

ECONOMY, ENERGY AND TOURISM COMMITTEE

Wednesday 14 May 2008

Session 3

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ECONOMY, ENERGY AND TOURISM COMMITTEE

10th Meeting 2008, Session 3

CONVENER

*Tavish Scott (Shetland) (LD)

DEPUTY CONVENER

*Brian Adam (Aberdeen North) (SNP)

COMMITTEE MEMBERS

*Gavin Brown (Lothians) (Con)
*Christopher Harvie (Mid Scotland and Fife) (SNP)
*Marilyn Livingstone (Kirkcaldy) (Lab)
*Lewis Macdonald (Aberdeen Central) (Lab)
*Dave Thompson (Highlands and Islands) (SNP)
*David Whitton (Strathkelvin and Bearsden) (Lab)

COMMITTEE SUBSTITUTES

Nigel Don (North East Scotland) (SNP)
George Foulkes (Lothians) (Lab)
Alex Johnstone (North East Scotland) (Con)
Liam McArthur (Orkney) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Mr Robin Blair
Dr Nick Fiddes (Scotweb)
Keith Lumsden (Scottish Tartans World Register)
George MacKenzie (Keeper of the Records of Scotland)
Michael McElhinney (Scottish Government Enterprise, Energy and Tourism Directorate)
Kirsty Scott (Scottish Enterprise)
Brian Wilton (Scottish Tartans Authority)

CLERK TO THE COMMITTEE

Stephen Imrie

SENIOR ASSISTANT CLERK

Katy Orr

ASSISTANT CLERK

Gail Grant

LOCATION

Committee Room 3

Scottish Parliament

Economy, Energy and Tourism Committee

Wednesday 14 May 2008

[THE DEPUTY CONVENER *opened the meeting at 09:30*]

Scottish Register of Tartans Bill: Stage 1

The Deputy Convener (Brian Adam): Good morning and welcome to the 10th meeting in 2008 of the Economy, Energy and Tourism Committee, in session 3 of the Scottish Parliament. I remind people to switch off mobile phones.

Agenda item 1 is consideration of the Scottish Register of Tartans Bill. Our first witnesses are Michael McElhinney, who is head of manufacturing policy with the Scottish Government; Helena Janssen, who is a senior principal legal officer with the Scottish Government legal directorate; and George MacKenzie, who is the keeper of the records of Scotland. I understand that each of you will make opening statements.

Michael McElhinney (Scottish Government Enterprise, Energy and Tourism Directorate): I am grateful to the committee for inviting me to be here during its stage 1 consideration of the Scottish Register of Tartans Bill. I am happy to try to answer any questions that the committee may have.

As members are aware, the bill is a revision of a member's bill that Jamie McGrigor MSP introduced in the previous session of Parliament. The principles of that bill attracted good parliamentary support, but Mr McGrigor withdrew it to allow more work to be undertaken on the options for creating a Scottish register of tartans.

Since then, a range of work has been undertaken. Scottish Enterprise commissioned an economic impact study of the tartan industry in Scotland, which gives a clearer picture of the industry than existed previously, and indicates that the industry is more significant than previous estimates suggested. The study also reveals good industry support for the principle of a single Scottish register of tartans and highlights several issues, including that the tartan industry could be better at working collectively to market itself and its products.

Extensive joint working has taken place with public sector agencies, particularly colleagues in

the National Archives of Scotland, on the options for setting up and running a register, with the intention of building on existing expertise and capability and in the spirit of enhancing the range of public services that are on offer. George MacKenzie may want to say more on that.

Importantly for the tartans register project, our main approach has been to avoid adding to the public sector landscape by creating an additional public body. We are also mindful of the need to streamline the practical approach to the register, to avoid unnecessary bureaucracy and to use existing public sector resources and bodies where possible.

We have worked intensively and closely with the tartan industry and tartan experts in Scotland to refine and adapt the approach to the register, and we will continue to do that. That has involved individual and collective discussions with industry players, focused consultation of the industry on the principles of the bill, as part of the economic impact study, and on-going active engagement with key stakeholders. We are working with an industry sub-group to refine the detail of how the register will work.

The collaborative working and a thorough and robust project management approach have been valuable in helping to resolve practical issues with the proposals in the previous bill. That approach has also been useful in confirming some key points, including agreement by the holders of the existing privately held registers to share their data with the Scottish register. We have agreed the principles on which the register will operate and we have ensured that tartan experts in Scotland will be able to play a role in supporting the register.

With industry stakeholders, we are continuing to work through the detail of how the register will work. We are working on matters such as classification of tartans in the register to ensure that the categories of tartan are identified fairly and effectively, ensuring that the register is searchable, and ensuring that woven tartans are given appropriate recognition and prominence.

The committee may have seen in the written evidence on the previous bill and the current one that a range of diverging, long-held and passionate views exist on tartan and tartan registration. We are working to take those views into account. In refining how the register will work, we have been keen to build strong links between the register and the tartan industry in Scotland. The intention is to draw out the potential commercial opportunities that will flow from the register and the increased interest in, and promotion of, tartan. Our aim is to position the tartan industry in Scotland to capitalise on commercial opportunities, and to encourage the

industry to use the Scottish national register as a springboard from which to promote the high quality and high value of the Scottish tartan industry and its products.

The Scottish Government is pleased to support Mr McGrigor with his revised bill. We will work closely with him to develop and refine the proposals.

I invite George MacKenzie to say a few words from the National Archives of Scotland perspective.

George MacKenzie (Keeper of the Records of Scotland): Thank you very much for the opportunity to appear before the committee.

The National Archives of Scotland is an executive agency of the Scottish Government. It looks after the nation's records, which range from the early medieval charters to the modern registers of property and legal deeds. We are also the record keeper for the Scottish Government and the Scottish Parliament.

We have been working to support the Scottish Register of Tartans Bill for three reasons. First, holding and making available public information is what we do and what we are good at doing. Secondly, as we are an existing agency with record-keeping, project management and information and communications technology expertise, we could run the register more efficiently and at lower cost than if a separate body were set up to run it.

Thirdly, we believe that the register of tartans would fit very well into the business of the National Archives of Scotland. We are heavily promoting family history at the moment, and we are due to open a new centre for family history at Register house in July. Tartans and the register will fit nicely into Scotland's people centre. We believe that people who make visits for family history will also be instinctively interested in tartan. That is why we are delighted to support the bill.

The Convener (Tavish Scott): Gavin Brown will start the questions from members.

Gavin Brown (Lothians) (Con): I have read a comment—it has been alluded to here—that we were going to be listening to the experts of the tartan industry. The issue of the definition of tartan does not appear to have been conclusively fleshed out, however. Section 2 calls it the “Meaning of ‘tartan’”. I read two submissions from the two current registers, who certainly seem to be the experts. Their clear view is that tartan “must be woven” and cannot simply be printed out. Mr McElhinney spoke about giving priority to tartan being woven. Could the witnesses give us some feedback on the definition of tartan and the importance of its being woven?

Michael McElhinney: The definition of tartan is problematic, as evidenced in the previous bill and the present one. To find a definition that will be acceptable to everyone who has an idea about what defines tartan would be extremely difficult. We have tried to frame a definition that is to be used solely for the purposes of the bill; that is, for the keeper of the register of tartans to apply to new registrations for entry into the register. The definition is tight.

There are divergent views on whether a tartan is woven or whether it is a design. We have been persuaded towards the wider view, which is that tartan is a design rather than the iteration to which that design is put. That encompasses woven tartan, which constitutes the majority of tartans that are produced, as well as other types of tartans, such as those that are designed electronically, designed to be screen-printed on to a product or produced on another fabric. It can be argued that the wider commercial use of tartan is as valid a commercial use as the woven tartan.

We have deliberately gone for the wider definition. However, to take into account the views of some people in the tartan industry that tartan must be woven, we are working on a set of proposals whereby, in the classification of tartans in the register, the woven sample would be given due prominence. The woven sample would be distinct and prominent within the register as the woven product. However, scope would be left in the register to include other designs. The other rationale for including some other designs is that, if we are serious about using the register to promote interest in tartan, we will want to encourage people to get interested in the design of it. That opens it up to students and schoolchildren who, although they might not have the knowledge to weave, could be interested in design.

One of the other reasons why we are interested in the design of tartan is that it might bring about a commercial opportunity and spark off a set of questions: “I have—or I think I have—designed a tartan. Where can I have it woven?” It is, in a sense, about opening up the definition to try to draw some of that through. We are working with the industry players on the classifications, so that due prominence is given in the register to woven samples.

Gavin Brown: Sticking with that point, the submissions from the Scottish Tartans Authority and the Scottish Tartans World Register strongly argue the case for woven tartan. Which experts say that tartan does not have to be woven?

Michael McElhinney: You will hear later this morning from the STA and the STWR, and they will give you a more direct view than I can. The STA has previously included tartans that are

woven in its approach to registration, but it has also included other tartans for commercial usage, which encompasses the other forms of tartan production. The STWR has taken a more traditional line, in that it concentrates on woven samples. We have, with the tartan project, consciously tried to steer a course between both those views, and to bring them together to produce a workable proposal. That is why the definition in the bill would encompass woven samples and other samples. The practical application would mean that we can define a prominent place in the register for the woven sample.

Gavin Brown: From my reading of the submissions, the STA and the STWR are adamant. There does not seem to be a debate between the two on the issue and both suggest extremely strongly that tartan has to be woven. Have other experts and organisations given evidence to you or your team to say that the tartan's being woven is not crucial? I am keen to know who is pushing the other side of the argument, because both those registers appear to be pushing one side together—I do not see a distinction between the two.

Michael McElhinney: The Scottish Tartans Authority may be able to give you that view, because at the moment it has a more open approach to registration, in that it takes woven samples and tartans that are produced for commercial use. Was the evidence that you read from the Scottish Tartans World Register?

Gavin Brown: I am saying that the written submissions suggest that both organisations take a very strong view on tartan being woven. I am asking who is giving the contrary view, because both those registers appear to me—at least from their written submissions—to be singing from the same hymn sheet. Who is giving the opposite view that its being woven is not critical?

George MacKenzie: It is interesting that you say that there are two sides. My reading is that there are divergent opinions in the industry: there are those who insist that tartan has by definition to be woven, so if it is not woven it is not a tartan, and there are those who accept that tartan can be produced in other forms. We know that it can be, because you can see it in the shops printed on paper, shortbread boxes and so on.

It is true, however, that the existing registers can distinguish between woven and non-woven; the proposal in the bill would also allow that. There is no question that we are not going to make it clear whether a tartan has been woven or not, or whether there are opportunities for people to buy woven products in a tartan. It would surprise me if the Scottish Tartans Authority said that a tartan can only be woven, and that if it is not woven it is not a tartan, but you will have to ask it.

Michael McElhinney: The Scottish Tartans Authority did not submit written evidence to the committee, on the basis that it is appearing to give evidence this morning, so it may give you a clearer view then.

The Convener: I think that what Gavin Brown is asking is where the evidence is, and who the bodies are that are arguing that tartan does not need to be woven. That is what the committee is interested in.

Michael McElhinney: The STA might tell you that in its evidence.

The Convener: We are asking you—we will ask the STA later on. Do you not have any evidence to give us?

Michael McElhinney: We do. The discussions that we have had in the industry sub-group have suggested to us that we need to encompass both woven and non-woven samples. The industry sub-group consists of the Scottish Tartans Authority, the Scottish Tartans World Register, Kinloch Anderson Ltd from Leith, and other representations from the directors of the Scottish Tartans Authority.

09:45

Christopher Harvie (Mid Scotland and Fife) (SNP): I have a question about the comparability of woven and non-woven tartans. I recollect that Royal Stewart tartan, which was invented by Prince Albert from Balmoral tartan, appeared in wallpaper form, as well as cloth form, almost as soon as it was created.

I am rather unhappy about the sketchy nature of the historical introduction. There is an enormous controversy about that.

The Convener: Could we come back to that point later?

Christopher Harvie: Yes.

David Whitton (Strathkelvin and Bearsden) (Lab): I am not clear whether the register is to be a historical document or a commercial document. Which would you say it will be?

Michael McElhinney: The register is intended to be a repository of the tartan designs that are held in private hands at the moment. It will encompass all the designs that the STA and the STWR currently hold. We want to offer it to the industry. By taking on the function of registration and maintaining the repository, we want to help the industry and the industry bodies to develop the capability to use tartan as a marketing tool. However, that is something that the industry will have to take the lead on; it is not something that the register can do.

The links that the register will have with the industry will help to flag up the commercial opportunities that interest in the register might create. Again, however, it will be for the industry to pursue those opportunities.

David Whitton: Is that why we are having a bit of trouble defining whether tartan is a woven fabric or not? It seems that anyone can design a tartan, but there is an argument about whether it would be an authentic tartan.

Michael McElhinney: There have always been such arguments. There are strongly held views out there about what does and does not constitute a tartan. The bill seeks to implement a process around registration that the keeper will apply to new tartan registrations, to try to ensure that new tartan designs that come forward for registration are unique or sufficiently different from other tartans, that they have been properly designed and that they match the statutory definition. The bill is quite tightly defined in that regard.

George MacKenzie: My answer to the question whether the register will be historical or commercial is that it has to be both. For example, the register of deeds or legal transactions and the register of sasines, which is the older property register, have long historical antecedents but are still active registers that people use. The National Archives of Scotland holds both those registers, and I would regard the tartan register as being very much the same sort of register. It will be a repository of information about historical tartans, but it will also be a living register in which people can register new designs, as long as they fall within the specified criteria.

Marilyn Livingstone (Kirkcaldy) (Lab): The bill seeks to create an official register that will have legal authority. However, there are already other registers. What will happen to them? Could confusion be caused by the fact that various registers exist?

In his written evidence, Blair Urquhart points out that although the bill says that only one tartan can be registered under the same name, that has not been the case historically, so the provision would introduce all kinds of contention. Do you have a view on that?

Michael McElhinney: On the existing registers, the Scottish national register will contain the designs and samples that are currently held by the STA and the STWR. For the first time, they will be drawn together in one place, which is a more sustainable arrangement.

On the process of registration, we are working on a memorandum of understanding with the STA to the effect that it will stop providing the registration services that it previously provided. Any inquiries for registration that it gets will be

passed to the national register. The STA will also provide one of the main sources of expertise for the register, because the National Archives of Scotland does not have the depth of expertise that the existing private registers have. The Scottish Tartans World Register will also migrate all of its designs to the national register, so for the first time all the existing designs will be drawn together in one place.

The naming convention will be for the keeper to apply. The intention in saying that no two tartans can be registered with the same name is part of the test of the uniqueness of each design. There is scope for flexibility in the name—it could be McKay of Strathdon or McKay of Castlemilk, for example—to ensure that each is distinct.

George MacKenzie: I can add to that. The point about a new tartan not sharing an existing name relates to new registrations. It is almost certainly true that, among the data that are held by existing registers and in the historic iterations of tartan, there will be cases in which the same name has been given to an almost identical piece of weaving. That is almost inevitable given the convoluted background and the long tradition of tartan weaving in Scotland.

I characterise that as part of the work that the National Archives of Scotland is starting to do—we will take on the data from the existing registers to pre-populate the new register if the bill is passed. Part of the work will be to clean up the data, which will be a long-term task that may take several years. In fact, I would not really like to give any indication of how long it will be before we can be certain about the definitions and names of particular tartans. It may be that the experts will remain in disagreement for a long time to come.

That is one reason why the register is a good thing to establish. It will be a starting point, and it will act as a stimulus to further academic research into tartans and how they have evolved.

Dave Thompson (Highlands and Islands) (SNP): I want to follow on from that point. Is it the intention to prevent any new registers from being formed? Will we be able to prevent someone from establishing a new commercial tartan register of their own?

Michael McElhinney: It is beyond the scope of the bill to seek to do that. The bill builds in flexibility for existing or future collections to be incorporated in the register as they emerge. We are essentially working with the two main registers in Scotland. Looking forward, if there are other registers or repositories of tartan that the keeper deems may enhance or deepen the repository and value of the archive that the national register holds, there will be scope to take them into account and include them in the register.

However, there is no provision to stop anyone continuing to run a register, or to prevent someone from setting one up.

Dave Thompson: Someone could decide to set up another register. You are absorbing the two registers that exist—they are co-operating to create the new register—but if someone decided to set up a register in the future, there would be nothing to prevent their doing that.

How would you regard any power to compel people to register tartans with the new register, or will we remain in the situation in which commercial organisations and others can create tartans and not register them? There may be a plethora of tartans outwith the registration system.

Michael McElhinney: Registration of tartan will be entirely voluntary, as it is with the registers that exist at the moment. Registration does not confer any intellectual property rights, copyright or designer protection. There is no requirement to register a tartan with existing private sector registers. People come forward voluntarily to do so, and the new register will operate more sustainably and formally in the same spirit—albeit that it will be on a statutory footing—in the National Archives of Scotland.

Dave Thompson: If not everything will be co-ordinated, what advantage will we get from setting up a new register, at a cost of £100,000 a year, over what there is now and what might develop in the future?

George MacKenzie: As Michael McElhinney said, we cannot prevent the setting up of other registers in the future, nor can we compel people to register tartans. Our aim is to create a single official register that is efficient and definitive and which will attract the profile of being the preferred place to register tartans. We have to do things by encouragement rather than by compulsion. That is the way forward.

The success of the register will be determined by the fact that, in the future, it will be the only register. It will be the recognised one, and a cachet or kudos will attach to designs that are registered in it. I hope and expect that a tartan's registration number or the fact that it appears in the register of tartans will be used in the sales and promotional aspects of the tartan industry. Alongside "Made in Scotland" or "Woven in Scotland" will be the tartan's number in the official tartan register. That will show that we have been successful.

Michael McElhinney: There is no definitive register at the moment. The registers that are held in private sector hands are relatively inaccessible and piecemeal. They are also dominated by a narrow sectoral interest. If we accept the argument that the archives and repositories of tartan that

exist in those registers are a valuable national resource, there is an argument for putting them on a more sustainable footing. There is also an argument for making the information more accessible on a non-commercial basis than it is at the moment. We are trying to make the information more accessible and sustainable. Taking it into public ownership is intended to do that.

Dave Thompson: You expect to develop the definitive tartan register, but there will be nothing to prevent a commercial organisation from having a look at your register, pinching a tartan from it, calling it a name of their own, and running with it commercially.

Michael McElhinney: There is nothing to prevent that at the moment, and it happens. However, a company that did that might find itself open to the accusation that it had infringed a copyright interest in the design.

Christopher Harvie: The introduction seems to be dependent on Tom Devine's notion that Highlandism transmits to Scotland ideas that then become Scots. However, the research of people such as Krisztina Fenyo on Scots attitudes to the Highlands in the 19th century is sceptical about that. Until the middle of the 19th century, there was great contempt in southern Scotland for the Highlands. That had to be overcome. It was partly because of religious change.

There is also the counter-thesis of Hugh Trevor-Roper, who does not appear in the introduction. That thesis is very much Trevor-Roper being provocative, but it is the case that much of the popularity of tartans depended on the assiduous work of the Sobieski Stewart brothers, whose connections with Scottish history are as strange as their claim to have connections to the British monarchy.

I see the need for a rather more comprehensive, but also more reassuring, introduction. You must realise that the real inventor of Scottish tartan might have been the German chemist Josef Hoffman, in the middle of the 19th century, who perfected the aniline dye, which gave the shrieking colours of the modern Scottish tartan as opposed to the tweedier colours of the earlier ones. You must realise that things such as the rise of golf as a huge indicator of Scottishness in the late 19th century owed nothing at all to tartan. The introduction is slightly too general.

The Convener: Do you want to comment on the introduction, gentlemen?

Michael McElhinney: Through working on the project, I know that there are many passionately held views on the history of tartan, its production and how it should and should not be used. All that is valuable. By capturing all the tartan designs in

one place, the register will provide a definitive resource from which academic argument can flow. We are where we are, and we are trying to corral all the information in one place to create a sound basis for study.

10:00

Lewis Macdonald (Aberdeen Central) (Lab): Convener, it will not surprise you if I say that I entirely approve of the endorsement of symbols of the Highlands as symbols of Scotland. I have no difficulty with that.

However, to come back to the issue that Gavin Brown raised, I am a little bit concerned about the definition, particularly the issues around the woven element. The bill contains a minimalist definition of what constitutes tartan, which enables a broad approach to be taken, as has been described. Blair Urquhart's submission to the committee, more than any other, gives a detailed definition of what constitutes a tartan.

Under the minimalist definition that you have laid out, what then becomes the defining characteristic of a tartan as opposed to any other piece of creative design that includes vertical and horizontal stripes?

Michael McElhinney: The industry experts agree that the definition of tartan in the bill is the broadest possible definition and it encompasses the broadest possible design, whether woven or not. We have worked with the sub-group for several months to tie down that definition to basic principles, and we have the audit trail of that decision-making process, if it would be useful for the committee to have it.

The keeper will work with the industry experts to determine a definitive application of the statutory definition and criteria in the bill.

George MacKenzie: The defining characteristic, if you like, will be registration. The act of registration, the appearance in the register and the ability to quote the relevant registration number will be the definition of a tartan in the future. The fact that the Scottish Parliament proposes to legislate supports that point. That will be the unique selling point and, in the future, a tartan will be a tartan because it is in the Scottish register of tartans.

Lewis Macdonald: Will it therefore require to be capable of being woven, even if it has not yet been woven?

Michael McElhinney: One of the criteria that will support an application to register will be the thread count. We understand from our industry colleagues that the application of a thread count means that the tartan will be in a position to be woven.

Lewis Macdonald: If that is the case, why not make being woven a requirement? If the definition already requires a tartan to be capable of being woven, what is there to prevent that from being a requirement for full registration? Perhaps registration could be provisional prior to the tartan being woven. Is there any reason why full registration should not depend on the tartan being woven if it already depends on it being capable of being woven?

Michael McElhinney: No, there is not, but why would we close off the registration of a commercially designed tartan that might be used for something like screen printing? Is that a less valuable tartan than one that is woven? We do not think that the register of tartans should get involved in such judgments, which is why we have pitched the definition in the way that we have.

Lewis Macdonald: I understand that, but you have said that, for example, the screen print design is capable of being woven, so would it not resolve the dispute if it could be registered immediately, although full registration could require it to be demonstrated that the tartan can be or has been woven? You would not have to close things off, but equally, it does not seem to be necessary to exclude weaving as a criterion that gives a particular quality to the registration of a tartan as opposed to another design.

George MacKenzie: I do not think that we are excluding it. I take issue with the idea of provisional and full registration. We do not want to head off the possibility that a tartan might be designed and put on to wallpaper or the tailfin of an aircraft, for example, but not be woven, or to say that that is a lesser tartan than one that has been produced in very small samples for the purposes of registration.

As I said, we intend that, when tartans have been woven, that will be shown as part of the registration process. Consumers who want to purchase tartan or to get tartan woven will be told where they can find information about whether a tartan has been woven. That information will be stated within the categories of registration instead of multiple tiers of status being created. We want a single status within which we can distinguish, for example, whether a design has been woven.

Continental Airlines recently registered a tartan. I do not know whether it will be painted on the outside of the aircraft, but that seems a perfectly reasonable and good thing to see. One would not expect woven tartan to be put on the outside of a plane—it would have to be done with paint.

Lewis Macdonald: I understand that, but you will acknowledge that Continental Airlines would have little difficulty in providing a woven sample if that were a requirement.

George MacKenzie: That is a reasonable point. However, we are trying to create a single tier of registration within which there are categories, rather than a multitiered approach in which there are first and second-class tartans.

The Convener: If you were to walk out of this building and turn left up the High Street, you would pass several shops selling any amount of tartan at very low prices. How does that fit in with your registration scheme? Do you think that the people who produce those designs will bother with registration when they are clearly selling tartan hand over fist to Italian tourists who walk past the door?

Michael McElhinney: The regulation of that kind of commercial activity falls outside the scope of the bill. That is the technical answer.

The Convener: Is that not a serious concern if we are to raise the profile of the industry and the product?

Michael McElhinney: It is a serious concern. You will hear from colleagues in the Scottish Enterprise textiles team, who will talk in more detail than I can about the work that they have in hand to help sectors and niche parts of the Scottish textiles sector collectively to promote and project themselves. They are starting to tackle such issues of quality. Quality accreditation and the production of tartan products that are not of the quality that the Scottish end of the market can produce are on-going problems with which the industry struggles. We push that back to the industry as something that the industry collectively must start to address by marketing itself better.

Gavin Brown: I want to return to Marilyn Livingstone's point that there can be only one name for any one tartan. What safeguards does the bill contain in that regard? I know that there is a provision in section 7 dealing with insufficient association, but let me paint a scenario. A couple of football clubs have tartans. What is to prevent me from deciding that any football club that does not currently have a tartan should have one, then designing 30 or 40 tartans on a computer screen and registering them as such, thereby preventing those football clubs from registering their own club tartans? What can prevent that from happening?

Michael McElhinney: There is nothing to prevent people from doing that at the moment. One of the criteria for registration will be that an individual who claims an association with a name or an organisation must be able to demonstrate that they have a legitimate link to that name or organisation. There is nothing to prevent someone from producing a tartan for an organisation, but unless they can demonstrate that they have a viable and genuine link to the organisation, it will not be accepted for registration.

Gavin Brown: My question centres on your definition of what constitutes a genuine link. If I could prove that I was a supporter of a certain football club or that I was the president of the supporters club—as opposed to being part of the club itself—would that qualify? The bill does not define what constitutes a sufficient link.

George MacKenzie: It would be difficult to go much beyond the definition that we have. You raise an interesting case, which I—as, I hope, the keeper of the register—may have to deal with. We must look for evidence of connection, but it is not possible, at this stage, to define what that might be. You have delineated a case in point. My initial feeling is that, if the president of the supporters club wanted to register a tartan, it would be perfectly reasonable for that to be registered as the supporters club's tartan. If they told me that they wanted to register the club's own tartan, I would expect them to prove that they had official approval from the club. That is my immediate take on it. Your example is quite a good one. I do not see how we can define a mechanism in the bill for that. There has to be a discretionary power—the keeper will have to deal with it case by case.

Michael McElhinney: On current levels of registration, we are not talking about huge numbers of tartans. We estimate that about 120 new tartans come forward for registration every year. The keeper should be able to consider each case on its merits and encourage people to demonstrate that kind of link.

David Whitton: I want to pick up on a point that was raised by Lewis Macdonald. Section 6(7) says that the application must include

“a description of the tartan including its colours, thread count and sett”.

How does Continental Airlines justify producing a tartan that will be stuck on a plane and will not have a thread count?

George MacKenzie: Thread count has been described to us by the industry as the DNA of tartan. Every tartan can be interpreted as a thread count, which refers to the thickness of the bands of colour that occur both horizontally and vertically across the design. Tartans are defined by the thread count—there is a fairly complex way of doing that. Consequently, it would be quite possible to define the tartan for Continental Airlines as having a thread count. There would be no problem weaving the tartan, but it could also be rendered as a flat colour depiction by screen printing or by painting.

David Whitton: It comes back to Lewis Macdonald's point. Section 6(9) says:

“The application may include a woven textile sample”.

Why not say that it must include a woven textile sample?

George MacKenzie: We are not trying to close off the potential for commercially produced tartans that may not be woven. There are not many of them; the majority of tartans that are produced are woven. Why should we seek to close off the commercial opportunities?

David Whitton: That is what makes tartan unique. If it is a woven textile product, it can be turned into a kilt or a tie or whatever. That is what we should be looking for in a register of tartans, not some design that appears on the back end of an aeroplane.

George MacKenzie: I give the example of a shortbread tin. Would you say that if it is on a shortbread tin it is not a tartan?

David Whitton: Most of the shortbread tins that one sees in the shops up and down the Royal Mile, which the convener mentioned, claim to have the MacGregor or some other tartan on them, but it is a copy of a tartan. As far as I can see, those are not made-up tartans, unless you are going to tell me differently.

Lewis Macdonald: How will Continental Airlines calculate the thread count of its tartan?

George MacKenzie: I am not an expert in the design of tartans, but nowadays the design is done by computer programmes, which calculate the thread count as they would do for any textile design. Other experts whom you are seeing this morning are probably much better able to answer that question than I am. As I said, the thread count is the DNA that distinguishes one design from another. That could apply to other types of woven cloth.

Dave Thompson: It would be quite easy for a major company to get a piece of tartan woven, but could you envisage a scenario in which someone who designs a tartan might not have the financial wherewithal to get it specially woven? Would that be a reason for not stipulating that tartan should be woven?

Michael McElhinney: Theoretically it would be.

George MacKenzie: A possible scenario would be a school in which there was a competition to design a tartan, the prize being registration. A school might not have the immediate wherewithal to get the tartan woven. It is worth emphasising that such a tartan would be capable of being woven.

The Convener: Will you describe to the committee the thinking behind the fees, the level that they are to be pitched at, and what that will achieve?

George MacKenzie: The fees will be prescribed by separate order. Our intention is to set a level of fees that will, on the one hand, prevent frivolous applications and, on the other hand, will not be a particular bar to people of limited means who wish to register. We will pitch the fees at approximately the same level as, or slightly lower than, the fees that are currently charged by either of the two registers.

10:15

The Convener: What are those fees?

Michael McElhinney: They range from £50 to £200.

The Convener: Is that per registration?

Michael McElhinney: Yes.

George MacKenzie: We calculate that the figure will be £80 to £100. The income from that will not cover the cost of running the register—there is no way in which it would cover the cost of 120 to 150 registrations a year. However, the intention is to have a fee that is a disincentive to frivolity but not a bar to the registration of genuine designs.

Michael McElhinney: May I make a further point on fees? The register will be a public record in the sense that it will make the tartan designs within it as accessible as possible, and access to the register for information purposes and the downloading of such information will be universally free.

The Convener: Thank you. I am sure that the panel appreciates that the committee's intention is to test why the bill is needed, given the busy legislative programme that we have. We thank you for coming along.

For our second panel, we welcome Mr Robin Blair, the former Lord Lyon King of Arms, who is joined by Brian Wilton, the director of the Scottish Tartans Authority, and Keith Lumsden, the director of the Scottish Tartans World Register. While our new guests take their seats, I remind colleagues that the member promoting the bill, Mr McGrigor, will be in front of us in due course, and it will be appropriate for us to ask him some of our questions on the bill.

Gentlemen, I give you a warm welcome and thank you for coming. You may say a couple of introductory words, if you want, otherwise we will move to questions.

Brian Wilton (Scottish Tartans Authority): I think that you have done that for us.

Gavin Brown: I will start with the word "classification", which we have not yet touched on. A number of written submissions mentioned

classification. Scotland already has good business from family history tourism, but that has much more potential than we have exposed so far. A point that arose from the submissions is that the classification of tartans, especially the prioritising of clan tartans, could help the industry and tourism for the future. Does the panel have views on what classifications ought to be included in the bill? If classifications should not be included in the bill, how should they be applied to the register?

Brian Wilton: Traditional categorisations or classifications have existed since academics first started looking at and recording tartans. The list is simple, and the Scottish Tartans Authority and the industry see no reason for changing the categories, although some fine-tuning could be done here and there. The categories are based on clan or family, but they are also corporate, geographical and military/regimental. Those basic categories could be expanded and subdivided, but we think that that would just create pointless extra work for the National Archives of Scotland. We would certainly like the tartans to be kept roughly in line with the historical classifications that have stood the test of time over the past century.

Keith Lumsden (Scottish Tartans World Register): You must make up your mind about what the classification is used for. What is its aim? If it is for reference, you will have to develop a system by which it can be referenced. A corporate tartan, for example, might also be a sporting tartan if the corporate body is a sporting body and it might also be a rugby tartan. There are three categories straight away. If the aim is reference, the tartan might be categorised in all those ways, so that if someone dialled up rugby one day, they could find all the rugby tartans on the register.

If the aim is just to have big subjects—to put all the corporate tartans together, for example—that would be fine, but I do not think that a register should work in that way. A register should have a reference system that everyone can use. If the register were to be pared back, dialling up corporate tartans would produce insurance companies and other companies, including tennis clubs.

Gavin Brown: That takes care of the question in a sense.

The idea that a tartan needs to be woven dominated the previous discussion and several organisations have made submissions on that point. How important is it for the definition in the bill to contain the word “woven”?

Keith Lumsden: I am at odds with my partners at the table, as I am a die-hard wovenist. Tartan has always been woven. In fact, one argument is about whether the origins of the name “tartan”

relate to the pattern or the cloth, but that is neither here nor there.

Tartan is three-dimensional. That three-dimensionalism, which is created by weaving, creates a pattern that can be expressed two-dimensionally. We should not get involved in that. Aeroplane tailplanes and this, that and the other are all two-dimensional, but that makes no difference to the original tartan. My register and the Scottish Tartans Society register have always demanded proof of weaving. Not including the word “woven” limits in some respects work for the weaving industry. It is important that tartan is woven and is seen as three-dimensional, as it always has been. I am at one end of the scale—I agree entirely with Mr Macdonald.

Brian Wilton: I am at the other end of the scale. I am a modernist—a printist. To the industry and certainly to the Tartans Authority, tartan is a pattern, which is made up on computers these days. In the old days of graph paper, a convenient method was to count by using threads to show the proportions of the colours. Perhaps that answers a question that was asked earlier.

Although tartan is woven most of the time, that should not close our minds to the fact that its origin is a two-dimensional design that can be interpreted in various ways, which are mostly woven but are frequently not woven.

A tartan that members might have seen recently in the press was for Colin Montgomerie, which I happened to design. The original intention was to use that tartan in a business logo on business literature. The authority accepted that proof of use—that is the most important element—when we were provided with copies of business literature that contained a segment of the tartan. The fact that Colin Montgomerie went on to have it woven is highly commendable.

That is how we approach the question. We do not necessarily ask for a woven sample, but we stipulate that we must have some evidence of a tartan’s serious use—its commercial production in some form. It is excellent that, most of the time, that proof is woven, but on odd occasions, a tartan is designed initially not for weaving but for graphic display.

Another good example is the tartan that we designed for O₂, which languished purely as a graphic design on some of the company’s literature and in its Glasgow headquarters for a couple of years, but is now being woven. I agree with the first panel of witnesses that to insist that tartan must be woven would cut off potential avenues in which people design tartans and use them in a form other than the woven form, thereby promoting tartan and, given tartan’s connections

with Scotland, promoting Scotland. We are very much against a narrow definition of tartan.

The Convener: Mr Blair, do you have a view on the modernist versus wovenist divide?

Mr Robin Blair: I agree entirely with Brian Wilton. I can see the disadvantages of insisting that a tartan is woven before it is registered. There are a number of situations in which such an approach would be unfortunate.

Gavin Brown: I will explain why I am concerned about the issue. There has been a proliferation of companies that offer services such as naming a star after someone. For £10 or so, a person can have a star named after them for ever. The bill appears to contain nothing that would prevent a company from setting up and offering to produce a tartan named after a customer for £50 or whatever, depending on the registration fee. There could be thousands of new tartans—the latest Christmas gift could be to have a tartan named after someone. The register would end up being diluted and instead of creating a valuable register of authentic historical data on tartan—which is also a living product—we would have created a mockery of such a register.

Brian Wilton: For the past 40 years there has been no official register of tartans, but what you describe has not happened. There is no indication that the establishment of a register would change the situation. I think that the keeper will follow the lines that the Scottish Tartans Authority has followed, which is that we need to be convinced of the serious intent of the tartan's designer, so the situation will be no different.

Indeed, there will probably be a difference for the better when the register is established. People's understanding of the importance of having one's tartan accepted by the register will blossom overseas. People will want to know whether a tartan is a Scottish registered tartan, and if it is not, it will not sell.

Christopher Harvie: Various points that people have made lead me to think rather along the lines that Gavin Brown was thinking along. We might not yet have witnessed the full extent of the computer revolution. Given what I know about computers, it seems quite possible that a programme could be developed that would design and market tartans. We could face a tartan bonanza, in which people created tartans digitally and manufactured and marketed them. How would we cope with such a situation?

Keith Lumsden: We are already in such a situation. I could write you a computer programme that would turn out a new tartan every five seconds, if you wanted.

The prevention of trivialisation is behind my argument for woven tartan. The Scottish Tartans Society, for which I worked before I ran the world register, was firm on that point. Such an approach also prevents multiproduction of tartans, to some extent. Because each tartan has to be woven it requires a commitment, perhaps in time or in money, which involves having woven samples and proof of weaving.

Lewis Macdonald: I want to come back to the question whether a definition of tartan should stipulate that it is woven. The view has been expressed that a requirement for a woven sample might discourage the development of worthwhile and commercially interesting designs. As we heard earlier, the definition in the bill is minimalist. Michael McElhinney explained that the Government had taken advice to make it as minimalist as possible. What would be the impact if the definition required that a tartan was a design that had been or was capable of being woven?

10:30

Brian Wilton: Any design is capable of being woven.

Keith Lumsden: Not altogether.

Lewis Macdonald: I would be interested to hear the different views.

Brian Wilton: Let me qualify. Any tartan design is capable of being woven.

Keith Lumsden: Yes, because it stems from the definition that a tartan is woven.

Brian Wilton: I disagree, but I will not go into that.

The minimalist definition of tartan is essential. If you ask half a dozen tartan experts, there will be some common threads in the definitions that they provide, but there will always be differences. The industry sub-group wisely decided not to go down that route. Someone can insist that a tartan is symmetrical, but there are exceptions. Someone can insist that the warp is the same as the weft, but there are exceptions. With almost every definition of tartan, there are exceptions. We would soon end up with a complicated definition that covered half a page of A4. The best approach is the minimalist definition that the National Archives of Scotland has chosen. It will be up to the keeper of the Scottish register of tartans to interpret the definition in the light of his knowledge of design.

Mr Blair: I return to a point that was made earlier. It would be a disadvantage if the definition limited designs that could be registered to those which had been woven. One of the earlier witnesses mentioned the example of a school

competition. It would be impractical for all the designs that were submitted by the pupils to be created in a woven form before they decided which one to select. There are a number of other situations in which one would not be in a position to create something in a woven form before one registered it to ensure that the design was protected. It would be a great disadvantage to insist, for the purposes of registration, that a tartan must be a woven item.

Lewis Macdonald: In the example that you quoted, I presume that the teacher would distinguish between the designs that he or she regarded as tartan and other coloured designs. My question was not whether there should be a requirement for the design to be woven but whether there should be a requirement that it is capable of being woven.

Mr Blair: I accept that point. It needs to be capable of being woven in the sense that it is a design that is capable of being turned into a piece of woven material.

Brian Wilton: I am sure that, if a design was not capable of being woven, the keeper of the register would not accept it as a tartan. By the nature of the design of tartan, it is capable of being woven.

Lewis Macdonald: So such an amendment to the bill's definition of tartan would not have any negative consequences, in your view. It would simply reinforce what is already, inevitably, the case.

Brian Wilton: Yes, as long as it did not drift into a requirement for tartan to be woven. That would worry us. I give another good example of the importance of not having such a stipulation in the bill: under the determined to succeed programme, which the previous Government ran, a cluster of seven schools near where we are based ran a competition to design a tartan. The winning tartan was printed on notebooks, mouse mats and everything else that you might think of. The tartan was accepted for registration on the basis of that evidence and after that it was woven.

Marilyn Livingstone: I asked the previous panel a similar question to this one. The bill would bring the benefits of having a single register that had legal authority, but what would happen to the other registers? Would they simply disappear? Would there be confusion if they continued to operate?

Brian Wilton: That is not an easy question to answer. Much of the devil is in the detail of how existing registers might operate, if they continued in operation after the establishment of the new register. We have every intention of continuing our register, which is the industry standard, but we would ensure that it was exactly in tune with the

one that was run by the National Archives of Scotland.

I am sorry that I am being slightly hesitant. We have not gone into the issue in great detail. Our aim has been to lay down the ground rules on how the new register will operate.

Marilyn Livingstone: If the Parliament were to pass the bill and establish the new register, would the existence of other authoritative registers confuse the situation? I think that I would be confused. The public are not experts—that includes me—so how would we know which was the authoritative register on which we could rely?

Brian Wilton: The authoritative register would be the one that was run by the NAS. However, the NAS would not be equipped to answer the thousands of queries on tartan that come in from around the world. Therefore, the Scottish Tartans Authority would retain its register. I imagine that we would cross-refer with the official tartans register—almost daily. Our research on historical tartans, which would not stop because of the advent of a national register, gives us the information that enables us to upgrade the quality of the historical notes that we attach to our tartans and we would pass on such information to the NAS. There would have to be a continual two-way stream of information between the Scottish Tartans Authority and the NAS, which, in turn, would direct to us inquiries on tartans that it could not answer.

Keith Lumsden: My register would not register tartans after a national register was formed. The Scottish Tartans World Register was established to inform such a body and to maintain continuity of the service that the Scottish Tartans Society had offered.

The real question is what the world would be like if the bill were to be passed. As a result of the bill, tartans—or products that called themselves tartans—could be produced but not registered, because the hoop that people would need to jump through would have been set too high. However, money could be made from such non-registered tartans and someone might take it on themselves to run a register—or list, or index—of those tartans.

Brian Wilton: We have no intention of continuing to register tartans after the official register comes into being. I apologise if I gave that impression.

The Convener: I am not sure that you gave that impression, but you will have heard that some members raised questions about that particular point earlier.

Marilyn Livingstone: The submission from Blair Urquhart said that he disagrees with the bill saying

that only one tartan can be registered with the same name. The previous panel said that that was a historical issue and that it would not happen from now on. Could there be differences in the different registers?

Keith Lumsden: That is what I was saying. Let us say that a football club gets a tartan, which has happened, and two years later it decides that it does not like its tartan or that it did not sell very well, so it wants a new pattern. However, they still call the new tartan their football club tartan—I will leave names out of it—which leaves two tartans with the same name. That will go on.

Brian Wilton: We have employed an obvious solution to that for years. I will not mention names either, except to say that Rangers Football Club has something like four or five tartans. Its first tartan will have 1998 in brackets after the name. When the new chairman comes along and decides that he does not like it, the next tartan will be called “Rangers (1982)”. That is how one can differentiate.

Many tartans can have the same name, ostensibly, but one would always seek to differentiate between them. For example, there could be a Macintosh clan tartan, but Heidi Macintosh in New York might want a personal tartan, so that could be called “Macintosh, Heidi”. It is a simple administrative task.

Marilyn Livingstone: So you are saying that the two lists will be the same and there will be no confusion between them. The STA list will not include tartans that the new register does not include. All the lists will have the same information.

Brian Wilton: Exactly. At this stage, I would not like to say whether we will make our register available online. We will do everything that we can to co-operate with the NAS to ensure that there is absolutely no confusion. We have been working on the new register for five years, so we are determined that it will succeed.

Brian Adam: Given that both your organisations intend to continue to function if the bill is passed, what will they do if they are not registering tartans? How will they be financed? Will they charge fees, and will that detract from the work of the new keeper? How do you see your future relationship with the keeper of the register of tartans and each other?

Brian Wilton: Our function in life is not just to register tartans but to promote tartans globally, to provide an information service and to facilitate journalist and trade inquiries from around the world. The income from the registration of tartans is not very exciting; it would not keep us afloat for more than a few weeks in the year. Although we might lose slightly on one side of the scales, the

other side is that the new register will give added status to tartan on a global basis, which will filter down through the industry.

Keith Lumsden: There is still a need for a reference service and a place for finding information that falls outside the scope of an electronic register, as it will appear to the public. There will be questions, archives to be looked at and tartans to be looked up, so there will be plenty consultancy work. Registration does not make very much money, believe you me. We make money only out of the work we get as a result of inquiries. I am not saying that my register will continue, but I have another burden—looking after the Scottish Tartans Society's archives.

Brian Adam: Given that the registers currently cost the public purse nothing and that the bill would cost the public purse money, could your organisations be perceived as dumping a difficult problem in the public lap, while you continue to deal with commercial aspects?

10:45

Keith Lumsden: The danger is that other people will produce tartan registers. There is nothing to stop somebody else having a register. Canada has threatened to produce a register and I can see Australia thinking in much the same way. Unless a Scottish register is established, the danger is that anyone else can start a register. That is the important point.

Brian Adam: My question is why the public purse should bear the cost of the register, which relates to commercial activity. Mr Lumsden and Mr Wilton have both said that registers are not a significant source of income to their organisations. I presume that if international competitors tried to provide a register as a public function rather than a commercial activity, they would have the same finding.

Mr Blair: One thread of the thinking behind having a national register was to ensure that it was not a commercial operation that risked disappearing if the operators could no longer keep it running. A great attraction of what the bill proposes is that the register would be public and not a private commercial enterprise. The justification for using public money to create a register is simply that a register would preserve what is thought to be an important aspect of Scottish culture for the nation in perpetuity rather than leave it at the mercy of a commercial operation.

Brian Adam: There is no great danger of tartan disappearing off the radar. I presume that the bill is not about preserving tartan. Whether having the definitive register in the public domain is of sufficient public interest for it to be paid for from

the public purse is an issue, but the argument that there will be no register if the Government does not pick it up is fairly weak. I have heard no substantive argument to suggest that we will not have tartans or that the purchasers of commercial products insist absolutely on knowing the provenance of and having the Government's imprimatur for a tartan before they buy it. As the convener was right to say, much of the activity up and down Edinburgh's High Street does not support your argument for a stamp of approval.

Brian Wilton: One overriding reason for having a publicly financed tartan register is evidenced by the experience of the Scottish Tartans Society. The society started to register and record tartans electronically in the mid-1980s, but it gradually fell to pieces, which meant that it stopped registering new tartans and that its database and historical records were no longer available. That register was owned and operated by a private sectoral interest, which we feel is wrong.

Our Scottish Tartans Authority is exactly the same type of organisation—it is a sectoral interest that is financed by the industry. We think that that is wrong. Tartan does not exist purely for the commercial world. It is wrapped up in Scotland's history from way before the 18th century.

There are fascinating historical facts in the existing registers. We preserve those, but we should not rely on the commercial world to safeguard that information. All that the commercial world is interested in doing is producing tartan, making money and keeping their people in employment. The history of tartans is of no great significance to the industry. If it is left to the industry or a privately owned body to maintain and operate a register, it will disappear one day, just as the Scottish Tartans Society one did. It was resuscitated only because Keith Lumsden thought, "We mustn't lose this." The same thing could happen to the Scottish Tartans Authority—we could be out of business next year. The creation of the Scottish register of tartans is essential.

Dave Thompson: What practical use will the register have, other than for academic study? Tartan employs about 7,000 people. It accounts for 3 per cent of manufacturing in Scotland and is worth about £350 million to our gross domestic product. What will the register add to that? How will it improve the commercial opportunities of tartan?

Keith Lumsden: We can put the benefits under the general heading of the provenance of tartans. The important thing is not just what a tartan is for us today but what it was in the past. If we lose that, we lose something that is particular to the design and therefore to the marketing drive, if it happens to be involved in one. It is important that the history is kept somewhere.

The information was put together with a lot of work by a lot of enthusiasts, but we have reached a point where it is in danger of disappearing. Basically, the Scottish Tartans Society archive is sitting in my house. I am not sure that that is the right place for it. I use it. I find it useful, and I manage to make a sort of living out of it, here and there.

Dave Thompson: You had better hope that you do not have a fire.

Keith Lumsden: Exactly. The archive is not being looked after properly. I do not have the time, and looking after it properly requires a lot of input. I hope that my comments do not make a mockery of it, but that is what I think.

Brian Wilton: About 1,000 people a day interrogate our website and all of them look at the tartan register. At the moment, we do not give them the historical details because, as a membership body, we need to provide membership benefits, one of which is that members can type in their password and get access to the historical notes. Despite the fact that we continue with that approach, we believe that it is wrong. The historical notes should be available to anyone who interrogates the database. That will happen with the national archive version. If the database was not available, there would be serious implications for the tartan industry.

Keith Lumsden: I was amazed when we first went on to the internet in 1997. In no time at all, we had thousands of hits a day and the interest was maintained continuously. We got interest from not just Scotland, but the world. There are sidelines. For example, one can give advice and charge for it. People ask, "Is there a patent or copyright on this tartan?" The information is wanted by the industry and by people who use tartan, so it must be kept somewhere. As I said, the important part of the information is the provenance.

David Whitton: One of the most interesting things about the bill is the number of submissions that we received on it. I am particularly drawn to the one from Mr Alastair Campbell of Airds—"Unicorn Pursuivant of Arms", it says on his submission. He states, quite comically:

"If there isn't already a Tesco tartan, there no doubt will be."

However, he also states:

"There is all the difference in the world between a duly authenticated Clan Tartan and one invented for purely commercial reasons."

He argues that the register should classify tartans. I assume that he means that they should be classified into historical tartans and the ones that

Mr Wilton designs for Colin Montgomerie or O₂. What are your views on that?

Keith Lumsden: I stand by what I said about classification. It depends on how it is used. I do not believe that a clan tartan is more special than the O₂—whatever that is—tartan. They do the same thing. The history of clan tartans shows that they are pretty dodgy, anyway. They are not that old, although they have a provenance as a result of what has happened to them. The O₂ tartan will have its provenance. I do not think that classification makes much difference. Classification can be a reference tool, but that might not be the keeper of the register's view.

Brian Wilton: There are those who like to preserve tartans in aspic. I sympathise with Alastair Campbell to a certain extent, but we have to accept that tartan is a living, evolving art form. We might sneer at some modern tartans but, as Keith Lumsden suggested, if a clan chief said to William Wilson & Sons of Bannockburn, "We've lost our clan tartan. Can you send us one? I'd like some green in it, please," the company would provide one. Tartans in those days were just as dodgy as some of those that we see now. The difference is that age lends respectability. Yesterday's terrorists are today's statesmen.

The Convener: We all believe that sentiment. I finish with a question for Mr Blair. The previous proposal was for the Lord Lyon and the Court of the Lord Lyon to hold the register. Is the current proposal a better way forward?

Mr Blair: Yes. When we looked into the details of how the previous proposal might work, we realised that the Lyon court is not constituted in a form that would enable it to hold the register. Legislation might be required at Westminster because a lot of the functions that are carried out by Lyon are not devolved.

Secondly, and perhaps more crucially, the Court of the Lord Lyon is a court of law. In Scotland, uniquely, heraldry is governed by a legal court. That does not happen anywhere else in the world. It would be difficult for a judicial operation to carry out the administrative function of registering tartans. If an application to register a tartan conflicted with the views of a clan chief, somebody would have to make a decision, and it would almost certainly be the Lord Lyon. The Lyon court would be in an impossible position.

We realised that it would be much better to go down the route that is now proposed—for the register to be handled by the NAS. There will be informal consultation with the Lyon office, because it holds a lot of information about historical relations with clans—names and so on. We are happy to provide the NAS with whatever assistance we can give.

The Convener: Good. Thank you for coming along this morning. That was helpful.

10:58

Meeting suspended.

11:03

On resuming—

The Convener: We continue our consideration of the Scottish Register of Tartans Bill with the final panel of witnesses this morning. We are joined by Kirsty Scott, the head of the Scottish Enterprise national textiles team, and Dr Nick Fiddes, the managing director of Scotweb.

For the avoidance of doubt, I should say that Kirsty Scott is my sister. Members can ask her all the tough questions they like—I have always wanted to do that, but I will not be allowed to.

David Whitton: What was he like as a child? [*Laughter.*]

Lewis Macdonald: What do the panel members consider to be the economic benefit of the creation of a register?

Kirsty Scott (Scottish Enterprise): The economic benefit will probably be an indirect benefit to the sector. We work with a lot of companies across the textile industry in Scotland and our sector groups have strong representation from tartan-related companies, primarily those in weaving and manufacturing. In general, they warmly welcome the bill because it recognises the importance of tartan as a national resource. Once the register is established, they will seek, individually and collectively, to use it as a profile-raising or promotional tool, in line with their global marketing efforts.

Dr Nick Fiddes (Scotweb): I will give a slightly different answer. As a company, Scotweb is all about marketing tartan. Our claim to fame is selling tartan and tartan goods worldwide. Our market is international; most of what we sell goes overseas. We deal daily with North Americans mostly, but also with others throughout the world.

It is very difficult to put figures on the economic benefit because so much of it will be intangible. If one were to produce a range of umbrellas or Wellington boots, one would make them in Black Watch or Royal Stewart tartan, or something like that, but most of our customers are looking for their family tartan, and obviously that involves thousands of different patterns. People are looking to buy into the Scottish identity, and, as I say, it is very difficult to put a figure on that.

Basically, the register will have the capacity to give greater depth and a greater feeling that it is

authoritative, historic and real. That is what people are buying into when they shop with us.

Lewis Macdonald: You might be aware that this morning, we have debated a number of issues that arise from the bill. Would a requirement that tied the definition of tartan more closely to its cloth or textile origins add to authenticity and economic opportunities, or would that create an unnecessarily bureaucratic obstacle?

Dr Fiddes: Speaking as a retailer, I do not think that that is a significant issue. I tend to side with the non-wovenists.

The Convener: The modernists.

Dr Fiddes: Yes—thank you. I do not think that a requirement that the tartan should be woven should be an essential part of the definition. A lot of the tartan goods that we sell are not necessarily woven—for example, tartan mugs or even quaichs. Normally, the tartans that we use for such goods can be woven, too, but the requirement that you raise is not an essential part of the definition.

Brian Adam: To what extent is tartan still woven in Scotland? If the register contains a pattern, what is to stop anyone using it?

Dr Fiddes: That is one of my concerns. During the discussions, I have argued that the full database of tartans, their thread counts and definitions should not be made easily accessible and freely available for fear that that would make it easier for overseas competitors to use that information to erode Scottish manufacturing further.

On the whole, I think that the official status of the register will help Scottish manufacturing because so many of the skills and so much of the capacity to produce such a large range of tartans is locked up here. However, we should not fool ourselves. We live in a time when overseas competitors are getting better at competing, sometimes in questionable ways that make manufacturing here more difficult. Our company specialises in supplying authentic local goods and we are consistently undercut by companies bringing in lower-quality stuff from overseas, often in dubious ways. That is a real problem. On balance, and as long as it is handled properly, the register will help to give tartan an official status that will provide a basis for work on that problem, but I do not think that it will be the be-all and end-all. It is a first important step.

The Convener: Are you saying that it will not stop Chinese manufacturers producing our tartan, slapping it on the top of the aforementioned shortbread tins and selling them on the Royal Mile?

Dr Fiddes: There is absolutely nothing to stop that. I would like to think that the Scottish Tartans

Authority, the Scottish Tartans World Register, Scottish Enterprise, trading standards and other agencies could do further work on the problem, because it is a real problem.

The Convener: What is the Scottish Enterprise view?

Kirsty Scott: I can comment on that, because it has been debated widely in the industry. As Nick Fiddes said, weaving is a global industry, and the sector here competes globally. Many of the big Scottish weavers who produce tartans also have interests in England and, in some cases, overseas, although the tartan cloth that they weave is primarily woven in Scotland.

The debate about protecting the industry in Scotland is long gone. The industry is interested in and is prioritising the ability to promote where possible the authenticity of a made in Scotland label. The general feeling is that the bill would contribute enormously to that. The register could be used as a tool for promoting a genuine Scottish article rather than for protecting the industry per se. For that positive reason, the industry welcomes the bill.

Brian Adam: Would not a mark like the tweed mark do more for the industry than a register would?

Kirsty Scott: That angle is slightly different. We are working with a wide sweep of the industry and not just with the tartan sector to discuss whether a made in Scotland trademark would benefit the industry as a whole. Individual companies—particularly those in the tartan sector—already use a made in Scotland label and there is debate about whether its use should be widened.

That idea and the register could go hand in hand. Whether to use a trademark for commercial reasons is a decision for individual companies and the sector to make—it concerns how they promote their product and whether retailers would use a trademark. However, the sector sees the bill as providing the basis for promoting the concept of the product's authenticity, so the ideas correlate.

Marilyn Livingstone: We heard evidence this morning from the Scottish Tartans Authority, which seems to be a widely accepted and respected body in the industry. The authority has made it clear that its register will continue. When we have the new register, what will be the benefits or disadvantages of having two lists? What will the new register add that is over and above the existing list?

Kirsty Scott: I am sorry that I could not hear the earlier debate, but I understand that the Scottish Tartans Authority has been extremely willing to ensure that, if a national register of tartans proceeds, it will be the ultimate authentic register.

The authority has expressed willingness to pass over its register's entire database and to work with the National Archives of Scotland to ensure that that happens.

Ultimately, having duplication of lists will not help, but while the National Archives of Scotland is building up the entire authentic register, I understand that the Scottish Tartans Authority will continue to operate its register, until it is appropriate to see the Scottish national register as the ultimate register.

Marilyn Livingstone: That was not my understanding from this morning's evidence. Your first comments matched my understanding, but we heard evidence that the authority would continue its register; it did not give a timescale for stopping that.

Dr Fiddes: I am wearing two hats today. I speak principally on a commercial basis as the managing director of Scotweb, but I am also a governor of the Scottish Tartans Authority and I have represented the authority's governors in discussions about the register. I do not want to second-guess what Brian Wilton said, but I think that his problem in speaking to the committee was that some of the detail has not been sorted out. We have all agreed to proceed on the basis that the detail will be sorted out and settled in due course.

My own take is that, over several years, there will not really be two registers; the register will gradually morph from one form to the other. What is called what at which stage remains to be sorted out but, from early on, continual two-way communication of details will take place and, in effect, one register will exist. I do not see that as a big problem in the public mind.

As a commercial company, Scotweb has access to the full Scottish Tartans Authority database. That is important to us, because—rather unusually—we make all the tartans available to be woven to order in small quantities. Having access to the definitions of tartans so that small Scottish weavers can weave them for people is important for us. I do not know how we will work with the new official register, which is a business-critical issue for me. I am just proceeding on trust that we will work out the basis on which the new register will work.

The Convener: We understood from the earlier evidence that the Scottish Tartans Authority would not register new tartans. I presume that its register would continue on the basis of what is already on file.

11:15

Dr Fiddes: Yes. I would not get too hung up on the concern about the existence of two registers.

Dave Thompson: Should the keeper of the Scottish register of tartans have a classification role? Would classifying tartans into different categories help marketing?

Dr Fiddes: Classifying in what regard?

Dave Thompson: In respect of clan tartans, commercial tartans, family tartans, sports tartans and so on.

Dr Fiddes: That level of classification already takes place under the STA. Tartans are allocated one of around 10 names. I think that there are still on-going discussions about how the National Archives of Scotland will handle classification. An element of classification is certainly useful, but the reality is that classification often ends up being arbitrary, because particular tartans can slot into several different categories. Classification is a helpful indexing guide, but is probably not an important part of the definition.

Dave Thompson: My understanding was that the bill does not cover classification.

Dr Fiddes: I do not think that it does. Rather, we are talking about a practical issue that arises after registration and which relates to the development of the records.

Dave Thompson: So the keeper may decide to classify. Do you think that that will happen?

Dr Fiddes: I do not think that that has been finally settled. There are arguments on both sides. I think that it would, rightly, be the keeper's right to get involved in classification if they wanted to do so.

Dave Thompson: Would a classified system help marketing?

Dr Fiddes: Anything that makes it easier for someone to find a tartan in which they are interested helps marketing.

David Whitton: From what you have said, you seem to be both a wovenist and a printist. If I heard you correctly, you said that you can get tartans woven to order in small quantities. That takes me back to a point that I made to another panel. Should the bill say that tartan samples "must", as opposed to "may", be provided?

Dr Fiddes: Commercially, weaving is very much the core of our business, and it will always be. I do not think that there is a particular conflict. Making it a necessary part of registration that tartan must be woven is not crucial. Basically, I side with Brian Wilton on that.

David Whitton: That may not be crucial, but it may be desirable for small weavers, who see weaving tartan as a nice little side trade.

Dr Fiddes: That might be so, but there are other forms of commercial production in Scotland—by printers, ceramicists and so on—for whom the issue is also important. Serious commercial use is an important criterion. It is important that the keeper has latitude and a fairly free rein to be able to say that they will or will not accept a tartan without fear of legal challenge. Attempting to define things more closely at this stage is possibly a recipe for disaster.

Reference was made earlier to the possibility of people wanting to register thousands of tartans speculatively. Our company might be tempted to want to do that. Our work is not necessarily directly to do with that, but we are developing technology that would make that easy for people to do. However, it would not be desirable for anybody to have tens of thousands of new tartans that have no serious use coming on stream. In my view, the only effective response to that problem is to let the keeper have a ruthless capacity to say “I just don’t believe that’s serious, and that’s that.”

David Whitton: Before we let Mr Brown rush off to copyright the idea that he expressed earlier, perhaps I can ask Ms Scott where Scottish Enterprise stands in the wovenist versus printist argument.

Kirsty Scott: The short answer is that we do not have a position. It is not an appropriate call for us to make. We would abide by and support whatever—

David Whitton: Sorry, you say that it is not an appropriate call for Scottish Enterprise to make, but surely your reason for being is to encourage the Scottish textile trade, and taking a wovenist position would help that trade.

Kirsty Scott: We want to encourage the textile trade, but many of the Scottish textile companies involved in tartan have interests outside woven cloth, and therefore see benefit in other product categories, as Nick Fiddes outlined. There is a view that woven cloth is the focus of the textile industry, which is the primary interest group at stake in the bill. However, textile companies and the wider business community derive greater benefit from considering tartan in a broader sense.

David Whitton: But you also said that most of the tartan is woven here in Scotland. Would it not encourage more tartan to be woven here if people who registered a tartan were obliged to produce at least some swatches of cloth?

Kirsty Scott: If that was part of the criteria, the hope would be that the cloth would be woven in Scotland, but of course there would be no

guarantee that it would be woven here. It is a question for the Scottish Tartans Authority as to where the majority of registrations come from, but they obviously come from global sources—there are commissioned weavers worldwide. Having to provide swatches of cloth would not have a huge impact on the Scottish industry. The wider premise of the bill would have a benefit for the Scottish industry, but having to provide swatches of cloth when registering would not make a big impact.

Dr Fiddes: I have a point on the question of swatches.

The Convener: Can you define a swatch for those of us who might not be familiar with that term?

Dr Fiddes: A swatch is normally a small cloth sample of a few square inches. My point is that it is easy to run off a swatch quickly on a home loom, so providing a swatch would not necessarily indicate hard evidence of serious commercial use. That is why I would prefer to see a vaguer definition that would give the keeper more capacity to ask for further evidence beyond, for example, just receiving a swatch in the post.

David Whitton: But a swatch would provide evidence that the design could be turned into cloth.

Dr Fiddes: Any criss-cross design can be turned into cloth.

David Whitton: The definition in section 6(7)(c) of the bill states that an application for the register must include

“a description of the tartan including its colours, thread count and sett”.

I presume that a design must fulfil those criteria.

Dr Fiddes: But an applicant would not need to weave the design into cloth. We can look at a thread count and know that it will be weavable.

David Whitton: I will have to take your word for that because it is clear that you have more knowledge about it than I do.

Dr Fiddes: I think that that is what everyone has been saying this morning.

The Convener: You referred to serious commercial intent, Dr Fiddes, but there is no reference to that in the bill. Do you think that that aspect should be included in the bill? Is it important for the register to have regard to serious commercial intent?

Dr Fiddes: I would not like the word “commercial” to be included in the bill because it is legitimate for tartans to be woven by all sorts of organisations other than commercial companies. Including the concept that a tartan had to be commercial might put an undue bias in the bill.

Again, I feel that it would be best to brief the keeper on what the intentions are, then leave him to it.

Gavin Brown: I have just a couple of questions. One is about the economic benefits for Scotland as a whole from having a register of tartans. You could not put a precise figure on the benefits, which is fair enough. However, are you comfortable that the economic benefits of the register would easily beat its set-up costs and running costs? It is estimated that it will cost £100,000 to set up the register and £75,000 a year to run it. I presume that the register will provide benefits for the economy that will be comfortably bigger than those costs.

Dr Fiddes: I think that the benefits would go far beyond those figures. The figures were derived from measuring, as far as possible, the direct and indirect employment associated with the register. However, our experience tells us that the register's value would be greater than that.

I will go quickly down a little sidetrack and mention the reason why I got into the business. In 1995, I was lecturing in social anthropology at the University of Edinburgh and became aware of how fabulously stocked Scotland is with icons, symbols and reputation on the world stage and how commercial that can be in the Scottish diaspora and beyond. I keep coming across evidence of that way beyond our business. I remember that, a couple of years ago, when the Royal Bank of Scotland was opening a new headquarters on the east coast of the United States, the local bankers there said, "How brilliant these guys are to deal with. You can trust their word." There is some basis to that—on the whole, Scots are pretty straight as the world goes—but it also taps into a huge mythical wellspring of international reputation.

We have a fantastic range of icons, symbols and traditions that people buy into. They range from Celtic iconography to the whisky trade, which uses a wonderful, earthy natural product. I could go on about it for hours, but tartan is the apotheosis of that: it is one of the best internationally recognised symbols for Scotland and has deep roots of tradition, authenticity and naturalness. It is very difficult to put figures on that but, if we were to do more to promote Scotland's reputation for authenticity internationally, the spin-off would be huge. It would be worth billions, in some cases.

Kirsty Scott: I certainly agree that the initial cost of setting up a national register would be well outweighed by the continuing benefits, not only for the textile industry, for which the setting up of the register would underpin the promotion of an authentic product made in Scotland, but more widely for genealogy tourism and homecoming

events. A significantly wide variety of economic benefits can accrue from the register.

Gavin Brown: My second question is, in some ways, the opposite of that: what are the economic dangers of not having a Scottish register of tartans?

Kirsty Scott: That is more difficult to answer. The timing is important, in that there is a significant push to reposition the textile industry in key global markets—the United States, Japan, Italy, Germany and, increasingly, Russia—and at the high end of the market with authentic products and a largely unofficial made in Scotland label. The industry considers everything that can be done to underpin that to be vital for pushing out the message.

The textile industry in Scotland is no longer, and will not be, a big employer, but it is still an important element of the economy and we want to work to sustain it across the board. Like Italy, Scotland is known as a producer of luxury textile and cloth—in our case, largely tartans and tweeds. That has great importance in the global textiles industry. If we do not help to sustain that push on authenticity and Scotland's produce or put in place measures that augment it, we do not help growth.

I could not put a figure on the impact of not establishing a register, but there would be a huge benefit in having the register.

Gavin Brown: We have heard statements about the dangers of other countries producing registers of tartans. From what you know, is that a serious threat?

Kirsty Scott: It would certainly be a serious threat if anybody did it because it would mean that somebody else had taken ownership of tartan as a resource. Not only in the international textile trade but in other sectors, there is surprise that we do not already have a national register. It is time that we did. It is a good time for the industry because it is repositioning itself, but the move is widely felt to be timely as it is expected in all sorts of circles. Therefore, it is important that the register progresses.

11:30

Christopher Harvie: I want to make a general point about history. I found the historical section here to be very anecdotal. It misspells Scott's "Waverley", and I am still trying to find out what connection "The Heart of Mid-Lothian"—which is very much a lowlands story—has with tartan.

It seems to me that we could do things much better. We are talking about three areas here—whisky, tweed and tartan—all of which made an impact at roughly the same time, after the industrial revolution. If we are straight, and if we

tell the story as it is—in economic history terms as well as cultural history terms—we will establish a good legal case. We can think of tartan authenticity along the same lines as we think of whisky authenticity or Harris tweed authenticity, using them as precedents. If we do not do that, we will get caught up in the digital tartan revolution, and that would be a very awkward place to be.

The Convener: Just to be clear, were you talking about the parliamentary research document?

Christopher Harvie: Yes.

The Convener: I just wanted the witnesses to know what you were looking at.

Christopher Harvie: We should consider crucial things such as Queen Victoria and tartan, and the Crimean war and tartan.

Dr Fiddes: I can only agree with you.

I would like to go back to what I said earlier about how fast things are changing commercially with the overseas threat. I cannot overstate that. At the made in Scotland trade fair in Glasgow in January or February, it was conspicuous how thin on the ground new products were. The copying industry has taken off. Producers in Scotland can spend months and a lot of money on new products, but they have learnt that, if those products work and are successful, a few months later they will be knocked off in Pakistan or China and then products that tourists do not realise are of inferior quality are sold on the high street at a quarter of the price. That is killing important parts of living Scottish industry and tradition. It is a really important battle.

I know that I have gone off down a sidetrack, but the only effective response to the problem will be to emphasise history, tradition and authenticity. We have to put in place the building blocks from which we can respond in a clear voice. The new register will not be the be-all and end-all, but it will be a very important building block.

Lewis Macdonald: I want to go back to a comment that you made about the transfer of the register of the Scottish Tartans Authority to a new register. Section 5 of the bill provides for existing registers to be adopted by the keeper of the records of Scotland. Are discussions at an advanced stage? I was slightly concerned, because you appeared to be saying that it was not clear how and when the transfer of the records would happen.

Dr Fiddes: I was not expressing reticence; I was just pointing out that the details had not yet been worked out.

Lewis Macdonald: But is the process broadly understood?

Dr Fiddes: On the whole, I have been heartened by the positive way in which people have worked together on issues that could have been difficult for various parties. I see no reason why that should not continue.

Lewis Macdonald: Thank you for that answer—but the committee might want to come back to the issue at a later stage, convener.

The Convener: Indeed. That would be helpful.

That brings us to the end of today's consideration of the Scottish Register of Tartans Bill. I thank the witnesses for coming in and giving evidence this morning. We are very grateful to you.

Annual Report

11:33

The Convener: We move now to item 2 on our agenda, which is the annual report. A draft version of the report has been circulated. Having read it in great detail, members will be enamoured of it, or otherwise. Do members have any comments?

Lewis Macdonald: There are a couple of small typographical points that will no doubt be picked up by the clerk.

The Convener: Heartfelt apologies. Those errors will be corrected in the final version.

Gavin Brown: The report says that we met 21 times and that 13 of the meetings were partly held in private. That makes us sound quite secretive, but the time spent in private probably amounted to no more than 1 per cent of the total length of our meetings. I wonder whether another form of words might make the point that the great majority of our discussions were held in public.

The Convener: That is a fair point. I will ask Stephen Imrie, our clerk, to consider the wording.

Are members otherwise content with the annual report?

Members *indicated agreement.*

Meeting closed at 11:34.

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