

# **EDUCATION, CULTURE AND SPORT COMMITTEE**

Tuesday 10 December 2002  
(*Afternoon*)

Session 1

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## EDUCATION, CULTURE AND SPORT COMMITTEE

### 32<sup>nd</sup> Meeting 2002, Session 1

#### CONVENER

\*Karen Gillon (Clydesdale) (Lab)

#### DEPUTY CONVENER

\*Cathy Peattie (Falkirk East) (Lab)

#### COMMITTEE MEMBERS

Jackie Baillie (Dumbarton) (Lab)

\*Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD)

\*Irene McGugan (North-East Scotland) (SNP)

\*Mr Brian Monteith (Mid Scotland and Fife) (Con)

\*Michael Russell (South of Scotland) (SNP)

#### COMMITTEE SUBSTITUTES

Murdo Fraser (Mid Scotland and Fife) (Con)

\*Marilyn Livingstone (Kirkcaldy) (Lab)

Fiona McLeod (West of Scotland) (SNP)

\*attended

#### THE FOLLOWING ALSO ATTENDED:

Cathy Jamieson (The Minister for Education and Young People)

Jan Raitt (Scottish Executive Education Department)

#### WITNESSES

Professor Kenneth MacKinnon (Ministerial Advisory Group on Gaelic)

Professor Donald Meek (Ministerial Advisory Group on Gaelic)

#### CLERK TO THE COMMITTEE

Martin Verity

#### SENIOR ASSISTANT CLERK

Susan Duffy

#### ASSISTANT CLERK

Ian Cowan

#### LOCATION

Committee Room 1



## Scottish Parliament

### Education, Culture and Sport Committee

*Tuesday 10 December 2002*

*(Afternoon)*

[THE DEPUTY CONVENER *opened the meeting at 14:00*]

**The Deputy Convener (Cathy Peattie):** Feasgar math. Welcome. The meeting is now open. For the meeting, interpreting facilities have been provided for Gaelic into English and for English into Gaelic. Please ensure that all mobile phones and pagers are turned off.

### Interests

**The Deputy Convener:** We have received apologies from Jackie Baillie. I invite any members to declare whether they are present as committee substitutes.

**Marilyn Livingstone (Kirkcaldy) (Lab):** I am.

**The Deputy Convener:** This is Marilyn Livingstone's first meeting in her capacity as a committee substitute, so I invite her to declare any interests from her entry in the register of members' interests that are relevant to the remit of the committee.

**Marilyn Livingstone:** I should perhaps declare that I am a member of the Educational Institute of Scotland and am currently on a career break from Fife College of Further and Higher Education.

## Gaelic Language (Scotland) Bill: Stage 1

**The Deputy Convener:** Our aim is to take stage 1 evidence on the Gaelic Language (Scotland) Bill. Papers have been circulated to members. We will hear evidence from Professors MacKinnon and Meek, both of whom are members of the ministerial advisory group on Gaelic and members of staff at the department of Celtic and Scottish studies at Edinburgh University. This is the first of four meetings at which we will take oral evidence on the bill. Further evidence sessions will take place on 17 December, 7 January and 14 January.

I remind members that interpretation is available. I invite Professors MacKinnon and Meek to start with a statement.

### An t-Àrd-Ollamh Dòmhnall Meek (Buidheann Comhairleachaidh an Riaghaltais air Gàidhlig):

Tha mi air a bhith nam chathraiche air buidheann comhairleachaidh an Riaghaltais air Gàidhlig fad dà bhliadhna. Mar sin, tha mi air a bhith a' beachdachadh air cuid mhath de na ceistean a bhios a' nochdadh an-diugh. Tha mi an dòchas gu bheil an iomradh sgriobhte agaibh a chuir mi fo ur comhair. Tha a' bhileag sin, a tha ag innse nan co-dhùnaidhean a rinn a' bhuidheann air a' bhile air a bheil a' chomataidh a' beachdachadh an-diugh, a' toirt dealbh air na h-argamaidean a rinn sinn a thaobh a' bhile. Tha mi an dòchas gu bheil iad soilleir, agus bhithinn toilichte ceist sam bith a fhreagairt a shoilleireachadh na bileig sin.

*Following is the simultaneous interpretation:*

I have been the chairman of the Executive's ministerial advisory group on Gaelic for two years and have therefore been considering many of the questions that will arise today. I have made a written submission, of which I hope members have copies. It explains how the group made decisions with regard to the bill, and it will give you an idea of the arguments surrounding the bill. I hope that the submission is clear, and I would be happy to answer any questions to clarify it.

**The Deputy Convener:** Thank you.

Professor MacKinnon, would you like to comment?

### An t-Àrd-Ollamh Coinneach MacFhionghuin (Buidheann Comhairleachaidh an Riaghaltais air Gàidhlig):

Tha mi glè thoilichte a bhith an seo an-diugh gu bhith a' bruidhinn air a' bhile. Bha mi a' deasachadh fianais a chaidh a chuartheadh cheana. Is dòcha gum bi mi ag eadar-mhìneachadh nas motha air sin anns a' Bheurla. Tha an iomradh sgriobhte anns a' Bheurla agus bheir mi mìneachadh anns a' Bheurla cuideachd.

*Following is the simultaneous interpretation:*

I am happy to be here today to talk about the matter that is before the committee. I prepared written evidence, which has already been circulated, so members should have copies. It is written in English, so I shall give my evidence today in English.

*Professor MacKinnon continued in English.*

I have tried in my statement to express the view that, to some extent, we have in fact been recognising Gaelic for many years; it has been recognised in legislation of various sorts and it has been recognised by a previous UK Conservative Administration. I have submitted in evidence letters that state quite explicitly that that Administration regarded Gaelic as having equal validity to English. Those letters state that specific legislation was necessary in Wales to bring about equal validity for Welsh, but the equal status of Gaelic in Scotland had never been removed by legislation.

Despite the fact that there are clear indications of abundant official recognition for Gaelic, to which I have referred in my written statement, it is the case that, because there has been no legislation for Gaelic as there has been for Welsh—which was necessary for specific reasons—the public do not see Gaelic as having the same status as English has in Scotland. That should be challenged. When some measure of recognition was recently given to the Cornish language, by the signing of the European charter on regional and minority languages in respect of Cornish, we saw that move being hailed as official recognition. Such recognition has been quite readily forthcoming for Gaelic since last year, and that should have made the matter abundantly clear, but it is my view that we need a bill and that such a bill is urgently needed.

The new board that will supersede the ministerial advisory group on Gaelic will commence its activities presently. If the board is to achieve more than its non-officially recognised predecessors, such as Comunn na Gàidhlig and An Comunn Gaidhealach, legislation is necessary to help give it status, authority and teeth. All we need in Scotland at this stage is a simple measure that states merely that Gaelic is recognised as one of the national languages of Scotland—we need go no further than that. Such an act would have no financial implications for the Executive and would have no coercive effect on anybody. Instead, it would merely state the intention of the powers that be in respect of giving Gaelic proper, full and equal recognition, which is the purpose of the bill.

I feel that Gaelic legislation might also recognise that there is a new board for Gaelic and that its function is to provide language planning for Gaelic. At this stage or at any other stage, we do not need to zone Scotland because that might be counter-

productive. MAGOG and the people who have worked to achieve such a bill, believe that a measure in support of Gaelic should apply not so much to territory or zones, but to people, networks, communities and organisations. They believe that progress can be achieved through co-operation and using consensual means through which a language plan can be negotiated from the grass roots up, rather than imposed from the top down. A simple measure in that spirit—

**The Deputy Convener:** I am keen that members ask questions, so will you wind up quickly?

**Professor MacKinnon:** This is my last sentence. A simple measure on those terms should meet with support from all sides and could easily be fitted into the legislative slots that are available in the current parliamentary session. I hope sincerely that that will be achieved.

**Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD):** Just for the record—as some of the information is in your written submission—can you give examples of how Gaelic has been discriminated against through the lack of clarity about its being one of the national languages?

**Professor MacKinnon:** I referred to the recent application to the National Lottery for assistance to playgroups that was being afforded to English-language playgroups. The application was turned down with the specific explanation that Gaelic is not an official language. That was wrong and such decisions should be challenged. Simple legislation would eradicate such problems.

British Telecom has also resisted providing facilities for Gaelic. One can go into a telephone booth in a railway station in Scotland and press a button for the Welsh language, but there is no button for Gaelic. Why? It is, according to BT, because Welsh is an official language. That is not true, however: Welsh merely has equal validity in Wales, which I support. I support likewise the provision of facilities in other languages including our languages in Scotland.

**Ian Jenkins:** Absolutely. You make a strong case, which is almost unanswerable. Your ultimate point in your oral and written evidence is that we do not need paraphernalia and a big apparatus to effect the change that will give that status to the language.

**Professor MacKinnon:** Precisely so.

**Michael Russell (South of Scotland) (SNP):** Although I am the promoter of the bill, I am allowed to sit as a member of the committee. I am wearing two hats, but I understand from the clerks that that is in order.

I start with the issue of Executive action and Professor Meek's written submission. In paragraph 4 of your submission, you say:

"In the summer of 2002, the MAGOG presented the Minister for Gaelic, Mike Watson MSP, with a draft Language Bill for Scotland".

MAGOG no longer exists, of course, but have you had any indication of when Mike Watson intends to introduce that bill?

14:15

**An t-Àrd-Ollamh Meek:** Chan eil fhios againn an-dràsta cuin a bhios am ministear a' toirt a' bhile sin air adhart. Cha tuit e rinne fhathast gun robh e a' dol a dhèanamh sin gu cinnteach, ach tha mi a' cluinntinn fathannan gu bheil am ministear airson gluasad le lagh a bheir dìon don Ghàidhlig, madh'fhaidte anns an ath Phàrlamaid. Mar a tha mise a' tuigsinn an t-suidheachaidh, chan eil ni sam bith idir cinnteach.

Tha an tarraing seo a rinn sinn dhan mhinistear as t-samhradh seo chaidh fa chomhair an-dràsta. Rinn sinn soilleir dha gur e cothrom math, math a tha ann bhon a tha am bòrd ga stèidheachadh an-dràsta. Nam bheachd-sa, bhon a bhios am bòrd ann an suidheachadh sònraichte a chionn 's gum bi e na NDPB, feumaidh am bòrd bunait anns an lagh fhaighinn ann an dòigh air choreigin. Bhiodh e fìor mhath an cothrom a ghabhail air bunait laghail a thoirt don Ghàidhlig anns an t-saoghal ùr seo. Tha an cothrom ann, agus tha mi an dòchas nach caill an Riaghaltas an cothrom sin, ach chan eil fhios agam an-dràsta gu cinnteach dè a tha nam beachd.

*Following is the simultaneous interpretation:*

At the moment, we do not know when the minister will introduce that bill; he has not yet told us that he will definitely do so. However, I hear on the grapevine that the minister is willing to introduce a bill to give Gaelic secure status, perhaps in the next session of Parliament. As I understand the situation just now, nothing is sure.

The minister currently has before him the report that we produced during the summer, which makes it clear that the setting up of bòrd Gàidhlig na h-Alba provides us with an excellent opportunity. In my opinion, as that board will be in the special situation of being a non-departmental public body, it is fundamental that it has a statutory basis. We must take this opportunity to give Gaelic legal status in this new world. Such an opportunity exists and I hope that the Executive will not lose that opportunity. However, I cannot say just now what the Executive is thinking.

**Michael Russell:** Your paper suggests that MAGOG has advocated

"that the Scottish Executive should take ownership of the slot of the Russell Bill, and bring forward its own Bill on the lines suggested by the Group."

I have two questions about that. There was an expectation in the MAGOG report that the report

would be laid before Parliament and debated by Parliament. Have you received any indication of when that will happen?

**An t-Àrd-Ollamh Meek:** Cha chuala mise nì mu dheidhinn sin. Chan eil fhios agam cuin—

*Following is the simultaneous interpretation:*

I have not heard anything about that. I do not know when—

**Michael Russell:** I am sorry. For the record, that was a suggestion in your report, was it not?

**Professor Meek:** Yes. However, as I emphasised in my Gaelic answer, we have not received any indication that that will happen.

*Professor Meek continued in Gaelic.*

Chan eil fios sam bith againn am bi an aithisg air a deasbad anns a' Phàrlamaid.

*Following is the simultaneous interpretation:*

I have had no indication that that report will be debated in Parliament.

**Michael Russell:** As Professor Meek knows, I asked a parliamentary question on that matter. The reply, which the professor has seen, was that the Executive had no intention of having such a debate.

We are in now in a situation in which the Parliament is dealing at stage 1 with a bill that seeks in its first section to achieve secure status for Gaelic and makes some other recommendations about what secure status might mean.

The written submissions of Professor Meek and Professor MacKinnon refer to zoning. As I have said to both witnesses on several occasions, I am open to amendments on every aspect of the bill, including geographical zoning, which is in the bill only because I was advised that the Executive would wish it to be in the bill. It was my foolishness to listen to that advice.

The possibility also exists of including bòrd Gàidhlig na h-Alba in the bill. Although I would like a consensual approach, I believe that some sanctions are required, but I am happy to examine the matter. The sanctions in the bill as drafted are not punitive—they would name and shame rather than punish. Given those circumstances, do the witnesses believe that the bill as drafted could be amended so that it could become legislation that would satisfy them and address their objections?

**An t-Àrd-Ollamh Meek:** Tha mise a' smaoinneachadh gum faod e a bhith gun rachadh agaibh air a' bhile atharrachadh an leithid a dhòigh 's gum biodh e a' sàsachadh na bha daoine a' miannachadh. Mar a tha mise a' faicinn an t-suidheachaidh, tha a' bhile seo againn agus chan

eil bile eile againn, cho fad 's is fhiosrach mise. Mar sin, tha cothrom aig a' chomataidh am bile atharrachadh ann an dòigh a fhreagradh air suidheachadh na Gàidhlig agus a bheireadh fa-near cuideachd gun robh bòrd Gàidhlig na h-Alba a-nis air a stèidheachadh.

Nuair a bha Micheal Ruiseal a' cruthachadh a' bhile, bha iomadh rud ann a bha mì-chinnteach. Cha robh an t-slighe air adhart soilleir an uair sin, ach tha e soilleir a-nis. Nam biodh co-bhanntachd air choreigin eadar a' bhile mar a rinneadh agus na tha sinne a' moladh don Riaghaltas ann an leithid a dhòigh 's gun gabhadh an dà rud cur còmhla agus am bile air atharrachadh a rèir na tha sinn ag iarraidh, is dòcha gun toireadh a' mhòr-chuid de dhaoine an taic dha.

*Following is the simultaneous interpretation:*

I think that the bill could be amended in such a way that it would satisfy our desires. The Gaelic Language (Scotland) Bill is before the Parliament and there is currently no other Gaelic bill, as far as I am aware. We have the opportunity to amend the bill in a way that would make the best of the situation and that would recognise the establishment of bòrd Gàidhlig na h-Alba.

When the bill was being drafted, many things were unclear; the way ahead was not clear, but it is now. If the bill and our proposals to the Executive could be combined so that the two things were knitted together and the bill amended as we suggest, most people would probably support Michael Russell's bill.

**An t-Àrd-Ollamh MacFhionghuin:** Tha mi ag aontachadh le sin. Nam bheachd fhèin, is urrainn dhuinn anns a' Phàrlamaid bile airson Gàidhlig a stèidheachadh agus a chur air leabhar nan lagh. A bharrachd air sin, mar a bha mi a' mìneachadh anns a' Bheurla, tionndaidh mi don chànan sin a-rithist.

*Following is the simultaneous interpretation:*

I agree. I feel that the Scottish Parliament could put on the statute book an act that would support Gaelic. Let me give some further information on that in English.

*Professor MacKinnon continued in English.*

The technicalities of the bill are obviously beyond my particular specialist expertise, which is in what I describe as language planning and development. However, it seems to me to be abundantly possible that the bill could be amended so that it provided recognition for the Gaelic language while keeping the wording and spirit of the bill. Perhaps the section of the bill that deals with the Scottish Public Services Ombudsman could be replaced with something that recognised the coming into being of bòrd Gàidhlig na h-Alba as the competent authority for Gaelic.

The bit about zoning could be dropped from the bill. Although such a change might seem to be a fairly substantial amendment, the spirit of the legislation would still be preserved, because the bill need only recognise Gaelic and the new Gaelic board. If the Executive could extend its good will in equal measure to that which is shown by Michael Russell's willingness to accept amendments—there should be abundant good will at this season of the year—the amendments could be taken on board so that we have a bill that all sides could support. That is my Christmas wish for Santa.

**The Deputy Convener:** I am into abundant good will.

**Michael Russell:** In the spirit of peace on earth and of committee members not talking too much, I will make my final point. I am happy to commit myself to substantial changes to the bill. After all, the bill had to be produced without any civil service support, although I received the excellent support of the Parliament's hard-pressed lawyers in the non-Executive bills unit.

As I understand it, the general principle of the bill is the achievement of secure status for Gaelic. The committee is inquiring into the general principles of the bill rather than into the detail of the bill, which would come at stage 2. I hope that our two distinguished witnesses, with their long history in the subject, will endorse the desire to have the general principle achieved, which is the provision of secure status for Gaelic. It would help the committee greatly if they would so indicate.

**Professor Meek:** On this occasion, I will respond in English. We want to affirm the spirit of the bill—the ministerial advisory group on Gaelic most certainly did. We also recognise where the bill is moving in terms of securing the status of Gaelic and giving equality to the language. We need to ask public bodies to recognise and use the language and to bring forward plans for the use of Gaelic in public life. When MAGOG existed, it recognised that that was very important. Our draft bill, which we laid before the minister, recognised that there would be a need for public bodies to co-operate with the new board for Gaelic. We are travelling along similar lines.

It is simply the expression in the bill that is before us that is quite different from what was in our simple clear bill, which advocated that bòrd Gàidhlig na h-Alba be empowered. Our bill called for the board to be given the necessary powers to deal with Gaelic for the whole of Scotland and to negotiate with public bodies, but to do so with great sensitivity, given the varying cultural complexions of our nation.

**An t-Àrd-Ollamh MacFhionghuin:** Tha mi ag aontachadh le sin gu mòr. A bharrachd air sin, tha mi a' smaoinachadh gu bheil sinn uile, air gach



taobh, a' dlùthachadh ri chèile air na prionnsabalan seo. Tha mi an earbsa gum bi sinn a' coimhead air adhart ri bhith faicinn an còrdadh sin a' tighinn gu buil a dh'aithghearr.

*Following is the simultaneous interpretation:*

I agree greatly with that. I add that all of us, on every side, agree on the fundamental principles. I trust the members of the committee, and look forward to our working together so that the bill comes to fruition soon.

**Mr Brian Monteith (Mid Scotland and Fife) (Con):** As a member of the committee who supports the bill in principle, I say that what I have heard so far about secure status has been fairly philosophical and theoretical. It strikes me that much of the difficulty with introducing such a bill in the past lay in pinning down what its enactment would mean in practice. It is not so much a matter of determining what we would like.

I ask both witnesses what they believe giving Gaelic official status through the bill would mean. Professor MacKinnon mentions "enablement" in his written submission. Would that mean that somebody who was arrested could insist that their police interview be conducted in Gaelic? Would it mean that somebody who went to a welfare or benefit agency could insist on writing applications or completing forms in Gaelic? Would it mean that members of a community could insist—whether or not Gaelic speakers were in the majority—that the local signage in their town or village should be bilingual? Those are the things that we need to pin down, so that those of us who want to support the bill at later stages can get the answers as to what the status of the language will mean in practice.

**Professor MacKinnon:** That is really a Gaelic variant of the West Lothian question. There are fears along those lines—such scenarios have been outlined. Let us consider other countries where there is similar legislation—Switzerland is our nearest example. A community of 50,000 people speaks a distinctly Swiss language and has been given full rights and recognition, but there seem to have been no particular societal dislocations in Switzerland as a result of that.

We already have courts of law in Scotland that are prepared to function through the use of Gaelic. If somebody were to insist upon the use of Gaelic, I dare say that arrangements could be made to accommodate that. Way back in 1970, the then Secretary of State for Scotland, Gordon Campbell, said that he was not aware of any difficulties but, if there were people who insisted on using Gaelic, they would be able to do so. In practice, I do not think that that is the problem in courts of law. There have not been problems with, for example, a stropky person insisting on various statutory rights just for the sake of it and in order to ease

their own predicament—but perhaps worsening it as a result.

However, there have been circumstances in which people whose natural language is Gaelic have felt that they must speak in English because they were in a court of law. Such witnesses might have been better communicating in Gaelic, but people need to feel that they could do so without feeling some sense of stigma or shame, which is still attached in some parts to the use of Gaelic. In other words, people can still sometimes feel that they are one down, or not quite so educated, if they speak in Gaelic.

Street signage has been a subject in which bogeymen have appeared in the past. There are many examples of bilingual street signage in Scotland, which does not seem to have caused a great deal of fluster.

**Michael Russell:** Not many of them are correct.

14:30

**Professor MacKinnon:** That is right. I do not think much of some of the signage. If you compare the number of motor accidents in the Republic of Ireland and similar countries that have bilingual signage with that in countries that have no bilingual signage, such as the north of Ireland, you would see that there are fewer accidents in countries such as the Republic. A case could be made out on safety grounds.

When we talk about secure status, we are not implying that there will be blanket coverage by 1 April next year. We are talking about moving towards a new policy under which in certain circumstances the changes will come about bilingually but in other circumstances provision will be made for Gaelic. We do not think that the policy needs to be coercive.

The experience in Wales was that commercial and public organisations asked the Welsh Language Board what it would like them to do. The Welsh Language Board then asked how those organisations saw themselves making provision for the Welsh language in their work and business. The organisations came back with, "We would be able to do this and it would be a good thing for us to do that." From that start, a language plan was negotiated between those organisations and a body that existed to negotiate, enable, help and provide facilities rather than to enforce, punish or insist. That shows a completely different spirit.

Although there are many models of language planning throughout the world that we can draw on, Wales, which is one of our closest neighbours, is quite a good model for us. MAGOG went to Cardiff and spent some time with the board to see how it went about its work. We then invited

representatives of the board to Scotland and continued the discussions.

I hope that gives some sort of an answer.

**An t-Àrd-Ollamh Meek:** Freagraidh mi anns a' Ghàidhlig a-rithist. Tha mi a' smaoinichadh gu bheil iomadh taobh air a' cheist seo. Tha mo charaid air beachdachadh air an dòigh anns am faodadh achd Gàidhlig no inbhe thèarainte a bhith air am mìneachadh a thaobh soighnichean rathaid agus rudan den t-seòrsa sin.

Os cionn uile, tha sinn ag iarraidh puing anns an lagh a bheireadh seasmhachd don Gàidhlig. Tha an saoghal poileataigeach anabarrach caochlaideach. Tha e ag atharrachadh gu math luath uaireannan. Bha dà mhinistear againn am feadh 's a bha sinn ag obair air a' bhuidheann comhairleachaidh. Dh'fhalbh a' chiad fhear agus thàinig an dàrna fear. Tha sin a' tachairt do Riaghaltasan cuideachd. Tha thu buailteach a bhith a' call a h-uile uair a tha atharrachadh ann. Feumaidh tu tòiseachadh a-rithist is a-rithist agus cumail ort a' sìor-chur nan seann chathan.

Ge bith dè am mìneachadh beag a thig a-mach aig a' cheann thall, tha sinne ag iarraidh gum bi bunait ann nach bi ag atharrachadh a rèir cò an Riaghaltas no dè am buidheann a tha an sàs. Tha sinn ag iarraidh seasmhachd don Ghàidhlig airson na linn air thoiseach. Ma bhios sin ann, bidh bòrd na Gàidhlig a' gabhail gnothaich ris na mion-phuingean a tha a' cur an eagal air daoine, mar soighnichean rathaid.

Is e airgead an aon bhunait a tha aig an eagal sin. Dè a tha e dol a chosg a bhith a' togail shoighnichean rathaid agus ag atharrachadh siud agus seo? Is e ceist an airgid as motha a chuireas an t-eagal air daoine an-diugh; chan e ceist cànan. Cha chosgadh an seòrsa bile a bha a' bhuidheann comhairleachaidh a' toirt air aghaidh cha mhòr sgillinn dhan Riaghaltas. Bha e dìreach a' dol a thoirt neart do bhòrd na Gàidhlig agus an uair sin inbhe thèarainte don Ghàidhlig cuideachd.

*Following is the simultaneous interpretation:*

There are many facets to that question. My friend, Ken MacKinnon, has thought about the ways in which a Gaelic act or secure status could be implemented, for example with regard to road signs.

Above everything else, we are looking for something in law that will make Gaelic strong. Politics is a changeable world that can change very quickly at times. While we were working with MAGOG, we had to deal with two different ministers—such things happen within the Executive and the Government. However, people who work with a minority language are likely to lose every time that such changes are made—we have to start again, to persevere and to struggle

on. Whatever small changes are made by the bill, or whatever definitions are included in it, we are looking for a foundation that will not change depending on who is in charge in the Executive. We are looking for security for the generations to come. If that security is in place, bòrd Gàidhlig na h-Alba can be involved in minor points, such as bilingual signage.

Everyone is scared of the financial aspect, such as how much it will cost to change to bilingual signs. The financial question, rather than the language question, will scare more people off. The ministerial advisory group was looking for a bill that would not cost the Executive a penny; the bill we were looking for would simply give some strength and power to bòrd Gàidhlig na h-Alba in order to give Gaelic secure status.

**Mr Monteith:** My next question is shorter. Your written submission mentions three areas in which you believe the bill is deficient: zoning; the responsibility that has been given to the ombudsman; and the element of coercion. Both Professor MacKinnon and you covered zoning and the ombudsman, but could you say more about the element of coercion in the bill that concerns you?

**Professor Meek:** Our feeling is that when legislation comes in, it must have sufficient carrot to make it attractive. Public bodies need to know what is to be gained positively from the use of Gaelic. Work still has to be done on that. Public bodies could use Gaelic effectively in advertising themselves, proclaiming Scotland abroad and widening the appeal of Scotland. Bilingualism must have benefits that can be made clear to public bodies. Our feeling is that one could positivise public bodies much more clearly by approaching them through a language board and showing them what could be done, and what is necessary, rather than the law laying an imposition on them for which they may be accountable on a name-and-shame basis. That is where we dissent from the tenor and the text of the bill.

**Professor MacKinnon:** There is a lot of good will for the Gaelic language among voluntary organisations and commercial organisations and there are one or two examples of public authorities—on both sides of the zone that the bill proposes, as it happens—that have already made their own local plans and policies for Gaelic.

Members might know that I have been involved fairly recently in doing research and providing a report for the Government Office for the South West about Cornish. My report has been adopted and was material in leading the Government to sign the European Charter for Regional or Minority Languages with regard to Cornish. Notwithstanding that, and even though developments in Cornish are nowhere near what

they are in Gaelic, a number of commercial organisations have been pleased to use Cornish on bilingual signage because they see it as a way of showing good will. We can certainly benefit from and draw upon such reserves of good will if we approach the issue in that manner. For that reason, I agree with my colleague, Professor Meek, about the approach that we should take. Nevertheless, the bill is a vehicle that could readily be amended into a measure that would be able to carry that spirit into legislative effect. I wish Mike Russell and his parliamentary colleagues well in seeking to bring that about.

**Irene McGugan (North-East Scotland) (SNP):**

Professor MacKinnon mentioned the European Charter for Regional or Minority Languages. Gaelic was ratified under part III of the charter by the UK Government, which I suspect is not widely known. I also suspect that the obligations that the charter places on the UK Government are even less well known. Further, I suggest that that is because the UK Government has done little about the obligations that have been placed on it. Would you like to explain to the committee what should be happening for Gaelic and what potential there might be for the bill to add to and link into that?

**Professor MacKinnon:** Since the charter is an international treaty, the UK Government—strangely enough—signed up to it for Gaelic. As I mentioned, the UK Government also signed up to part II of the charter for Cornish, which merely gave Cornish support and recognition. The Government has to sign up to quite a detailed schedule, almost like ticking boxes, for Gaelic in primary schools, Gaelic in evidence in courts of law, Gaelic on the radio and so on. I think that there are about 35 boxes to tick and all have to be ticked before a Government can qualify under part III. The idea behind that was that, having ticked the boxes, a Government would not retreat from that position.

A committee of experts has been constituted under the charter, which is a Council of Europe measure and an international treaty. An annual review is conducted into what is going on within each member state with regard to the measures that the member state has agreed to provide, maintain or see carried out. The member state Government will receive a report from the committee of experts that draws attention to any shortcomings and requests that the Government does something about them. That has started to happen elsewhere and will happen in the UK if there is any backsliding on what has been promised. That mechanism is similar to the ombudsman mechanism that is envisaged in the bill.

**An t-Àrd-Ollamh Meek:** Chan eil mòran agamsa ri ràdh air a' cheist sin. A thaobh

cùmhnannt nam mion-chànanan a tha a' tighinn oirnn bhon Roinn Eòrpa, tha mi smaoinichadh gum faic sinn, ann an ùine ghoirid nuair a chì sinn an ciad sgrùdadh, dìreach dè a rinn Riaghaltas Bhreatainn a thaobh na Gàidhlig. Faodaidh e a bhith nach do rinn an Riaghaltas mòran idir.

Is e mo bheachd fhìn gu bheil rudan ann mar-thà a tha daoine a' dèanamh ach cha deach an làn chothrom a ghabhail a thaobh cùmhnannt nam mion-chànanan an Roinn Eòrpa. Bidh e gu math tlachdmhor—mas e sin am facal ceart—a bhith a' faicinn dè a dh'innseas an Roinn Eòrpa dhuinn agus dè na beàrran a chì iad nuair a bhios an ciad sgrùdadh deiseil. Bheir sin tuilleadh seòladh dhuinn a thaobh dè a tha dhith oirnn a thaobh na Gàidhlig ann an Albainn.

*Following is the simultaneous interpretation:*

I do not have much to say in reply to that question. The work that is done in relation to the charter will show us what the British Government has done. I think that that work will show that the Government has done little. Some things have been done, but I think that certain opportunities have not been exploited with regard to what can be done for minority languages. I would be happy if the annual review were to highlight the gaps in the Government's policy and allow us to see what is missing in Scotland.

**Irene McGugan:** I take it from your answers that you do not rely on the European charter to provide everything that Gaelic needs and that you believe that there has to be legislation in Scotland to secure its future.

**Professor MacKinnon:** I would say that legislation is urgent.

**Professor Meek:** I do not think that we can depend on the charter and similar measures. Individual responsibilities have to be picked up and buck-passing cannot be allowed. I am looking forward to the first detailed scrutiny of what is being honoured under the charter and to what the inspector has to say after he has visited all the various schools and public bodies that are supposed to be doing things.

**Ian Jenkins:** Earlier, you seemed to agree with me that there was no need for big, legalistic paraphernalia—you suggested that you sought something fairly simple. I was worried about coercion and the financial and administrative difficulties that Brian Monteith talked about. Where might there be a balance? I have said before—to Michael Russell's disgust—that I am uncertain about the idea of secure status for Gaelic, partly because of what the implications might be. I know that Brian Monteith explored that earlier, but I am still not certain whether someone in a benefits office, for example, would be required to have translators brought in quickly and so on.

14:45

**Professor MacKinnon:** I might not have dealt adequately with that question when it was lobbed at me. I imagine that, in an area with quite a number of Gaelic speakers, people speak Gaelic in benefits offices anyway. Such research as I have conducted in Gaelic communities suggests that. Elsewhere, Gaelic speakers might not be so thick on the ground; we find that Gaelic speakers in those areas are, in effect, bilingual. Most are happy to use either language.

The problem that Gaelic speakers describe is not, "I went down to the benefits office and the staff would not let me speak Gaelic," but, "I was happy to speak English and my English is as good as anybody else's, so I can well speak English in a benefits office, but as a Gaelic speaker, I would like my taxation to be spent, sometimes, on the cultural infrastructure"—although the average crofter might not use that expression.

We should have Gaelic programmes on television. We do not yet have an all-day Gaelic radio station. We like it when the Gaelic theatre group comes round. In a free, equal and open Scotland, we want the Gaelic language to have recognition and support. We want support for the language in our media, our public life and our schools. We want the Gaelic language to be present in our social environment. Demands are being made about those matters; they are not made about pedantic and legalistic matters, such as someone who is drunk insisting on speaking Gaelic in a court of law, or someone else saying, "I am going to the benefits office to argue my case and they had better let me pour it all out in Gaelic." In practice, such incidents do not happen often. People are demanding support, facilities and recognition for the language—they are not raising legalistic and officialistic matters.

**Michael Russell:** It is important that people understand that we have lived for many generations in a society that has actively and passively prevented the use of Gaelic. Perhaps legislation will redress that balance, rather than doing anything else or forcing people to do things. I will ask a simple question about urgency. Kenneth MacKinnon used that word and Donald Meek has used it in the past. What is the urgency of the matter? What are the stark facts of language decline in Scotland?

**An t-Àrd-Ollamh Meek:** Tha feum againn ri bile a chur an sàs cho luath 's a ghabhas airson iomadh adhbhar. Tha an cothrom againn an-dràsta sin a dhèanamh is bòrd na Gàidhlig ga stèidheachadh. Chan aithne dhòmhsa àm nas freagarraiche na sin. Ma chailleas sinn an cothrom, cha bhi e furasta cothrom eile da leithid fhaighinn—cha bhi e ann rim mhaireann-sa co-dhiù.

Mar sin, tha adhbhar ann airson cabhaig. Feumaidh sinn gluasad agus seo a dhèanamh gu luath. A thaobh cor na Gàidhlig fhèin, tha dà rud ann a tha cudthromach. Tha daoine anns na h-eileanan agus anns gach àite far a bheil a' Ghàidhlig ga labhairt air feadh Alba a' call am misneachd a chionn 's gu bheil an Riaghaltas air uiread a dh'ùine a chur seachad a' deasbad mun Ghàidhlig, gun a bhith a' dèanamh mòran as fhiach.

Bha am buidheann againn fàd dà bhliadhna air an t-slighe gu bòrd na Gàidhlig, agus bha aithisg eile ann roimhe sin a mhair co-dhiù bliadhna a thaobh a cuid rannsachaidh. Tha an ùine a' dol seachad agus tha daoine a' call am misneachd. Feumaidh sinn gluasad airson misneachd an t-sluaigh a chumail. Sin adhbhar airson cabhaig.

Cuideachd, tha àireamh an t-sluaigh a tha a' bruidhinn na Gàidhlig a' sìor-lùghdachadh, gu h-àraid anns na h-Eileanan an Iar. Tha feum againn air lagh a chuireas dìon air a' Ghàidhlig ann an leithid a dhòigh 's gum bi cothroman ann a' Ghàidhlig a theagasg air feadh na dùthcha feuch an dèan sinn adhartas ann a bhith ag ùrachadh stoc labhairt a' chànan. Tha cabhaig air gach làimh. Chan eil e gu diofar dè an taobh a sheallas tu, tha an ùine a' ruith.

A' tilleadh chun a' ciad phuuing a rinn mi, tha cothrom ann le stèidheachadh bòrd na Gàidhlig. Tha ùine mhòr—bliadhnachan—air an cur seachad a' sgrìobhadh aithisgean. Tha sinn sgith de dh'aithisgean ann an saoghal na Gàidhlig; tha sinn ag iarraidh gnìomh a-nis. Is e bòrd na Gàidhlig an ciad ghnìomh, ach is e achd Gàidhlig a bu chòir a bhith ann còmhla ris.

*Following is the simultaneous interpretation:*

We must get a bill started as soon as possible, for many reasons. We have an opportunity to do so, because the Gaelic board is being established. I cannot think of a more opportune time. If we lose this opportunity, it will not be easy to get another—I do not think that we will have one while I am around.

We must move fast. Two issues are important to the state of Gaelic. People in the islands and in every place throughout Scotland where Gaelic is spoken are losing confidence, because the Government has spent so much time debating Gaelic without doing anything of much importance. Our group was two years en route to the Gaelic board, prior to which there was another report, which was produced after some research. Time is going by and people are losing heart. We must move fast so that we keep people's support and sustain momentum.

The number of Gaelic speakers is declining, especially in the Western Isles. We need secure provision for Gaelic to be taught throughout the

country so that we can make developments in renewing spoken Gaelic. We are in a hurry. It does not matter how we look at the matter—time is passing and we must move on.

I return to my first point, which is that the establishment of the Gaelic board will give us an opportunity. We have spent years writing reports, but we are tired of reports. We now want a Gaelic board, but we should have a Gaelic act to support that.

**An t-Àrd-Ollamh MacFhionghuin:** Tha e glè fhlòr gu bheil na Gaidheil a' call misneachd. Anns na coimhearsnachdan, anns na teaghlaichean agus eadar na ginealaichean, tha sinn a' faicinn, a chionn 's nach eil mòran air taobh a-muigh na coimhearsnachd no air taobh a-muigh na dachaigh a' cur Gàidhlig air adhart, gu bheil daoine a' smaoinèachadh nach eil e gu diofar agus nach eil mòran suim ann a bhith a' bruidhinn na Gàidhlig agus a' togail cloinne anns a' chàinain.

Tionndaidh mi ris na mion-phuingean teicnigeach anns a' Bheurla.

*Following is the simultaneous interpretation:*

We are well aware that Gaels are losing confidence in the language. People say that it does not matter whether they speak Gaelic. We are tired of hearing that.

I will speak about the more technical points in English.

*Professor MacKinnon continued in English.*

One of the foremost of the new board's many priorities will be to raise consciousness about the fact that things have changed. I am sure that there is a great deal of latent support for Gaelic in various respects. I will not weary members with information about my investigations into the matter in Gaelic-speaking communities and among Gaelic speakers throughout Scotland, because many papers and publications deal with that. If we show abundant evidence that there is a new start and that people and the authorities care about Gaelic, that will release, I think, the latent desire to function in Gaelic in the home, the community and elsewhere.

Joe Lo Bianco, whom the committee quoted in its report, said that a country that does not have a language policy has, in fact, a covert language policy of letting minority languages die out. The eventual act and the new board will show that we care about Gaelic in Scotland. Gaelic speakers will respond to that in like measure.

**The Deputy Convener:** Thank you, Professor MacKinnon and Professor Meek. We will have three more evidence sessions on the bill. I am delighted to announce that Irene McGugan's report on Scotland's languages will be translated

into seven languages. I hope that the Education, Culture and Sport Committee can push forward a realistic language policy in Scotland.

**Mr Monteith:** Is that a new announcement?

**The Convener (Karen Gillon):** I shall clarify the position. This morning, the Scottish Parliamentary Corporate Body met and agreed to our submission that the languages report should be published in full in the languages that we requested.

**Mr Monteith:** Thank you for that clarification.

## Protection of Children (Scotland) Bill: Stage 2

**The Convener:** Item 2 is consideration of the Protection of Children (Scotland) Bill.

**Michael Russell:** Given that the principal amendments, on which my amendments on today's marshalled list depend, were dealt with at our meeting last week, I seek the committee's leave to withdraw all the amendments that are in my name. I would prefer to do that rather than bore the committee by not moving each amendment individually. The problem is not that doing that would be a bore, but I am sure that it would be more efficient for me to withdraw all the amendments, if I am at liberty to do so. I thought that my amendments were right, but the committee seemed otherwise minded.

**The Convener:** The advice that I have received is that the amendments cannot be withdrawn at this stage but must be not moved. Unfortunately, we will need to go through the process of asking the question and not moving, but I thank Michael Russell for that clarification.

**Michael Russell:** I am always happy to help the committee.

**The Convener:** Rather than bore members with my two-page script on how we will deal with amendments, I refer members to the *Official Report*.

### Schedule 1

#### OFFENCES AGAINST A CHILD

**The Convener:** Amendment 19 is in a group on its own.

**The Minister for Education and Young People (Cathy Jamieson):** Picking up on the principle that the committee appears to have adopted today, I will attempt not to bore anyone with a long speech on what is a fairly straightforward amendment. Suffice it to say, amendment 19 corrects an error in the bill. The Sexual Offences (Amendment) Act 2000 lowered the age of consent for homosexual acts from 18 to 16. Amendment 19 seeks to correct that error in the bill.

I move amendment 19.

*Amendment 19 agreed to.*

*Schedule 1, as amended, agreed to.*

### Section 10—Offences relating to work in a child care position

*Amendment 75 not moved.*

*Section 10 agreed to.*

*Section 11 agreed to.*

### After section 11

**The Convener:** Amendment 93 is in a group on its own.

**Cathy Jamieson:** Amendment 93 forges an essential link between the list of persons unsuitable to work with children and the register of teachers that is maintained by the General Teaching Council for Scotland. A person on the list would not be entitled to GTCS registration. Anyone on the register of teachers would be removed if they were subsequently put on to the list. Amendment 93 will ensure that there is no doubt about the impact of listing on registration as a teacher.

I move amendment 93.

*Amendment 93 agreed to.*

### Before section 12

*Amendment 76 not moved.*

### Section 12—Applications for removal from list

**The Convener:** Amendment 90 is grouped with amendments 91 and 92.

**Cathy Jamieson:** Amendments 90, 91 and 92 respond to concerns that were raised by the Sheriffs Association in the evidence that it submitted to the Justice 1 Committee. The issue was raised again during the stage 1 debate.

Section 12 of the bill allows individuals to apply for a review of their listing. That is in recognition of the fact that a person's circumstances can change to the extent that they no longer pose a threat to the safety of children. For example, a person might have successful treatment for drug or alcohol abuse. The general rule is that an application for a review will not be considered unless a period of 10 years—five years for a child—has elapsed since the person was listed.

However, the sheriff could grant leave for an application to be considered earlier, if they were satisfied that that was warranted by the change in circumstances. Amendments 90, 91 and 92 will allow a sheriff to grant an application for a review whenever the circumstances justified that. The amendments pick up from the comments that were made in the stage 1 debate.

I move amendment 90.

**Ian Jenkins:** I welcome the Executive's recognition of the worries that were expressed in the Justice 1 Committee.

**The Convener:** I take it that the minister does not want to make any further comments.

**Cathy Jamieson:** Everything has been said.

*Amendment 90 agreed to.*

*Amendment 91 moved—[Cathy Jamieson]—and agreed to.*

*Amendments 77 to 79 not moved.*

*Amendment 92 moved—[Cathy Jamieson]—and agreed to.*

*Amendment 80 not moved.*

*Section 12, as amended, agreed to.*

### **Section 13—Appeals: inclusion in list under section 5 or 6 etc**

*Amendments 81 and 82 not moved.*

15:00

**The Convener:** Amendment 20 is grouped with amendments 21 to 24. If amendment 20 is agreed to, amendment 83 will be pre-empted and therefore cannot be called.

**Cathy Jamieson:** Amendment 20 is a minor amendment that aims to correct a flaw in the bill. Section 1(3) provides for ministers to remove an individual from the list if they are satisfied that the individual should not have been included in the first place. It does not cover appeals against listing, which are provided for by section 12, but covers cases where, for example, there has been an administrative error or a case of mistaken identity.

Section 13(1)(b) allows for appeals to the sheriff when ministers do not remove individuals from the list under section 1(3). However, there is no need for that provision. Decisions to remove an individual from the list under section 1(3) will be based on factual information. Where an individual continues to contest the facts, an appeal under section 13(1)(a) will be appropriate. I hope that that clarifies the position.

I move amendment 20.

*Amendment 20 agreed to.*

*Amendment 84 not moved.*

*Amendments 21 to 24 moved—[Cathy Jamieson]—and agreed to.*

*Amendments 85 and 86 not moved.*

*Section 13, as amended, agreed to.*

*Section 14 agreed to.*

### **Section 15—Meaning of “disqualified from working with children”**

*Amendment 87 not moved.*

*Section 15 agreed to.*

### **Section 16—Interpretation**

*Amendment 25 moved—[Irene McGugan]—and agreed to.*

*Amendment 26 moved—[Cathy Jamieson]—and agreed to.*

*Amendment 88 not moved.*

*Amendment 27 moved—[Irene McGugan]—and agreed to.*

**The Convener:** Amendment 94 is in a group on its own.

**Cathy Jamieson:** Because the duty to make referrals to the list has been extended to all organisations, there is no longer any need to define child care organisations. The amendments that were required to remove that definition were debated last week as part of the group of amendments that extended the duty. However, there was an oversight and amendment 94 now deletes a redundant subsection.

I move amendment 94.

*Amendment 94 agreed to.*

*Section 16, as amended, agreed to.*

### **Schedule 2**

#### **CHILD CARE POSITIONS**

**The Convener:** Amendment 28 is in a group on its own.

**Cathy Jamieson:** For the purposes of the bill, all members of a local authority are currently deemed to be in a child care position. However, on reflection, we now consider the definition to be too wide. Amendment 28 means that only members who are involved in the provision of children's services will be considered to be in a child care position.

I move amendment 28.

**The Convener:** I would be grateful for some clarification on this matter. My local authority has raised concerns about janitorial staff and staff in direct labour organisations who might not necessarily be employed by a local authority's employment committee but who might be in positions of trust with children and young people. The amendment might remove those people from the scope of the bill.

**Cathy Jamieson:** I am not aware that amendment 28 would remove responsibility from janitorial staff who might come into contact with children in, for example, school situations. Clearly, a number of checks would require to be made. However, I will defer to my colleagues to ensure that that is the position, because what you suggest is certainly not the intention behind the amendment.

**Jan Raitt (Scottish Executive Education Department):** Janitorial staff will be covered by schedule 2. Amendment 28 deals with elected members of local authorities.

*Amendment 28 agreed to.*

*Schedule 2, as amended, agreed to.*

#### **Section 17—Notices**

**The Convener:** I call Mike Russell to move amendment 89, which has already been debated with amendment 44.

**Michael Russell:** As this is the final amendment, I am tempted to move it. However, I will not do so.

*Amendment 89 not moved.*

*Section 17 agreed to.*

*Sections 18 to 20 agreed to.*

*Long title agreed to.*

**The Convener:** That ends the stage 2 consideration of the bill. I thank the committee, officials and the minister for their time.

**Michael Russell:** Has a date been set for stage 3?

**The Convener:** I am not aware that any date has been set for stage 3. We certainly completed our stage 2 consideration more quickly than we were expected to.

*Meeting closed at 15:06.*



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