STANDARDS AND PUBLIC APPOINTMENTS COMMITTEE

Tuesday 28 March 2006

Session 2

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STANDARDS AND PUBLIC APPOINTMENTS COMMITTEE
3rd Meeting 2006, Session 2

CONVENER

*Brian Adam (Aberdeen North) (SNP)

DEPUTY CONVENER

*Bill Butler (Glasgow Anniesland) (Lab)

COMMITTEE MEMBERS

*Linda Fabiani (Central Scotland) (SNP)
*Alex Fergusson (Galloway and Upper Nithsdale) (Con)
*Donald Gorrie (Central Scotland) (LD)
*Christine May (Central Fife) (Lab)
Karen Whitefield (Airdrie and Shotts) (Lab)

COMMITTEE SUBSTITUTES

Lord James Douglas-Hamilton (Lothians) (Con)
Paul Martin (Glasgow Springburn) (Lab)
Alasdair Morgan (South of Scotland) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

David Cullum (Scottish Parliament Directorate of Clerking and Reporting)
Susan Deacon (Edinburgh East and Musselburgh) (Lab)
Stewart Stevenson (Banff and Buchan) (SNP)

CLERK TO THE COMMITTEE

Jennifer Smart

SENIOR ASSISTANT CLERK

Sarah Robertson

LOCATION

Committee Room 4

Scottish Parliament

Standards and Public Appointments Committee

Tuesday 28 March 2006

[THE CONVENER *opened the meeting at 11:00*]

Interests of Members of the Scottish Parliament Bill

The Convener (Brian Adam): Welcome to the third meeting in 2006 of the Standards and Public Appointments Committee. We have apologies from Karen Whitefield, who is convening an extra meeting of the Communities Committee.

The Interests of Members of the Scottish Parliament Bill has completed stage 2. We have before us a paper that notes the amendments that were considered at stage 2. Members are invited to review the changes that were made at stage 2 and decide whether to ask me, as the member in charge of the bill, to lodge amendments for consideration at stage 3. The areas for consideration are outlined in bold in the document before you.

Before we consider the changes, I would like to make it clear that, throughout the process, I have considered the responsibility for this bill to lie not only with the members of this committee and those of the Interests of Members of the Scottish Parliament Bill Committee, but with all 129 members of the Parliament. On your behalf, I have tried to encourage people to discuss the main issues. I hope that, at the conclusion of today's business, we will be in a position to allow the major issues to be debated by the Parliament.

The first item in the paper before us concerns the fact that schedule 2 to the bill as introduced, on registrable non-financial interests, has been deleted.

I welcome Stewart Stevenson to the committee.

Stewart Stevenson (Banff and Buchan) (SNP): I thank the committee for extending an invitation to members of the Interests of Members of the Scottish Parliament Bill Committee to attend today's meeting. We appreciate the courtesy.

Speaking in a personal capacity, I thought that it would be useful to raise an issue that arises on registrable non-financial interests. I am left in some doubt about the bill—I suspect that I am not alone in that—and doubt about members' interests is unhelpful. My doubt relates to interests that are non-registrable but which, in the context of something that arises in parliamentary business, meet the prejudice test. For example, parliamentary business might touch on a club of some kind, the membership which is not registrable. How would the bill require the member to deal with that situation? My point touches on what seems to be a long-standing area of uncertainty. The deletion of schedule 2 has relieved the bill of the opportunity to create a little more clarity. It would be useful to hear others' views as to how the bill deals with this issue and, if it does not, how it should be amended at stage 3 to ensure that it does.

Bill Butler (Glasgow Anniesland) (Lab): I would be much more comfortable if the Standards and Public Appointments Committee decided to lodge an amendment to restore schedule 2. I will tell members why. If at any stage a member finds themselves in the position that Stewart Stevenson outlined—if they have not registered membership of a club—then they should simply register that membership.

This committee gave several reasons why non-financial interests should be registered. One was to achieve equivalence with the position of our colleagues in local government under the Ethical Standards in Public Life etc (Scotland) Act 2000—that trips off the tongue. Another reason was that the preponderance of responses that we received on the point highlighted the need to disclose non-pecuniary interests. I know that it is not simply a question of the weight of numbers, but we would be on safer ground if we restored schedule 2.

I am mindful of the convener's introduction. If we lodged such an amendment, we would enable the Parliament to decide in plenary session on the merits of its retention.

Alex Fergusson (Galloway and Upper Nithsdale) (Con): The bill committee took a brave decision in agreeing amendment 35. I would dearly love that decision to be upheld, but the decision is for the whole Parliament and it is important that it is seen to be the whole Parliament's decision, so—slightly reluctantly—I support our ensuring that that is the outcome.

Christine May (Central Fife) (Lab): At the risk of being repetitive, I agree with Bill Butler. It would be good to have parity in the requirements to disclose or register among the range of elected representatives. I recognise that members of the same political groups have differing views on the subject. As far as I am aware, there is no party line, so the question is down to what individuals believe. A member's opinion—mine at least—is coloured by how they would act in some circumstances. I am not sure whether we can have a rule that covers all eventualities and ensures that everything is caught, but the Parliament should debate that in plenary session

and should reach a majority view on it. For that reason alone, it is worth lodging an amendment to reinstate schedule 2.

Donald Gorrie (Central Scotland) (LD): I would like some guidance from the convener or other people who have been in the trenches as to where the shells are falling. I understand that four options are available. The first is to forget about non-financial interests altogether. The second is to mention them under a voluntary code—if a member thinks that an interest is relevant, he or she registers it. The third is a list, which the bill committee discussed. The fourth is compulsory registration, but without a list—I am not sure how that would operate, but I presume that whether membership or whatever was relevant would be up to a member to decide. If we accept the convener's proposition that the Parliament should be able to vote on the matter, perhaps all those options should be up for grabs in the vote, if that would not make life too difficult.

The Convener: I suspect that that might make life difficult, but it is open to any member to lodge stage 3 amendments. As the committee that proposed the bill, we are having today's meeting to advise and instruct me on what stage 3 amendments I should lodge on the committee's behalf. I am of a mind to do what Bill Butler and Christine May suggested, but with a minor change that I hope will help.

Alex Fergusson: The idea of a prescriptive list was pretty well exposed during the debate in the chamber as unworkable, because of the question of where to draw the line. With all due respect to Donald Gorrie, I think that we should resist any temptation to discuss that again.

The Convener: There were three options before the bill committee: the bill as published; the bill as it is now, without schedule 2; and a prescriptive list. Mr Fergusson is right that a prescriptive list proved to be significantly problematic and the bill committee decided that it did not want to go down that route. The double option at that point did not attract the bill committee's support.

I suggest that we offer the Parliament an option other than the bill as it is now, which means restoring schedule 2, but that we should also give the Parliament the power to amend the bill, in line with other practices, through a determination via the appropriate committee—this committee—rather than having to make the changes through primary legislation.

To return to Mr Stevenson's point, it would be fair to say that I was not sufficiently persuasive during stage 2 that we should leave the bill as it was. There seemed to be some doubts about what should be declared and when. That is the essence of Mr Stevenson's question and I am happy to address that point because I have some guidance on that and I am happy to share it with the committee.

Stewart Stevenson: Just to be absolutely clear about the nature of my dilemma, I simply do not believe that it will be possible for any individual member to register everything that might arise in the course of parliamentary business that could meet the prejudice test. In part, my point is that members will be left with a bit of a dilemma if parliamentary business touches on a subject in which the member has quite legally and properly not registered an interest, but which meets the prejudice test at the time. It is not absolutely clear to me, or to other members to whom I have talked, how they should deal with that and what the legal framework for dealing with it will be.

It might be of course that I am articulating my lack of understanding of the bill. Even if that is the case, it is a lack of understanding that others share. In the passage of the bill there is an opportunity to deliver clarity, even if it is only in the stage 3 debate. It might be better to ensure that the bill reflects the situation, and I am not sure that it currently does.

11:15

The Convener: It is fair to say that the points raised by Mr Rumbles and Jamie McGrigor during the stage 2 debate support the argument that you have just made; the situation was not clear to at least some members.

I asked for a briefing about what is registrable, what is declarable and what should happen in what circumstances. I will share that briefing with the committee now, and I hope that things will be clearer as a consequence. I will read the relevant bits out so that I get it right.

Members are aware that the current Scotland Act 1998 (Transitory and Transitional Provisions) (Members' Interests) Order 1999 and the proposed legislation will retain a number of criminal offences as they are, and that schedule 2 to the bill would not in any way put members at risk of committing a criminal offence if they breach the code. That point seems to be reasonably well understood. However, a breach under schedule 2 could attract a sanction from the Parliament.

A registrable interest is one that must be recorded in the register of members' interests under the members' interests order or its replacement. A member has a declarable interest only where he or she has a registrable interest. A member can fail to make a relevant declaration, and therefore commit a criminal offence or a breach of the order under schedule 2, only where the member first has a registrable interest.

However, under the existing members' interest order it is possible for a member to draw attention during a debate to experience or information that, although it is not registrable, is useful in setting the member's contribution in context. That covers the kind of things that might currently appear in the "Miscellaneous" section of the register or that could have appeared in that section but the member, either through a deliberate choice or as a result of not anticipating that the matter might be of interest to the public, has not included in it.

For example, a member might belong to the RSPB and might add to a debate information on the environment and natural wildlife habitats that has been gleaned from membership of that organisation. The member may state during the debate that he or she knows whatever they do because they are a member of the RSPB and thereby give authority to their comments. However, membership of the RSPB is currently not a registrable and therefore not a declarable interest. If an interest is not registrable it is not declarable. Declarable in that sense means that a member is liable for a sanction, whether it be a criminal sanction or a Parliamentary sanction.

Schedule 2 to the bill as introduced required members to register non-financial interests. The member would have to apply the prejudice test to decide whether something was registrable. That is the mechanism by which we overcome the difficulties, provided that we have confidence in the test and in how it will be interpreted in the future. If the member was planning to attend a debate on, for example, the environment and natural wildlife habitats, the member would ask him or herself

"if, after taking into account all the circumstances, that interest is reasonably considered to prejudice, or to give the appearance of prejudicing, the ability of the member to participate in a disinterested manner in any proceedings of the Parliament."

That provision is in section 3(2) of the bill as introduced. Having the interest does not prevent the member from taking part in debate. There was confusion in some members' minds about that point, which I think relates to their experiences in local government. If a councillor declares an interest it is common that they then do not participate in the debate or the vote, but that is not the case in the Parliament. Having the interest does not prevent the member from taking part in the debate, or even from voting; it merely requires them to make a declaration if the interest—having been registered—prejudices or gives the appearance of prejudicing their ability to participate in a disinterested manner. That is exactly the same as the current rules on declaration that are set out in paragraph 5.2.7 of the "Code of Conduct for Members of the Scottish Parliament", which applies to all members.

I remind members who are not members of the Standards and Public Appointments Committee that as the committee is currently reviewing the code of conduct, they are encouraged to come back to us, in the light of their own experiences, with suggestions as to how, if at all, they would like the code to be changed.

Under the bill as introduced, members would have had to make a judgment about an interest and whether it was registrable using the same test as is currently in force for the declaration of registrable interests.

An argument was advanced that it would be easier to specify non-financial interests. The committee did not wish to include in the bill a list of non-financial interests that would have to be registered by members, for the reasons that were set out in the debate at stage 2. Such an approach would inevitably miss out certain interests and would make the bill unnecessarily unwieldy and lengthy.

Instead, the committee proposed that in the code of conduct, which is currently under review, the bill's provisions could be supplemented with an indicative list of examples. However, at stage 2, some members did not seem to grasp the distinction between an indicative list that gives some examples and a prescriptive list that sets out everything that has to be registered. At stage 1—and again at stage 2—I made clear the intention, if the Parliament so wished, to produce an indicative list.

Even if a member had a list for guidance, an interest would be registrable only if the member thought that it met the prejudice test. After all, as far as the membership of organisations is concerned, what might meet the prejudice test for one member might not do so for another member. It all depends on the circumstances that have already been spelled out. Such an approach would give much more flexibility than any prescriptive list to catch the interests that might influence a member. As Bill Butler rightly pointed out, we have already gone down that route with councillors. I hope that that explanation has helped members. If not, we can engage with the matter once again at stage 3.

I believe that, with the possible exception of not providing flexibility by including a power to amend the schedule through a determination, the committee got this matter right. As a result of the stage 2 debate, we feel that giving the Parliament the power to amend the schedule in light of experience would be a useful addition. In any case, such an amendment would have come to this committee for its recommendation. I suggest that we restore schedule 2 and lodge an amendment that grants a power to allow schedule 1 to be amended through determination.

Donald Gorrie: I am possibly being stupid, but I do not think that you have addressed Stewart Stevenson's point. As I understand it, there would be no point in my standing up at the beginning of a debate and saying, "I am keen on the RSPB," if I had not put the entry in the register. Is that correct?

The Convener: No. It would be quite possible for you to stand up in the chamber and say that, as a consequence of the debate, you want to inform the chamber that you are a member of the RSPB.

Donald Gorrie: With due respect, that is a totally different matter.

The Convener: Well, if you have already decided in advance that you cannot foresee any circumstances in which you would be prejudiced or give the perception of being prejudiced as a result of your membership of the RSPB or whatever organisation, the interest is not registrable. If, as a result of a debate on issues that affect that interest, you wish to inform folk that you have received certain information through your membership of the RSPB, that is your choice. As I understand it, you would not be liable under the code of conduct.

Stewart Stevenson: Let me give the committee an example from my own experience. When I first became an MSP and drew up my register of interests, I did not include—because I was not required to include—the membership of every organisation that I belonged to. After all, because of the varying degrees of formality in the membership of organisations, such a list might well be quite long for many of us.

However, later on, I added to the "Miscellaneous" section of the register my membership of Edinburgh Flying Club. Why did I make such a voluntary addition? I did it because in that capacity I rent, with others, $10m^2$ of grass at Edinburgh airport and the Parliament was about to consider a bill to deliver a tram service to that airport. Subsequently, a bill to deliver a heavy rail service to the airport was introduced. I concluded that it would be appropriate for me to include that interest in the miscellaneous section. A legal need for it to become a declarable interest has not arisen. Nonetheless, had I spoken on the Edinburgh Tram (Line Two) Bill—which I avoided doing—the public would in hindsight have seen me as potentially prejudiced if I had not made reference to that fact.

The dilemma arises in precisely the sort of difficult area that I have described. There is the option for members to do what I did, but the timescale allowed me to respond in that way. A member who has put in to ask a supplementary oral question may find as they are about to rise to their feet that the answer to the initial question touches on the issue on which they are about to comment. In that difficult area, members will have to be shown exactly what is expected of them, at three levels. The convener's explanation of the legal position is relatively clear. At the bottom level, we must satisfy ourselves in our hearts that we are behaving in a way that is appropriate. In the middle, we must establish at what point something moves under the prejudice test from being an issue on which our register of interests is silent to being something on which we should seek to update it. I do not think that there is an easy answer. I have provided the committee with an example of the kind of dilemmas that all members will face from time to time.

The Convener: There is still an option for members to register interests in the miscellaneous section.

Donald Gorrie: After the event.

The Convener: It can be done at any point. However, members are not liable for breaches in respect of the miscellaneous section.

Stewart Stevenson: Choosing to include an interest in the miscellaneous section does not in any sense convert it into a declarable interest.

The Convener: No—it is definitely not a declarable interest. Unless we go down the road of having a prescriptive list, we will struggle anyway.

Donald Gorrie: With due respect, I do not think that you have dealt with the point, convener. It is not about giving the Parliament information and showing that that is well founded. It is about whether I am being corrupted by something to vote in a way in which I would not normally vote. Let us say that I am an enthusiast for puffins and vote against people pouring oil into the Forth because it might kill them off, although I am not a member of the RSPB. Must another person who feels the same way but is a member of the RSPB register that membership? Does it corrupt them in some way? Both of us vote in accordance with our views. In my view, we are barking up a bad tree.

11:30

The Convener: You are right to say that the issue is whether someone is influenced or gives the appearance of being influenced—whether their decisions are prejudiced. It is not about what they think, but about their membership of organisations. Everything must be done in conjunction with the prejudice test. It is fair to say that people cannot anticipate everything that comes up.

An issue might arise from somebody's membership of some fairly small, specialised organisation, although a related subject might come up only once during a member's entire time in the Parliament. I do not know that such

instances could necessarily be anticipated so that the interest would be declared. In any event, the prejudice test must be applied. A member who gets on their hind legs and says that they are making their speech against the background of their membership of a certain organisation and information that they have from that will not be exposed to sanctions in consequence of a failure to register that interest. That member's fairly reasonable defence would be—

David Cullum (Scottish Parliament Directorate of Clerking and Reporting): They would be, in fact.

The Convener: They would. Oh, well. I have been guided on that. In that case, we might well have to debate the matter a little further.

Obviously, members should review their entry in the register of interests regularly. Mr Stevenson gave an example of a member asking a question at question time and realising that there was a problem only having heard the minister's answer. I think that, in those circumstances, it would be unreasonable to expect the member to have anticipated there being a problem.

We ought to draw the discussion to a conclusion and make some decisions. I am aware of the points that Donald Gorrie and Stewart Stevenson made, but I think that we need to hold a debate on this subject in the Parliament. I will come back to Bill Butler and Christine May, who are indicating that they wish to make further comments, but does anyone have any objection to the amendment that I am suggesting, to restore schedule 2, along with a power for the Parliament to amend by determination in the light of future experience?

Christine May: That is the area on which I would appreciate some clarification, please. I hope that my colleagues will forgive me, but I do not understand what is meant by a power of determination. Is that the same as a statutory instrument, or is it something different?

The Convener: It is similar to that and to the powers that we currently have to direct the Scottish parliamentary standards commissioner. It is a form of secondary legislation, which means that we will not have to go through the whole process in which we are currently engaged of producing new primary legislation. That is perhaps something that we should have thought about during the earlier stages of the process.

Christine May: Thank you. Perhaps the clerks could provide me with a short note of clarification on that.

Bill Butler: I take it that the power to amend schedule 2 is really the same as the power to amend schedule 1, which we will come on to later. I do not have a problem with our approach, which I think is sensible. We do not want to go through this whole process again. I think that everybody would at least agree on that. I think that we should restore schedule 2. There are no easy answers here, as Stewart Stevenson said. In the end, the member must be the sole arbiter of whether or not the public might perceive that he or she has an interest that might prejudice their judgment.

I can give a brief answer to Stewart Stevenson's earlier question. If a member is lucky enough to be able to ask a minister an oral question and, upon hearing the answer, thinks, "Oh my goodness, this might leave me in a troubled place," they could simply tell the Presiding Officer that they do not wish to proceed with their supplementary question.

Stewart Stevenson: Never.

Bill Butler: That might be difficult for some members to do, but it would be the safest course of action for members who found themselves in that position. That shows why a prescriptive list would not work. Only the member can decide for himself or herself in such situations.

Stewart Stevenson: That is correct.

Susan Deacon (Edinburgh East and Musselburgh) (Lab): I am grateful for the opportunity to add a few comments to the discussion. I sat on the Standards Committee for a couple of years several years ago at the early stages of this discussion. More recently, I acted as deputy convener of the Interests of Members of the Scottish Parliament Bill Committee. Therefore, I am very much aware of the extent to which colleagues from across the Parliament have grappled with these issues over a long period.

I am struck by the fact that, to a large extent, we have a meeting of minds on the standards that we want to have in the Parliament. What people are struggling with is the best way to legislate for that. That point is worth noting.

The debate has shown that, the more we attempt to prescribe what interests members are required to register and declare, the more questions are raised. I favour an approach that leaves more room for discretion. At present, the "Miscellaneous" section of the register allows members to exercise their discretion and judgment about what ought to be registered, based on precisely the considerations that Stewart Stevenson mentioned. Given where we are in the decision-making process, there is great merit in members throughout the Parliament having the opportunity to reach a decision on the issue. My view, both as an individual member and as deputy convener of the bill committee, is that we should move forward to stage 3. It is important for all of us who have an interest in the matter to attempt to facilitate that debate as effectively as possible.

In that regard, I make a bid for clarity both now and in the future. It is important that we do all we

can to provide the background, the briefing and the clarification that members will require to take an informed decision on the matter at stage 3, but it is also important that we create as much clarity as possible around the provisions so that members can comply with whatever framework is laid down and, crucially, so that the public can understand the framework. I also note that we must not lose sight of the fact that other mechanisms, such as the code of conduct, are vehicles for communication and clarification, irrespective of the decisions that are made on the detailed provisions in the bill. I would welcome the convener's comments on that.

I hope that those comments are useful.

The Convener: The committee has already decided that we will refine the code of conduct and separate out its three distinct areas. If I have not got the words quite right, perhaps my colleagues will correct me. First, we will draw out the aspirations in the code—that is, what we hope to achieve. Secondly, we will produce the set of rules by which members will be held accountable. Thirdly, we will give informative examples, which I hope will clarify what members are accountable for. In the recent past, members have been accused of being in breach of some of the more aspirational parts of the code.

Those are our intentions. I hope that members will engage with the process more than they did with the register of interests and will do so at an early stage so that we can get the code of conduct right.

I think that we need to move to a conclusion, although I suspect that the debate will continue. I have clearly not satisfied Donald Gorrie with my answer to the point that he and Stewart Stevenson made, and there are some areas in which we will not be able to agree. Members have a desire for clear rules. We do not want rules that will trip members up because they did not foresee that there would be a problem. I do not think that the committee intends to produce things that will inadvertently trip members up. However, if we ignore the influence that non-financial interests have, I suspect that we will be subject to a certain amount of external opprobrium for ducking the issue, no matter how difficult it is to specify clearly what might or might not be caught.

All members of the Parliament must engage in the debate. I move that we lodge an amendment to restore schedule 2 and include with that a power to amend via determination. Are members content with that approach?

Donald Gorrie: I am quite happy for that to go on the agenda, as long as it is not assumed that I, as a committee member, support that approach.

Alex Fergusson: Likewise.

The Convener: Those points are perfectly reasonably made. Certainly, I was anxious throughout stage 2 that we should facilitate debate on the big issues. I am aware that committee members have changed their views since stage 2, in the light of experience and the debate that has taken place. I think that it is perfectly reasonable for members to take the personal position that they have. It is up to the political parties how they will handle the issue, but I would have thought that it was a matter for the 129 members and was not necessarily party political. I hope that we have our debate on those grounds.

When we make the final decision, we will have to balance whether to include schedule 2. The aspiration to be open and accountable, which in my opinion schedule 2 advances, must be balanced against the potential for tripping up members if someone inadvertently does not register or declare a potential interest then finds themselves in breach. As Bill Butler rightly said, members must make a judgment call on that. For those who are feeling a little sore and bruised by the treatment that they have had as MSPs, it is perfectly understandable to aspire to having clarity and no dubiety or potential for misinterpretation. However, that does not overcome the need to be open and accountable.

I am more than happy to leave that debate to all members of the Parliament, but to facilitate the debate we need an amendment. In the light of our experience, my suggested amendment is to restore schedule 2 but include the power to amend by determination, which I think would help us for the future.

Bill Butler: I second that.

The Convener: Are there any contrary views?

Members: No.

The Convener: In that case, it is agreed to propose an amendment to restore schedule 2.

We move on to related undertakings. Margaret Jamieson sensibly proposed a number of amendments that covered matters that this committee had not considered. However, there was a particular problem with Margaret Jamieson's amendment 22 because it caught matters that it did not intend to. I know that Margaret is considering lodging an amendment that would deliver what she wanted and not deal with matters such as loans and utilities bills. Do members have a view on that? I am more than happy to lodge the appropriate amendment, or to discuss with Margaret who might lodge such an amendment.

Stewart Stevenson: As members will know, I supported the principle of what Margaret Jamieson was trying to do but was concerned about the

drafting of her amendment. I suspect that the difficulties could be met in two ways. The first would be to set a de minimis, which the £200 of indebtedness that each of us might have to a utility company, for example, would fall well below—that would clear that problem out of the way. I suspect that we might also be able to make specific provision to take out of the equation more substantial borrowing, such as a mortgage under the Edinburgh accommodation allowance—which we would take out in our capacity as MSPs—or borrowing in relation to our normal domestic dwelling.

We are trying to catch situations in which business entities, members of our family or friends are being used to mask something. I do not envisage that happening but, to go back to the prejudice test, we want to avoid the perception among the public that it happens. If an amendment presses those buttons, it should gain relatively widespread support.

11:45

Bill Butler: What Stewart Stevenson has just outlined is perfectly sensible. The convener's suggestion to lodge an appropriate amendment—perhaps jointly with Margaret Jamieson—that captures that is perfectly feasible. That is how we should proceed.

Christine May: I have nothing to add to that.

Linda Fabiani (Central Scotland) (SNP): I have read amendment 22 and the *Official Report* of the meeting of the Interests of Members of the Scottish Parliament Bill Committee and, to be blunt, I do not really understand what folk are getting at. I would appreciate clarification, perhaps through use of an example.

The Convener: Amendment 22 gives the example of a member who might have an unremunerated financial interest in their family business, for example as a sleeping partner, which could result in a payment to them if the business was wound up, which might be a significant sum. Under the present rules—and indeed the proposed rules—their interest in that type of business would not need to be registered. Margaret Jamieson wanted a bit more on that in the bill.

Linda Fabiani: I see that, and I understand the example. I am failing to grasp the implications of the example and how rules could be wrongly applied in the way that Stewart Stevenson suggested. Perhaps I am being naive, but I would appreciate it if someone could tell me how the system could be abused in that way and how it would prejudice members' parliamentary dealings.

The Convener: I am sure that Stewart Stevenson is capable of speaking for himself, but I think that he was suggesting that members might be disguising their true financial worth and interests through mechanisms that would remove the immediate remuneration and so the need to register and declare an interest. They might be a sleeping partner in a business, which, when it was wound up, would lead to significant remuneration that would not be registrable or declarable under the present rules. Most members would not be caught by it, but it is a detail that we had not considered.

Linda Fabiani: I still do not get this.

The Convener: It is about members being open and transparent about all their financial interests, even those for which there is no obvious, immediate remuneration. We are just adding a little more transparency. Christine May and Stewart Stevenson want to come in at this point.

Stewart Stevenson: I will allow Christine May to give her example first.

The Convener: It is all right. You go ahead, Stewart.

Stewart Stevenson: Let me construct an example. An announcement was made recently that changed the proposed route of the Aberdeen western peripheral road. If, as a result of their parliamentary involvement, an MSP became aware that such a change was about to take place and a friend wished to borrow from them £50,000—for the sake of argument—to buy a property that would cease to be blighted as a result of the route change, would we think that it was appropriate for the member to declare the lending of that money and the interest that they would gain from it? Of course we would. The interest that the member would earn on that loan would be similar to the return that they would get from investing the sum in a stock market company. Indeed, legally speaking, when one buys shares in a company, one is lending money to the company. The two situations are essentially the same and give rise to the same risks of prejudice and being thought to be prejudiced.

Having constructed that example, I want to make it clear in the *Official Report* that I do not have the faintest clue that anyone is doing that sort of thing. Moreover, I do not imagine that any of my parliamentary colleagues would do such a thing because they are all above that. However, in drawing up the legislation, we must consider the possibility that in future there may be MSPs who do not meet the high standards that the present 129 members meet. I say that so that no one thinks that I was hinting that something is going on—I was not doing so; I was merely providing an example.

The Convener: The provision has been designed to cover practices that the public might

not approve of rather than existing practices. Christine May has another example.

Christine May: My example was similar, although it involved the possible building of a railway line in the Borders.

The Convener: Linda, are you happy with that?

Linda Fabiani: Yes, thank you.

The Convener: As there were problems with the original amendment, I suggest that I discuss with Margaret Jamieson how we might best deal with the issue. Stewart Stevenson's suggestion that we have a de minimis level is attractive on the ground that we have a threshold for a number of other matters, which is currently set at £250 and which may be set at £258—0.5 per cent of a member's salary—or at a slightly higher level, as proposed by amendments that were lodged at stage 2. However, quite a number of folk would be caught by that because of their utility bills, especially if, for example, their house used electricity for heating as well as cooking and lighting. I do not know that setting such a low threshold would be the answer.

Stewart Stevenson: I suggest that a substantially higher threshold should be set—it would probably have to be as high as 10 per cent of an MSP's salary. I will illustrate why I say that. If one's spouse wishes to install a new kitchen that costs several thousand pounds, one signs a contract that creates a debt until the kitchen has been paid off. I do not think that it would be appropriate to catch such things. Although certain journalists might find it interesting that someone's spouse or partner was putting in a new kitchen, the general public should not need to know about such matters. The threshold might even need to be as much as a whole year's salary. I do not have a particular view on that, although I think that it should be high rather than low.

The Convener: If we were to follow that course, it would probably be better for the details to be dealt with by way of a parliamentary determination so that the level could be varied from time to time.

Stewart Stevenson: Yes.

The Convener: Another alternative would be merely to strike out the relevant subparagraph and to accept that we will not be able to close every potential loophole.

Donald Gorrie: Surely it should be possible for the provisions in the bill on members' interest in shares to deal with the matter. As other people have said, the situation is the same, except that there are no shares in the company that we are discussing. We should be able to get away from the gas bill business and to deal with the situation of an MSP who is a sleeping partner in, owns or stands to inherit part of a company or who has made a big loan to someone. The issue is not intractable.

The Convener: Utilities bills are simply part of the general debt requirements. The issue is not necessarily easy to deal with, but if the committee is minded to have confidence in me and those who advise me, we will try to construct a robust amendment that will provide what Margaret Jamieson intended without putting members in the ridiculous position of having to monitor every debt against thresholds. One way to do that is, as Stewart Stevenson suggests, to have a de minimis, but the question is how high that should be for mortgages or house alterations. It might get rather complicated.

We thought that Margaret Jamieson's amendment 22 was fit for purpose but, on examination, we discovered that it was not.

Donald Gorrie: Debts that a member owes are not an issue at all. The issue is the member's role as a creditor; if people owe him money, he has an interest. Surely that is the point.

The Convener: It can be an issue in both directions because, if a member is indebted to someone, they might be influenced by that person and their interests. A debtor is always more likely to be influenced than someone who is not indebted. It is possible to argue a case around that, but there are some complexities. It is true to say that, if a member has lent money, their decisions are also likely to be open to being influenced by whether they will ever get their loan back, but it is equally true in the other direction.

We have to make a decision about how to proceed. I have offered a suggestion to the committee, which I propose formally. Is anyone otherwise minded?

Christine May: No.

The Convener: There will be an opportunity to discuss any amendment at stage 3 and, if members are concerned about it, they can strike it down. To be frank, we have survived well without such a provision for the first seven years of the Parliament's life and the proposal is simply part of increasing the transparency of members' financial affairs, although members might not wish to do that.

Do any members have suggestions on how we might deal with election expenses? There was a reasonable debate on that in the bill committee. I do not know whether Margaret Jamieson plans to lodge amendment 29 again, but I am of a mind to resist it if she does. Are members happy to leave the bill as it is?

Bill Butler: Yes, on that point.

Donald Gorrie: No; sorry. It would be simple to have a rule that every MSP, once elected, should declare any donations that had helped him to become elected over the past year rather than

during the short period of the election. Many members spend time working up their constituencies and such a rule would not be a great problem. It would cover independents and party members.

The Convener: The current situation does that.

Donald Gorrie: Not for a year.

The Convener: I seek guidance on that. Perhaps it does not cover the whole year. You suggest a tightening of the existing arrangements; Margaret Jamieson was suggesting a loosening of them. In our previous debates, we decided that we were content to leave things as they are. The bill committee was also content to leave things as they are and Margaret Jamieson did not press amendment 29, although she might lodge it again at stage 3. If you are suggesting a different amendment, there is an opportunity for you or the committee to lodge such an amendment. Does anybody else on the committee support a tightening of the existing rules to backdate the requirement to declare donations to cover the whole year?

Members: No.

12:00

The Convener: In that case, we will just leave the rule as it is, but Donald Gorrie should feel free to lodge an amendment on the matter at stage 3.

We come to the threshold for registration of sponsorship and gifts. Alasdair Morgan lodged amendments that would have raised the threshold from 0.5 per cent to 1 per cent of a member's salary. The bill committee did not agree with those amendments, although at least one of the amendments was rejected only on the convener's casting vote. How do members feel about the threshold? Should it be 0.5 per cent, 1 per cent or some other figure, or should we facilitate a debate on the issue at stage 3?

Bill Butler: We should keep the threshold at 0.5 per cent of members' salary—there should be no change.

The Convener: I do not detect any groundswell of opinion for change. I think that Mr Morgan was correct, but if amendments along those lines are lodged at stage 3, we will deal with that and I will be happy to put my views on the record. I suspect that I am very much in the minority on the issue, but I will not press the issue, nor will I lodge such amendments.

Stewart Stevenson: I wonder whether we should ask the Scottish Parliament information centre to include that in its list of firsts in the Parliament—it is the first time that a single vote has defeated an amendment in the Parliament.

The Convener: Yes—it was 1-1.

Christine May: It was decided on the convener's casting vote.

Stewart Stevenson: Which was for the status quo.

The Convener: On heritable property and shares, amendments by Margaret Jamieson aimed to increase transparency under the bill.

Christine May: Convener, you have missed out the issue of civil partners.

The Convener: In spite of my well-known personal views on the matter, that was not deliberate—I just turned over two pages in the document.

We come to the issue of MSPs' civil partners and cohabitants. The bill committee agreed to all the technical amendments to take cognisance of the changes under the Civil Partnership Act 2004 and the Family Law (Scotland) Act 2006. We also had a series of amendments by Susan Deacon to remove all references to spouses, cohabitants and civil partners. She argued that the rule could be regarded as an intrusion on family life and the personal affairs of people who are not members of Parliament. Susan Deacon did not press her amendments, but we had a fairly robust debate on the issue. In that regard, the bill is as it was when it left the bill committee, although it is open to members to lodge amendments at stage 3. Other members have described the matter as being one of the big-ticket issues. I am happy to hear from members if they wish to reopen the debate.

Stewart Stevenson: I have a general point to make. The measure is intrusive on family life and the business of spouses, partners and cohabitants, but that is part of our job, and we are not alone in that respect. Not all members will conclude automatically that, because the rule is intrusive in the affairs of people other than members, it should be excluded from consideration, as I have made clear previously.

Christine May: I take an opposing view. Although it is the case that our political activities intrude on family life, it is also reasonable that our spouses, cohabitants or partners should be permitted privacy in that part of family life that pertains to them only, if that is what they wish. The other measures that we have already discussed this morning about non-registrable interests and influences, for example, can just as easily pick up domestic issues that might be relevant. For that reason, I disagree with Stewart Stevenson.

Bill Butler: I am torn between the positions that Stewart Stevenson and Christine May have outlined. The technical amendments are fine. We should proceed so that Parliament can decide on this big-ticket issue in a plenary meeting. I really

do not know which way I will go, but I will be listening to the debate.

The Convener: The bill is as it left the committee, which is as it was introduced. To facilitate such a debate, someone has to lodge the appropriate amendments. The amendments are available; all the work has been done to produce technically competent amendments, but someone will have to lodge them. They were all in Susan Deacon's name at stage 2.

Susan Deacon: I will not reopen the wider debate about substance; I am happy for my comments to stand as they are in the *Official Report*.

I am conscious that this has been a recurrent issue. Several members have expressed concerns about what provisions ought to be in the bill in respect of spouses or partners. It was important that the bill committee aired those concerns, but they should also be aired beyond the committee if there is an appetite to do so.

My purpose in lodging stage 2 amendments was partly to facilitate a debate and partly because I hold quite a strong view—for a number of reasons—that there is a case for reducing the provisions in the bill about the requirements for spouses' interests to be registered and declared. As the member who lodged the amendments, I am interested to know the views of committee members and of colleagues throughout Parliament. I would like to know whether there is any strength of feeling about debating the issue further at stage 3. As the convener said, it would be for me or another member to lodge amendments that would facilitate such a debate.

I highlight one point on which members might have thoughts. It is important to stress that there are three areas where the provisions in the bill apply. Changes could be made to any, all or none of them. Those areas are gifts, heritable property and shareholdings. As the members' interests order is currently constructed, it does not include heritable property for the purposes of spouses' interests. The committee previously took a decision to level up—I hope members do not mind me using that phrase—or to equalise provisions across those three areas. It would be equally possible to jump the other way and to create equality by taking out the requirement to declare shareholdings, for instance. I merely note that the choice is not all or nothing. Members might have views on that now or at stage 3.

Donald Gorrie: I have not observed in the bill any mechanism whereby the member can induce his or her spouse or whatever to give the required information. If the spouse says, "I am not telling you about gifts or my shareholdings," what do we do? Would they go to jail or would we?

The Convener: Neither—there are no provisions for incarceration in the bill. If a member has not been given the information by their spouse, cohabitant or civil partner, they could not be influenced so, in conjunction with the prejudice text, they cannot be found guilty of an offence.

Stewart Stevenson: I referred at stage 2 to the somewhat analogous financial services legislation, which makes it a criminal offence for either partner to withhold information. In other words, the duty in law falls upon the spouse. This bill does not make that provision, although I suspect that it could do so. I emphasise the words "I suspect", because the Scotland Act 1998 may touch upon that and might prevent the bill from making such provision. Donald Gorrie has made the good point that if we cannot legally oblige a partner, cohabitant or spouse to provide the information, the provision will be a toothless tiger. That is against my favoured position, but it is probably an important point to make.

Linda Fabiani: I am struck by two things. First, a short time ago we discussed the fact that if a member was a creditor or a debtor to somebody else, their business would, in effect, be on the table if we had to register that credit or debt. That person might be a member's spouse or cohabitant. On the other hand, we are saying that there should be privacy for spouses or cohabitants.

The second element relates to what Stewart Stevenson said. If a member knew something but pretended that he or she did not, that could create a big problem at the point at which an investigation would have to kick in. My thinking at the moment is that, sadly, it is necessary for clarity and transparency that a spouse's or a cohabitant's business be registered in some way. As Bill Butler is, I am still a wee bit open-minded. The issue requires parliamentary discussion, as do the other issues that we have discussed, which should come together to create a coherent whole.

The Convener: I do not think that there is a right or a wrong position in this. I will let Susan Deacon come in again in a moment, but if we go down the line of deleting all references to spouses, civil partners and cohabitants, it will be even easier for corrupt politicians to disguise their true financial interests by transferring assets to their spouses, cohabitants or civil partners. It is not an easy choice, especially when the original legislation reflected society at the time and current legislation in other areas reflects society as it is today. We have not quite got to the point of saying that relationships are ephemeral and of so little substance that we should regard everyone as an individual, that we therefore ought to respect individuals' rights and that, where an MSP has a spouse or a cohabitant or a civil partner, we ought

to ignore the potential for financial influence by deliberate transfers. However, I accept that there is an argument on both sides. Whether the information is shared these days is a moot point.

12:15

Susan Deacon: I said that I did not want to reopen the debate today, but I feel duty-bound to make one or two points of substance. In the rather short debate this morning there has been a danger of misrepresenting or placing inappropriate emphasis on the arguments that some of us have deployed on the issue. Perhaps the *Official Report* of the bill committee is a better reference point for that.

Incidentally, I refer members to some eloquent contributions that were made during the stage 1 debate, for example by Alex Fergusson. If members are interested in reflecting on the issues more widely, they should also consider the issues that we have not gone into in detail today.

I am concerned by the convener's reference to a suggestion that the relationship that is under discussion is, in some sense, ephemeral. That is not the intention. Alasdair Morgan and I have made the point that there is a debate to be had about why we single out this specific relationship, because there are many close and enduring relationships that influence us. The suggestion that some of us have made is that, in a world in which men and women are politically, economically and financially active in their own rights, it is somewhat anachronistic to consider the idea of a couple as the bill does.

I subscribe to the view—on which, I think, there is agreement—that if a debate is to be had along these lines, it would be best to have it at stage 3. I think that I have picked up from members around this table that the committee is of the view that it would be appropriate for that debate to be had at that point. I will reflect on that.

The Convener: I did not intend to give any offence when I used the word "ephemeral"; I was trying to draw a distinction between the issue of relationships that are recognised in law, significant changes to which have been made in recent legislation, and the issue of individual rights. If I did so in a cack-handed way, I apologise.

I get the impression that the committee does not wish to instruct me to lodge amendments in relation to the debate that we have just had, but that it would be more than happy for a further debate on the issues to take place at stage 3 if other members want to lodge amendments to that end. Have I read the committee correctly?

Christine May: Absolutely.

Bill Butler: The technical amendments, which—

The Convener: The technical amendments are in the bill now; that is accepted. The point is that we did not have a debate on the amendments relating to the taking out of the bill references to spouses, cohabitants and civil partners.

Bill Butler: I am obliged for that clarification.

The Convener: The bill committee had extensive discussions on overseas visits and the bill was left as it was. As part of that debate, I made a commitment to the bill committee to come to this committee with a view to lodging an amendment that would include the prejudice test. That might be helpful. Furthermore, I made it absolutely clear that the current rules, and the rules that we intend to apply, will ensure that if a member has paid for his or her own travel to go on an overseas visit but has been given accommodation by someone—friend or otherwise—the accommodation costs are not registerable or declarable. How do members feel about that and the introduction of an amendment at stage 3 that would include the prejudice test?

Donald Gorrie: I would have thought that all visits could be included in the category of gifts. Why do we have to go to town on the subject of visits? A gift is a gift.

The Convener: On the face of it, there is much merit in that argument. Why should overseas visits be any different? The downside to including visits is that they would become subject to the de minimis threshold. It would also mean our visits being less transparent, because currently all overseas visits should be registered, unless they qualify under the list of exemptions. There is a certain weight of argument in favour of the point that Donald Gorrie makes, but it is difficult to construct a technical amendment that would give us what he wants without placing an additional burden on members. Already one member has been tripped up by the requirement, because of the need to get information from those who made the gift. We have chosen not to change that provision. The present provision is rather clearer than what is suggested, but I am in members' hands.

Bill Butler: We should keep the requirement to register overseas visits. I accept Donald Gorrie's point about gifts, up to a point. I hope that all members make worthwhile expeditions as members of committees to places as far flung as Brussels. It would be stretching it to say that such visits are gifts, but they are registrable. We should keep the requirement, but I would be happy for us to agree to an amendment that would include the prejudice test. The two provisions are not mutually exclusive.

The Convener: I do not know whether Mike Rumbles or Margaret Jamieson will lodge

amendments again at stage 3. Margaret Jamieson's amendment was in line with what Donald Gorrie has suggested and one of Mike Rumbles's amendments was the same. If members wish to have the debate again, an amendment must be lodged. Do members agree that, on behalf of the committee, I should lodge an amendment that includes the prejudice test?

Members *indicated agreement*.

The Convener: Do members think that the committee should go down the road that Donald Gorrie suggests?

Christine May: No.

The Convener: The next issue for consideration is heritable property and shares. Again, amendments on that were lodged by Margaret Jamieson. I took the view that they were in line with the spirit of what we are trying to achieve and am content with the changes that have been made to the bill. Are other members content with the amendments?

Members *indicated agreement*.

The Convener: We debated the meaning of remuneration. The current situation is that if a member goes to a conference and receives reimbursement of expenses and so on, that is regarded as remuneration. We may need to clarify the rules for our allowances scheme, in order to ensure that members are clear about what could or should be claimed under the members' support allowance, and what the consequences of accepting support from external organisations are.

Susan Deacon, who appears to have left the meeting, did not press her amendment after the debate. One way of addressing the issue could be to reconsider the current threshold of £250. However, she has said that she did not want to go down that route because she felt that if someone paid a member £200 or even £249 for participating in a conference, that should be classed as remuneration. She simply sought clarification about the example of being reimbursed for a £20 train fare. Perhaps that can be dealt with in another way.

If Mr Stevenson has a different suggestion, we should hear it.

Stewart Stevenson: I was merely going to observe that, when we fill out our income tax return, any expenses that we are paid are counted as remuneration. However, on the other side of the balance sheet, the expenses that are necessarily incurred as part of our parliamentary duties also count as an allowable expense. Although the expenses net out at zero, they still have to be declared as remuneration. Perhaps the committee might wish to consider that test when it is thinking about what should be classed as remuneration in the bill.

The Convener: There is also a debate about who should pay. For example, if a member is invited to speak at a conference, it is quite legitimate to ask whether those costs should fall on the public purse or whether they should be settled by the conference organisers. Given that Susan Deacon lodged an amendment to clear up such matters, it might be helpful to seek clarification and guidance on that in a letter to the allowances office and the Scottish Parliamentary Corporate Body.

Stewart Stevenson: It would also be helpful if we did not conflate two separate issues: although there is a need for guidance to clear up confusion about how Parliament's various allowances to members operate, I do not think that that touches directly on the bill or falls within its ambit. However, if a member receives £50 subsistence for attending a conference without having to provide any account of whether the money had been spent, that is unambiguously remuneration and an entirely different matter.

The Convener: The bill is perhaps not the place to address what is a genuine issue, but we need to find an avenue that will allow us to make progress. Given that the SPCB is ultimately responsible for such matters, it would be more a matter for it than for the allowances office. I am more than happy to hear alternative suggestions. As I have said, the bill is perhaps not the best place to deal with the matter, but it is useful that it has been raised.

Christine May: I would be grateful for guidance, if only because I have avoided the issue completely by not claiming anything. Although I am a member of two boards, both of which could reimburse my travel expenses, I do not claim that money, because I am never sure what the rules are, which is wrong. I would be grateful if the SPCB or the allowances office could provide us with guidance on that situation, which is slightly different from receiving remuneration or even being reimbursed for travel expenses if I am invited as a member of the Enterprise and Culture Committee to speak at a conference, for which I receive overnight accommodation or whatever. After we receive that guidance, we might consider whether the committee wants to lodge amendments to test the water.

12:30

The Convener: It is open to members to pursue the matter at stage 3. I am not sure whether we will have a sufficiently speedy response from the corporate body to allow it to be dealt with under the bill.

I will give Susan Deacon the opportunity to speak about the meaning of remuneration. I have suggested that we leave the bill as it is and that

the de minimis approach that is used elsewhere is not appropriate. A member could receive a straightforward £249 fee, which should properly be registered, so the approach proposed by Susan Deacon might not be the best way to proceed. I suggest the alternative approach that the corporate body could consider the general issue and give members guidance on it. As Susan Deacon raised the issue, it is perfectly reasonable to give her the opportunity to respond.

Susan Deacon: At various stages, I have wished that I had not raised it. To be serious, as some—including Christine May—have said, I firmly believe that some issues require clarification, but what might be the correct vehicle to use to do that is for another debate. I thank those who have worked with me in recent weeks to try to find a means, through the bill, to deal with the reimbursement of out-of-pocket expenses. My view is that any payment that is received, be it £5 or £500, should fall to be registered. However, from a commonsense point of view, it is strange that being reimbursed for £20 of train tickets to travel to speak at a conference in Glasgow should require to go on the register.

As the person who raised the issue in the first place, my view in the absence of a technical solution for the bill is that conversation with the corporate body and with allowances staff as necessary should continue through you, convener, or through other means, to provide clarity for us all about what, how and where we should and could claim such expenses and how they should be recorded in the parliamentary system.

The Convener: That could be useful; I suggested that avenue. I take it that members are content with that approach. As I said, it can be argued that when a member speaks at a conference, the conference organiser should pick up the expenses. However, it can also be argued that the member is speaking at the conference only because they are a member of the Parliament. They might then become part of the conference circuit, and might come under the influence of conference organisers. It might be better and in the public interest if they were not under that influence and if the Parliament picked up the costs. On the Parliament's behalf, the corporate body might wish to consider that. I will write to the corporate body on the committee's behalf about the issue, which has arisen in the debate on the bill but might be better resolved by the corporate body considering allowances and giving members guidance on how best to proceed. Are members content with that?

Members *indicated agreement*.

Donald Gorrie: If a conference organiser gives us a lunch, how is that declared? If the Parliament must pay for the lunch, do I have to give a fiver to, say, the heating the home association, and then claim it back here? That would not be too sensible.

The Convener: I seek the committee's guidance. In my view, the provision of a lunch is different from the reimbursement of accommodation and travel costs, on the basis that the lunch could quite genuinely be covered under the existing hospitality arrangements, whereby if someone receives something valued in excess of £250, they must register it. Did I get that right?

Jennifer Smart (Clerk): If an MSP was travelling to a conference and, in the process of that journey, paid for their lunch and was then reimbursed for it, that would be an expense, and it would require to be registered as such.

The Convener: If the organisers provided the lunch at the conference, that is not the same. Unless the lunch costs more than £250, it is not liable to be registered.

Stewart Stevenson: We can dream.

The Convener: Is that reasonably clear? The point is perfectly reasonable, and it is good that that explanation is on the record. I am glad that I got that point right, unlike a previous one.

Bill Butler: I wonder whether we ought to mention two other issues for the record: the use of the Edinburgh accommodation allowance and the recognition of legislative consent motions. I agree entirely with what is in the paper before us.

The Convener: I was not going to mention those subjects today because the discussion on them is already a matter of public record, and the bill committee was quite clear on what it wanted to do with them. I am only raising issues on which there was a division at that committee. The amendment on legislative consent motions was agreed to unanimously; the amendment on the Edinburgh accommodation allowance was disagreed to unanimously. I felt that those matters had been disposed of.

Bill Butler: I am grateful for that clarification and for your putting it on the record again.

The Convener: We move on to gifts and further issues raised at stage 2.

I am not certain whether we need to go as far as Alasdair Morgan suggested. He noted that gifts to a member's spouse, partner or cohabitee currently require to be registered, as well as gifts to a company in which the member has an interest, but not gifts to a company in which the member's spouse has a controlling interest. I understand why he raised that point.

We had a debate—we will probably have another at stage 3—on whether gifts from or the financial interests of spouses, civil partners or cohabitees should be registered. I am in the hands

of the committee. I would be happy enough to lodge an amendment to take care of the point. Transparency would be increased, but I am not sure whether such instances are likely. I am happy to hear members' views—that is why we are here today.

Stewart Stevenson: I have been thinking further on this subject. I suspect that my views have changed. It seems somewhat perverse that something that is in the ownership of a member and which does not fall to be a registrable interest should become registrable simply by dint of its ownership being transferred to someone else, be that a partner, civil partner, cohabitee or another person. If ownership is transferred to someone else of something in which the member already had a registrable interest, the item's transfer perhaps should be registrable. That would entirely remove the need to register as currently framed. I do not often receive a Christmas present worth £250 from my wife.

Bill Butler: Aw.

Stewart Stevenson: I know—it is a shame. She does not often receive a present worth £250 from me, for that matter. Nonetheless, that threshold is dramatically below the level at which something would be a registrable interest in itself. I wonder whether we should step back slightly and look at the whole thing anew. That was the preliminary conclusion that I came to, having thought about the matter.

The Convener: Much as some members might like to stand back, start from scratch and consider the matter anew, we do not have adequate time—unless Stewart Stevenson is suggesting a specific amendment.

Where do we draw the line? Do we include friends? Why are brothers and sisters not included? Why is my favourite uncle not in the bill? A line has to be drawn somewhere. We can have a debate about where it should be drawn, but I think that the proposal would draw the line a little further out than is necessary. It is a perfectly reasonable point, but I am not minded to lodge such an amendment. Perhaps Mr Butler is.

Bill Butler: Certainly not. I always try to support what my convener says. I think that we should stick with the status quo. If Alasdair Morgan wants to lodge an amendment at stage 3, we will have the debate then.

The Convener: Are members content with that?

Members *indicated agreement*.

The Convener: The final item for discussion is the proposed power to amend schedule 1. Again, the matter arose in the debates that we had at stage 2. I think that the Parliament should have the power to modify schedule 1 as it considers necessary or expedient. If members agree, I will lodge an amendment to that effect. It will be similar to the amendment to schedule 2. Such tidying-up exercises will prevent us from having to revisit the primary legislation. I would not wish to inflict that task on any successor committee for some considerable time.

Bill Butler: I think that one visit is enough of a pleasure to be going on with. We cannot expect another bout of pleasure like this. It is sensible for you to lodge the amendment that you suggest.

The Convener: Is that agreed?

Members *indicated agreement*.

Accountability and Governance Inquiry

12:42

The Convener: The Finance Committee has invited us to submit evidence to its inquiry into accountability and governance. Members have our draft response. In addition, the Finance Committee has asked whether we wish to be represented at a seminar on Monday 24 April. I do not think that I have anything to add to our draft written response and I do not propose to attend the seminar. First, are members content with the draft response? Secondly, does any member of the committee wish to attend the seminar?

Donald Gorrie: I think that I will be there as convener of the Procedures Committee. If you want me to be there as a representative of the Standards and Public Appointments Committee, I can do that, although I have no great ambition in that regard.

The Convener: I would not want to deny the opportunity to anybody who wishes to go.

Donald Gorrie: I have a comment on our response to the Finance Committee's third question. The Procedures Committee is recommending

"a measure of independent assessment",

as the draft response says, but we should also refer to the fact that appointing somebody who has to be tremendously independent raises a difficult moral issue and a tricky problem, given that one has some sort of grip on them. However, a sensible suggestion has been made. If committees use the annual reports from the commissioners and ombudsmen as a vehicle for serious questioning, that will allow members to raise issues that concern them without infringing the independence of the commissioners and ombudsmen. I think that that point was made to the Procedures Committee by the Scottish Parliamentary Corporate Body. Committees should have—and should take up—the opportunity to question the commissioners vigorously on the annual reports that they produce.

The Convener: Are you suggesting that we—

Donald Gorrie: We should add a few words about that.

The Convener: Are members content with Donald Gorrie's suggestion that, in our response to the third question, we should add a few words to support the suggestion that the appropriate committee should use the opportunity that is afforded by the annual report of the commissioner or ombudsman to discuss their operations? I am sure that the clerks will find a more appropriate word than "operations", but the wording will be something along those lines. I am happy to include that. Do members agree?

Members *indicated agreement*.

The Convener: Does the committee agree to take up Donald Gorrie's offer to represent us at the seminar?

Members *indicated agreement*.

Donald Gorrie: I do not know whether I can wear one-and-a-half hats at the same meeting.

Christine May: It will be a pleasure to watch you try.

Donald Gorrie: Do you mean that you will be at the seminar as well, representing another committee?

Christine May: No. I will watch you remotely.

Donald Gorrie: I was hoping to get out of it.

The Convener: That completes our business. I thank members for their attendance.

Meeting closed at 12:46.

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