the internet to our central computer. A person could attest to the veracity of the information by some form of recognised electronic signature.

We think that e-registration will be a useful addition to the service that the registration service provides, but we do not envisage it being a replacement for face-to-face registration. E-registration will appeal to some people but perhaps not to others. We do not envisage it being a replacement for the current system, but we are taking the opportunity in the bill to pave the way for it so that it can be implemented when the necessary safeguards are in place. Such safeguards include the ability to check quickly that a birth or death occurred, to identify the person who is making the information available to us and to examine the accuracy and completeness of the record. Only once those safeguards are in place will we implement e-registration.

**The Convener:** You are getting there with your explanation of how you would verify that a death had occurred, for example. In that case, the registrar would check with the local hospital or the doctor who reported the death and verify the report's accuracy.

**Paul Parr:** That is what happens currently but we would like to make the process more efficient.

On a death, the relative of the deceased is given a medical cause of death certificate, which they bring to the local registrar, who transcribes the information into the register. That person is then issued with a form that allows them to dispose of the body of the deceased.

Behind the scenes, the 1965 act contains provisions that require the local health board to inform the district registrar of deaths—there are

mirror provisions for births—in that registration district area. The bill builds on those powers.

We would like to work with the health boards and the Health Department to ensure that in the case of either face-to-face registration or electronic registration, the health databases interact with ours in some way to show the births and deaths that have occurred and to ensure that the registration cannot be completed until such time as the informant has completed his or her part of the registration.

**Dr Jackson:** My first point follows on from that. Where are we at the moment on databases and co-ordination between health boards and your office?

**Paul Parr:** I would say that it is developing. We have a central database and, as I said, our registrars capture information locally and transmit 98 per cent of it to us electronically and immediately. We would like to run a pilot, ideally with a health board, and we are in negotiations with the national health service about that. We want to pick up new changes in health so that when a death is registered, for example, it is registered not just in paper format but in a secure way at the local hospital and we are then informed of it. I am not necessarily talking about our being able to access the health database, but it could flag up to ours that a death has occurred.

We are in the early stages. We are using the bill to pave the way for powers, but we have a bit of work to do with the health service to develop the links about which you are concerned. We have not yet started a pilot. We have entered into discussions with the Health Department about it, but we have not yet bottomed out the details. We plan to.

**Dr Jackson:** While the flexibility of having different ways of registering has been welcomed, I picked up from the consultation a concern about whether the same number of offices and staff members would be retained. If more people register events electronically, there might have to be a move from a registrar-type job to multitasking. I do not know whether that is the case, but it was one of the fears that were expressed. Is that being addressed? What were the results of the consultation?

**Paul Parr:** I can understand that view. Our plans are to make improvements for consumers and citizens. The service is delivered by local authorities, and the registration service is already fulfilled in a variety of ways across Scotland. In Edinburgh and Glasgow, there are large registration offices that do nothing but registration. In the Highland Council area, small, multifunction offices are dotted around, at which the registration function is one of several things that the office

does. In some cases, the registration function makes up only about 15 per cent of the duties of the person who works there—they can put on the registration hat, but they do other council business such as looking after grants and committees.

The General Register Office for Scotland does not dictate to local authorities how they can best meet their individual needs. Some local authorities, for example Highland Council, are keen to maintain a local presence, which they do by ensuring that the local offices in their area fulfil a range of functions, one of which is registration. The 1965 act places an overall duty on the registrar general to ensure a sufficient registration presence throughout Scotland. We are always keen to ensure that no place is left denuded of the registration system, although I am glad to say that there is no example of that happening. Under existing legislation, boundary changes have occurred in 22 of the 32 local councils, but offices have been closed in only two cases and in those cases arrangements were made to provide a service to the communities in the areas. In fact, with one of the office closures, the neighbouring office was only 3 miles away.

We have close relationships with the local authorities and we meet them regularly. We have a team of district examiners who inspect registration offices throughout the country. They consider not only the books, but the provision of the service. If we were to get feedback from one of our district examiners that the provision of the registration service was lacking in part of Scotland, we would enter into negotiations with the local authority to encourage it to improve its service. As I said, we have a good partnership with the registration service in Scotland, which we hope will continue.

Some staff may have worries about their duties changing, but we believe that it is unlikely that the changes that will be brought about under the bill will force registrars out of their jobs. The bill will reinforce the registration system and make it more easily accessible by customers.

**Dr Jackson:** Are the registration officers or registrars in local offices employed by you or by the local authority?

**Paul Parr:** They are employed by the local authority and their appointment is approved by us.

**Dr Jackson:** So you will keep an eye on the situation in relation to job changes.

**Paul Parr:** We have always done that and we will continue to do so.

**Paul Martin:** Is there any proposal to revise the fees structure, either downwards or upwards?

**Paul Parr:** We consider the fees annually. They make up part of the income to local authorities.

The block grant from the Scottish Executive covers the basic functions—the compulsory part of registration under which people in Scotland are required to register births and deaths. However, the Marriage (Scotland) Acts 1977 and 2002 and the Registration of Births, Deaths and Marriages (Scotland) Act 1965 allow registrars to charge fees for the provision of extracts, for carrying out a civil marriage and for the submission of notice of marriages. Similarly, fees can be charged under the Civil Partnership Act 2004 for carrying out civil partnership ceremonies and for the submission of notices of civil partnerships. There was an uplift in the submission-of-notice fee for marriages as of 5 December last year. We meet periodically—more or less annually—with the Convention of Scottish Local Authorities and representatives of the registrars to consider the matter.

The bill contains a number of provisions on fees, particularly in relation to the electronic notification of other people of births, marriages and deaths. We would prescribe a fee for that, although, in that instance, registrars would not do much of the work. The registrar and the customer will select the bodies that will be informed and the registrar will hit a button. We will notify people electronically behind the scenes, but the registrar will get the fee. I am not sure that we have got the balance quite right there.

15:30

**Paul Martin:** Given that information will be provided to the private sector and that there is widespread interest in births, deaths and marriages, do you envisage that, in future, we might not charge fees at all, because there will be more involvement from the private sector and other sources of income will be generated? Thirty years ago, people did not have the same interest in their family roots and they were not able to access the information that is now available.

**Paul Parr:** I do not envisage that. We are considering the fees that we charge for ancestral or family research. With the National Archives of Scotland and the Court of the Lord Lyon, we are pulling together a project called Scotland's people, which will allow people to search family records more easily. One of our proposals is to allow basic access to digital images of records for a limited period, such as an hour or two, in a controlled environment in Edinburgh. We are considering providing that service free of charge or for a minimal fee.

We have not contemplated provision, free of charge, of records of, for example, a birth or death that occurred last week. The only exception is the proposed free abbreviated death certificate. At present, when someone notifies a death to a registrar, the only way in which they can formally

prove the death to a bank or building society is to purchase a death extract from the local authority. The 1965 act allows a free abbreviated birth certificate to be given to a couple when a birth is first registered—that is, at that time only. We propose that the same arrangement should apply in the event of a death. The need for a free abbreviated death certificate was brought to our attention. The certificate will help those who do not want to spend a great deal of money buying a full extract but who need a document that proves the death of a relative for the purposes of a bank, the post office or whatever.

The provision of free abbreviated death certificates might reduce the income of the registration service, but we think that it will meet a social need.

**Fergus Ewing:** I have a question on sections 44 and 45, which provide for a book of Scottish connections. According to paragraph 42 of the policy memorandum,

“Citizens, whose parent or grandparent was born in Scotland or are the subject of an entry in the Book, will be able to apply to the Registrar General to have recorded in the Book births, deaths, marriages, civil partnerships (including overseas relationships), divorces and dissolutions of civil partnerships which occur, and are registered, outwith Scotland.”

I do not say this often about Scottish Executive legislation, but the book seems to me to be an extremely good idea. However, I wonder what the word “citizen” means. I presume that someone can apply if they are not a United Kingdom citizen but they have a parent or grandparent who was born in Scotland, or is that wrong?

**Paul Parr:** I do not think that I can give an answer on why we used the word “citizen” in the drafting, but the intention is clear. If someone’s relatives moved to New York and a birth occurs there, we would not normally capture that in our registers because we capture only events that occur in Scotland. If a person wanted that birth recorded back in Scotland for commemorative reasons, we would do that. I do not know why we use the word “citizen” in particular, but we would be happy to consider that.

Certainly, we do not want to restrict the provision to someone who is officially a citizen of the United Kingdom. We want it to be a wide-ranging commemorative provision. It will be particularly useful for future genealogists who might come to a dead-end when searching in the normal register because the person for whom they are looking has gone abroad. For example, 100 years from now, a genealogist could conduct a genealogical search in the book of connections and find that an ancestral relation had gone to Canada, Hong Kong or wherever, so they would be able to continue along the genealogical trail in that place.

They would have no information on that person from our normal records.

The provision would not be legally binding, but it would enable people who want to register for a commemorative reason to do so.

**Fergus Ewing:** It would be an opportunity for Mr Paxman, the Prime Minister and the leader of the Opposition to make an application, because all of them, I think, are in possession of Scottish grannies or grandparents. We would be happy to take their money. Perhaps you could bear that in mind when setting the fees.

More seriously, the book of connections will provide an exciting opportunity to work with others in tourism to build on the genealogical work that has been done in Inverness and elsewhere, particularly in relation to those whose ancestors left Scotland some time ago. I am thinking in particular of the clans. I wonder whether it might be possible to enter in the book of connections—as an additional qualifying entry, as you call it—a person’s membership of a particular clan and their city, town, county or even township of origin.

**Paul Parr:** On what the record will look like, we intend to prescribe the information that we would collect. I would like to think that we would pick up a city with which a person has an affinity. I do not think that we considered recording an affinity with a specific clan. That does not chime with the kind of information that we currently collect. However, we are keen to use the book of Scottish connections alongside ancestral tourism initiatives, on which we are already closely involved with VisitScotland. We would regard the book of Scottish connections as having the kind of value that you described, but we would have to go back and think about how we could capture an allegiance to or affinity with a clan. If there is something that we can do specifically to help you on that or a facet of that which you would want us to capture, we are happy to listen.

**Fergus Ewing:** I thought that it might be a novel way of inducing even more interest in Scotland and perhaps even influencing someone to come to and foster a connection with Scotland, if people who have a fondness for the country have a connection that they could formally record in the book of connections. The book seems an excellent idea and I would like to buy a drink for the person who thought it up, as long as it is not a Scottish Executive minister.

I wonder whether we could widen the provision, because for many of the people who might visit the Clan Macpherson Museum in Newtonmore, in my constituency, or other clan centres their degree of connection with Scotland might well be more remote than having a grandparent—they might have a great-grandparent or a great-great-

grandparent; nonetheless, they might feel strongly about that blood connection. Is there any particular reason for restricting eligibility for having an entry in the book of connections to those who have a parent or grandparent who was born in Scotland? Is there any objection in principle to widening out eligibility to include more distant relationships in the direct or indirect lineage, such as aunts, great-aunts and so on?

**Paul Parr:** We consulted on the basic restriction to people with a parent or grandparent and received, I think, only one response that suggested widening eligibility. That was from someone who realised that if we did not widen it a little bit more, people could be in danger of being able to go back only one or two generations. The provision that is now in the bill will allow us to capture not just people with parents or grandparents from Scotland but people with parents or grandparents who are listed in the book. That might go some way towards meeting your concerns. The book is to be a commemorative thing rather than a formal legal document, but if there are further measures that you think we could take, we could consider them. My worry is the dilution of what we have in the bill, but perhaps you think that your proposal would strengthen it.

**Fergus Ewing:** I thought that it might broaden and strengthen the appeal that I can see the book might have for many of the people who visit Scotland. I believe that the Scottish Executive takes a generally inclusive approach, so one would not wish to exclude people because they possess a Scottish great-granny, but not a Scottish granny.

**Paul Parr:** We do not mean to make the provision simply prospective; we do not think that it is inherently prospective. However, we could have a retrospective look to see what we could pick up.

**Dr Jackson:** I have a quick question that relates to Fergus Ewing's point. Section 44(5)(b) says that a person falls within the subsection if

"the person was normally resident in Scotland at the time of the event."

Say that somebody was abroad when they died. Are you saying that if they are normally resident in Scotland, there is no duty to register the death in Scotland?

**Paul Parr:** We are trying to capture someone who is normally resident in Scotland. Say there is a couple who are normally resident in Scotland, the lady is expecting a child, they go off on holiday somewhere abroad and the child is born abroad. There is always a legal requirement for them to ensure that the child is registered according to the regulations of the country in which the birth

occurs. There is no requirement for that birth to be registered in Scotland under the existing law. We record only births, marriages, deaths, civil partnerships, adoptions and stillbirths that occur in Scotland.

A mechanism exists that allows someone who is, say, a relative of someone who dies in Spain to approach the British consul in Spain to ask for that death to be mirrored in the registers in the UK. What happens is that first, they register the death in Spain, then they go to the consul, the consul arranges for a translation of the registration to be put into the consul's own register of births, marriages and deaths and that page eventually works its way back to our registers. It usually takes up to about 18 months. It is a voluntary rather than a compulsory process and the consul usually charges a fee for the service.

Normally we do not capture births, marriages and deaths that occur outside Scotland. The book of Scottish connections would not denude someone of their obligation in the country where the birth, marriage or death happened; we are just saying that if they also want the event registered in the book of Scottish connections, we can do that. It would apply not only to people's parents and grandparents; it would apply to the person as well.

**Dr Jackson:** I did not realise that if I went abroad and unfortunately died, that would not have to be registered by somebody back here.

**Paul Parr:** Sadly, many people have the same understanding.

**The Convener:** We have a final small question from Fergus Ewing.

**Fergus Ewing:** Will you clarify something that is fairly sensitive and has been the subject of some press correspondence—namely, the duties of individual registrars in relation to the registration of civil partnerships? As I understand it, there are, or may be, some individuals who work in that capacity who have moral or other difficulties in being asked to carry out that particular form of registration. I am not clear about their position. I would hope that they are not at risk of any action of a civil or criminal nature. As the issue has been raised, it is obviously a matter of controversy, and it seems to be broadly covered by the topics in the bill.

15:45

**Paul Parr:** I am happy to clarify the position, although the matter is not strictly within the terms of the bill. The Civil Partnership Act 2004 is a UK act but it contains Scottish provisions, which are based closely on the Marriage (Scotland) Act 1977. In both cases, the legislation is clear that a registrar who is authorised to do so—not all

registrars are authorised to do so or need to be authorised to do so—can, under the 1977 act, conduct a civil marriage or, under the 2004 act, register a civil partnership.

In Scotland, 67 per cent of registrars in Scotland have been authorised to carry out the formality of registering a civil partnership. They represent all of the Scottish registration authorities, so there are no registration authorities in Scotland that do not have registrars authorised to carry out civil partnership registrations. What the 2004 act formally requires the registrar to do is to attend with the couple and two witnesses to sign the civil partnership schedule. It is the process of doing that that affects the legal change in status of the couple concerned.

What the press has been commenting on in one area in Scotland is the view expressed by some registrars that they should not carry out a ceremony in addition to that. In the legislation, there is no requirement for them to carry out a ceremony; it is a matter of discretion for the local authority. In the case concerned, the local authority decided that its registrars should not carry out a civil partnership ceremony. People will not be denied the opportunity of registering a civil partnership anywhere in Scotland, because each registration authority in Scotland has registrars who are authorised for that purpose. If a situation arose in which a local authority did not authorise registrars to do that, the Registrar General for Scotland is under a duty to ensure that there is a reasonable provision of registrars for civil partnership registration; indeed it could, in extremis, “fly in”—as one paper put it—a registrar from elsewhere.

**The Convener:** That brings us to the end of questions on that part of the bill. I thank the witnesses. That gives us a good initial grounding in the content of the bill.

15:48

*Meeting continued in private until 17:04.*



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

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

The deadline for corrections to this edition is:

**Friday 27 January 2006**

#### PRICES AND SUBSCRIPTION RATES

##### OFFICIAL REPORT daily editions

*Single copies: £5.00*

*Meetings of the Parliament annual subscriptions: £350.00*

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

##### WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

*Single copies: £3.75*

*Annual subscriptions: £150.00*

Standing orders will be accepted at Document Supply.

Published in Edinburgh by Astron and available from:

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

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

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

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

**Telephone orders and inquiries**  
0131 622 8283 or  
0131 622 8258

**Fax orders**  
0131 557 8149

**E-mail orders**  
[business.edinburgh@blackwell.co.uk](mailto:business.edinburgh@blackwell.co.uk)

**Subscriptions & Standing Orders**  
[business.edinburgh@blackwell.co.uk](mailto:business.edinburgh@blackwell.co.uk)

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

[sp.info@scottish.parliament.uk](mailto:sp.info@scottish.parliament.uk)

All documents are available on the Scottish Parliament website at:

[www.scottish.parliament.uk](http://www.scottish.parliament.uk)

**Accredited Agents**  
(see Yellow Pages)

and through good booksellers

Printed in Scotland by Astron