OFFICIAL REPORT
AITHISG OIFIGEIL

DRAFT

Standards, Procedures and Public Appointments Committee

Thursday 7 November 2024

Session 6

The Scottish Parliament
Pàrlamaid na h-Alba

Thursday 7 November 2024

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STANDARDS, PROCEDURES AND PUBLIC APPOINTMENTS COMMITTEE
23rd Meeting 2024, Session 6

CONVENER

*Martin Whitfield (South Scotland) (Lab)

DEPUTY CONVENER

Ruth Maguire (Cunninghame South) (SNP)

COMMITTEE MEMBERS

*Joe FitzPatrick (Dundee City West) (SNP)
*Sue Webber (Lothian) (Con)
*Annie Wells (Glasgow) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Bob Doris (Glasgow Maryhill and Springburn) (SNP)
Ross Greer (West Scotland) (Green)
Jamie Hepburn (Minister for Parliamentary Business)
Rona Mackay (Strathkelvin and Bearsden) (SNP) (Committee Substitute)
Ben Macpherson (Edinburgh Northern and Leith) (SNP)
Graham Simpson (Central Scotland) (Con)

CLERK TO THE COMMITTEE

Catherine Fergusson

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Standards, Procedures and Public Appointments Committee

Thursday 7 November 2024

[The Convener opened the meeting at 09:00]

Interests

The Convener (Martin Whitfield): Good morning and welcome to the 23rd meeting in 2024 of the Standards, Procedures and Public Appointments Committee. Unfortunately, I have received apologies from Ruth Maguire, but we are joined by Rona Mackay MSP as a substitute. Rona, do you have any declarations of interest to note?

Rona Mackay (Strathkelvin and Bearsden) (SNP): I have no declarations to make, thank you.

The Convener: Thank you, and welcome to today's proceedings.

Scottish Elections (Representation and Reform) Bill: Stage 2

09:00

The Convener: Today, the committee is looking at the Scottish Elections (Representation and Reform) Bill at stage 2. I will briefly explain the procedure that we will adopt. Members should have a copy of the bill, the marshalled list and the groupings. For anyone who is observing, I note that those documents are available on the bill's web page on the Scottish Parliament website.

I will call each amendment individually, in the order in which it appears on the marshalled list, at which point the member who lodged it should either move it or say "Not moved". If that member does not move the amendment, any other member who is present may do so.

The groupings set out the amendments in the order in which they will be debated. There will be one debate on each group of amendments. In each debate, I will call the member who lodged the first amendment in the group to speak to and move that amendment and to speak to all the other amendments in the group. I will then call other members with amendments in the group to speak to but not to move their amendments and to speak to the other amendments in the group if they so wish. I will then call any other members present who wish to speak in the debate. Members who wish to speak should indicate that by catching my or my clerk's attention. I will then call the minister, if he has not already spoken in the debate.

Finally, I will call the member who moved the first amendment in the group to wind up and to indicate whether he or she wishes to press the amendment or withdraw it. If the amendment is pressed, I will put the question on the amendment. If a member wishes to withdraw an amendment after it has been moved and debated, I will ask whether any member who is present objects. If there is an objection, I will immediately put the question on the amendment.

Later amendments in a group are not debated again when they are reached. If they are moved, I will put the question on them straight away. If there is a division, only committee members are entitled to vote, and voting is by a show of hands. It is important that members keep their hands raised clearly until the clerk has recorded their names. If there is a tie, I will exercise a casting vote. My policy will be to use my casting vote against any amendment.

The committee is also required to consider and decide on each section, the schedule to the bill and the long title, and I will put the question on each of those provisions at the appropriate time.

I will not open that up for questions but will commence by calling the first grouping of amendments.

Before section 1

The Convener: Amendment 57, in the name of Ross Greer, is grouped with amendment 68.

Ross Greer (West Scotland) (Green): Good morning, everyone. It might seem a little odd in the first instance that I, a Green, am moving an amendment to get rid of cash deposits, now that we are finally at the stage of other parties in that we can afford to pay those deposits ourselves. I am moving it because I do not believe that participants in elections should face financial barriers, and cash deposits obviously create such barriers. The ability to pay £500 bears no relation to the demonstration of a reasonable level of support.

Deposits originated after world war 1 as a way to pay for elections. The political parties themselves, combined, had to pay for the administration of elections. Clearly, we have moved well beyond that, and cash deposits are a legacy of a different era of electoral administration.

The Electoral Commission has reviewed the issue a couple of times. Most recently, in 2015, most of the countries that it reviewed—certainly across Europe—had no cash deposit system. Germany, Italy, Spain and the Netherlands do not have such a system. The United States has quite complicated ballot access arrangements but it does not have a cash deposit system. Those countries that had such a system tended to require financial deposits of far less than the equivalent of £500.

The argument that is used now for cash deposits, given that we have moved beyond the point where they are used literally to pay for the administration of elections, is that they provide a barrier to filter out unserious candidates. They limit the length of our ballot papers compared to those in, say, Australia—where, for some senate elections, ballot papers can reach 1.5m to 2m long, with over a hundred candidates on them.

The length of the Scottish Parliament's regional list ballots suggests that cash deposits are not exactly acting as a significant disincentive in that manner. Plenty of "unserious" candidates can afford £500, but the financial barrier gets in the way of what might be regarded as more serious candidates, particularly independents.

What I propose instead is that we strengthen the system so that it is equivalent to the nominator or subscriber system that is part of the Westminster general election nomination process. That system long predates cash deposits—it has been in place for Westminster candidacies since the 1870s. Currently, only 10 electors are needed to sign each nomination, but that requirement sits alongside the £500 cash deposit.

For some reason—which I have not quite been able to get to the bottom of—when the Scottish Parliament was established, we replicated the requirement for a cash deposit for Holyrood constituencies but we did not replicate the 10 nominations threshold.

I want to emphasise that this amendment is about implementing a long-held recommendation of the Electoral Commission. The Electoral Commission's 2015 report states clearly:

> "We recommend removing the requirement to pay a deposit at all elections, as we do not consider that there should be a financial barrier to standing for election."

Instead, I propose to implement a nomination threshold. For constituencies, the threshold would be 0.05 per cent of voters, or 50 individuals. In practice, in most mainland constituencies, 0.05 per cent of voters would usually be slightly more than 50 people. However, the reason that I include the 0.05 per cent as well is to reflect the fact that island constituencies have much lower populations, and it would therefore be reasonable to have a lower nomination threshold in an island constituency. For the list system, the threshold would be 150 voters, or 0.05 per cent of voters—which would generally be around 150 people.

I have included provision in amendment 57 for ministers to vary those thresholds in the future, to reflect population change. I would also propose that cash deposits still be allowed in the event of snap elections, to recognise the fact that it takes a bit more time to collect signatures than it does simply to lay a cash deposit.

The amendment also includes a provision whereby, if a member of a party is elected, the party gets automatic ballot access at the subsequent election. That is quite common across other electoral systems comparable to our own. The fact that a party has had a candidate elected previously is a clear demonstration of its credibility and a reasonable level of public support—therefore, why should any barrier be placed in the way of its standing a candidate again? For example, all of the parties represented in this committee would have to go through the nomination process once, but, assuming that at least one MSP from each of our five parties were returned at the 2026 election, we would not have to go through that process again in 2031.

For the existing Holyrood parties, the amendment would end what I see as, frankly, a total inefficiency whereby hundreds of thousands of pounds are transferred from all our bank accounts at the start of an election period to a council bank account and then transferred back into the party accounts afterwards—assuming that we reach a vote share of 5 per cent in all the relevant locations.

That is amendment 57. You will be delighted to know that I do not have nearly as extensive a set of speaking notes for all of my subsequent amendments. Amendments 57 and 68 are the substantial ones.

The Convener: On a point of clarification, with regard to proposed new paragraph 9A(1) of the Scottish Parliament (Elections etc.) Order 2010, you spoke about 0.05 per cent of voters, but the amendment talks about 0.01 per cent. The figure is the same—50 voters—but, for the record, I note that the relevant percentage is 0.01 per cent of the constituency.

Ross Greer: Apologies, convener—I read the wrong number at that point. You are right: the proposed threshold would be 0.01 per cent of voters for constituencies, and it would be 0.05 per cent for the regional list. Sorry—I should have made that clear.

Amendment 68, on by-elections, is designed to address what I see as democratic distortion caused by having single-member by-elections for multimember wards. Again, it might seem a little odd that this amendment is being moved by a Green, given that, as of this year, we have finally started winning some by-elections. However, I think that it is important to air the distortion argument in Parliament.

For example, at the moment, Perth City North has three Scottish National Party councillors in a three-member ward as a result of a by-election. That is despite the SNP having less than 50 per cent support—it still has substantial support—and there being strong support in that ward for both Labour and the Conservatives.

Four out of four councillors in the Drumchapel/Anniesland ward were from the Labour Party after our colleague Bill Kidd stood down from his council seat to focus on this Parliament. If there was another by-election in Hillhead, in Glasgow, because Councillor Ken Andrew decided to move on and do something else with his life—I emphasise that I do not believe that he is going to do so—the Greens would win that ward and would have three out of the three councillors in a ward that elected only one Green at the last election.

The Scottish Parliament made the choice to adopt a proportional system—the single transferable vote—for council elections. Other countries that use STV for their local elections do not generally have by-elections. For example, the Republic of Ireland does not have by-elections. Of course, Northern Ireland also does not have by-elections, but that is for very different reasons—it is about maintaining balance between communities—so I generally do not use that as an example. The Republic of Ireland does not because it has a similar system to what I am proposing.

If a vacating councillor was originally elected on a party ticket, that party's nominating officer would be able to appoint a replacement for them. I would propose maintaining a by-election system for independents, so it would not go as far as it does other systems. In Ireland, for example, if an independent councillor vacates, it is up to the council to decide how to appoint their replacement. I would not go quite that far, as I think it is reasonable to have by-elections in the case of independents.

Graham Simpson (Central Scotland) (Con): Will you take an intervention?

Ross Greer: Yes.

Graham Simpson: I am listening very carefully to this, as I am a big fan of STV and have been a councillor who was elected under STV. If you are elected under STV—you can correct me if I have got you wrong—it means that people have had to vote for you individually, unlike those who are elected under the list system, which includes you and me. Nobody voted to get me, personally, into the Scottish Parliament, but people have to vote for individual councillors. If you want to get re-elected, you have to work your socks off and prove to people that you deserve their vote.

The STV system establishes a link between the electors and the individual, not the party, and that is similarly true in a by-election. By not having a by-election, you get rid of that and almost go back to the party list system, which puts the power into the hands of parties. That seems to me to be entirely wrong.

The Convener: I remind members to speak through the chair.

Ross Greer: I thank Mr Simpson for that intervention, which takes me to the exact point that I wanted to close on.

I concede—absolutely—that there is a trade-off. Individual candidacy matters more in a local election than it does at any other level. It often does not matter quite as much as those of us who are candidates and elected representatives would like to think it does, but it matters more at a local election, so there is a trade-off.

At the moment, many people—usually most people—vote to elect councillors from a party that does not come first in a multimember ward, and they are then left without representation as a result of a by-election caused by a vacancy left by any candidate other than the one who came first.

I do not comprehensively recall the—

Ben Macpherson (Edinburgh Northern and Leith) (SNP): Will the member take an intervention?

Ross Greer: Yes.

Ben Macpherson: I think that Mr Greer has touched on this already, but is there a need to consider the inconvenience and public cost of multiple by-elections following the main local authority elections, which are cyclical? The next one is scheduled for 2027.

Ross Greer: Absolutely. That is an interesting point for us to consider. The cost of administering a by-election exceeds the annual salary of a local councillor, so there is a cost benefit analysis to be made on that point.

I apologise to Mr Simpson, because I cannot remember what the exact results have been in his ward at most local authority elections. If I recall correctly, if he were to have vacated his ward mid-session for whatever reason, I do not think that it is particularly likely that his party would have won the by-election, which would have left those who had originally voted Conservative without the representation that they had asked for. [*Interruption*.] Ms Webber is reminding us that her party probably would win a by-election in her former council ward.

However, in general, the point stands. That is shown by the examples that I have mentioned, including in Perth City North at the moment and in Dundee. It was a regular occurrence in Glasgow for years, including in the Hillhead ward, which my party won at a recent by-election. If we were to win another by-election in Hillhead, we would have three out of three councillors in a ward that originally elected one Green candidate, one SNP candidate and one Labour candidate.

09:15

I do not believe that Parliament has ever debated the issue before, so I will move amendment 57 because I want to air the issue. If there is an appetite to explore the matter further, my intention would be to come back at stage 3 with a more detailed amendment. Frankly, I did not want the legislation team in Parliament to put an extensive amount of work into an amendment if there was no appetite for it across the Parliament, but I want to explore the issue at this stage and ascertain whether there is an appetite to explore it further.

I move amendment 57.

The Convener: Thank you, Ross. I invite members to comment.

Joe FitzPatrick (Dundee City West) (SNP): I am sympathetic to Ross Greer's point in relation to amendment 68, despite the fact that we have just won a by-election in Dundee that gives us three out of four of the seats in the Lochee ward. However, the proposal represents a significant change, and I do not see how we could make such a change at this stage or at stage 3 and still manage to have the necessary discussions with local government colleagues in particular, who might feel that the change is a case of the Parliament doing something to them rather than engaging with them in order to do something. It is good that the proposal has been aired, but I hope that Ross Greer does not pursue the issue at stage 3, because I think that it is something that requires a bit more discussion with local government colleagues.

Annie Wells (Glasgow) (Con): Although I understand the intentions behind Mr Greer's amendment, I agree with Joe FitzPatrick that we need a bit more dialogue on the issues. Therefore, I cannot support the amendments, but the ideas are interesting, and we should have a wider discussion on them.

The Convener: I invite the minister to respond.

The Minister for Parliamentary Business (Jamie Hepburn): I am grateful to Ross Greer for having taken the time to discuss the amendments with me in advance of today's proceedings. I very much appreciate the points that he has made, which include that requiring candidate deposits could be viewed as a barrier to engagement in the democratic process; that there is a reasonable case to be made for requiring candidates to have demonstrated some support in the process of being nominated in the local area that they are seeking to be a candidate; and that by-elections can impact the proportionality of council representation. I understand the points that Mr Greer has made, and there is some merit in the case for his suggested changes.

However, in my estimation, removing deposits and doing away with local government by-elections represent fairly significant changes. I should say that I know Councillor Ken Andrew very well, and I will certainly be pressing him to not stand down in the Hillhead ward.

I am also taken with the point that Graham Simpson has made. There is a balance to be struck here, but, equally, although we ordinarily

vote along party lines in a council election, we are also electing an individual.

Although there is merit in the suggestions, they require some further thought. They involve pretty big changes and they have not been subject to consultation during the bill process. I take the point that Mr Greer has made, that relevant work was done by the Electoral Commission, but that was some time ago. As far as I am aware, the issues were not raised at stage 1, and I note that the Electoral Management Board's convener has raised some concerns about the changes in his letter to the committee.

I recognise that there is a case to be made for changing the arrangements and that the proposals ape elements of some systems in other jurisdictions, but I think that the difference in threshold for those parties that have had electoral success and those that have not, in terms of requiring them to collect signatures, would require some consideration.

I also note that there are some drafting issues that might require attention if the amendments were to be successful today, although, of course, we could deal with them at stage 3.

I think that the issues that have been aired are worthy of future consideration. They could and probably should be debated and discussed by the Parliament at some point in the future. However, incorporating them into the bill at stage 2 is probably not the best way to make such major changes to how we carry out our elections. On that basis, I urge the committee not to support the amendments.

I refer members to the letter that I have sent regarding the consultation that the Scottish Government has committed to on other areas, which we will turn to in the debates on other groups of amendments. If the issues that have been raised are of interest to the committee, I am more than willing to consider how we might be able to undertake a similar exercise in the area of election law.

I thank Mr Greer for lodging the amendments. It is worth airing the issues, but I ask him to consider not pressing them today. Should he choose to do so, I ask members to vote against them.

The Convener: I invite Ross Greer to wind up and to press or withdraw amendment 57.

Ross Greer: I thank the committee members and the minister for taking part in the debate. I recognise that these would be significant changes, but we should be a bit cautious about the argument that significant changes cannot be introduced to bills through amendments, because that robs everyone other than the Government of the ability to make significant changes. Back-bench MSPs from the governing party, as well as Opposition MSPs, also have the right to legislate for substantive things.

Jamie Hepburn: The point that I was trying to make is that it is a strength of our process of deliberation that there is a stage 1 process in which the issues are considered in detail by the committee. It is clearly for the committee to consider what it wants to determine at that stage, but if the issue had been aired at that stage and if recommendations on it had been made, as I have demonstrated across the range of amendments that I am moving today, we would have listened to what the committee said and weighed the balance of the evidence that it had gathered, and we would have responded with appropriate amendments.

Ross Greer: That is a fair point from the minister. My counter to it is that, much as I think that the bill is full of reasonable suggestions, in many respects it is a missed opportunity. There was a missed opportunity for the Government to consult much more widely on opportunities for democratic reform, which would have coincided with the 25th anniversary of the Parliament.

Nevertheless, I acknowledge the points that the minister made and I draw out what he said about the commitments made elsewhere in relation to consultation and his offer to the committee to consult on the issue. I am perfectly happy to take up that offer. I acknowledge that amendments 57 and 68 propose significant changes and that consultation on those amendments would be helpful.

In lodging the amendments, I wanted to provoke and kick-start the debate, so I am perfectly happy to withdraw amendment 57 on the understanding that the Government will take the proposals forward as part of any future consultation that draws in other areas, which we will come to later in our proceedings.

Amendment 57, by agreement, withdrawn.

Sections 1 and 2 agreed to.

Before section 3

The Convener: The next group is on disqualifications. Amendment 8, in the name of the minister, is grouped with amendments 8A, 9, 9A, 1, 2, 58, 3, 59 to 61, 10, 11, 62, 12 to 20, 20A and 20B.

Jamie Hepburn: This is the largest group that we will discuss today, and it is an important one. We will be discussing disqualification from elected office. Forgive me, convener, as I will take some time to discuss the amendments in this group.

I will start with the amendments in my name that seek to bar persons subject to sex offender notification requirements, a sexual risk order, or a

sexual harm prevention order from holding office or standing for election to be councillors or members of the Scottish Parliament. As the committee is aware, persons serving a sentence of more than 12 months are already barred from being an MSP for the duration of their time in custody, and persons sentenced to three months or more are prohibited from being councillors for five years.

I hope that the committee will agree that we have had a good deal of constructive debate on the issue. My predecessor wrote to the committee on 2 February to highlight last year's Scottish Government consultation on barring sex offenders from being councillors. He explained that it seemed logical to apply any prohibition to members of the Scottish Parliament but that, before bringing forward provisions, the Government wished to

"take the views of the committee"

and others.

We have since discussed several important aspects, including comparisons within the United Kingdom and comparisons to elsewhere. I thank you, convener, for highlighting the work of the Council of Europe's Venice commission on the exclusion of offenders from Parliament. We have discussed the rationale for a change in the law. There are two aspects here: the first is the protection of the public in face-to-face encounters with an elected representative; the second is an overall case that allowing an acknowledged sex offender to serve in office risks undermining public confidence in our democracy.

Those factors and the matters that the Venice commission considered have informed the approach that we have taken in these amendments. We have looked at a range of notification requirements and orders related to sexual offending, and we seek to apply disqualification when there would be concern about a person subject to such measures holding office, including in cases where a requirement is imposed in the context of conviction and in cases where an order is imposed by a court on a civil basis.

The amendments will ensure that the package of reforms is both robust and fair. No serving representative who is subject to a relevant restriction when the requirement takes effect will be removed from office at the time that the provision takes effect, although they will be barred from standing for election again for as long as the restriction applies. This "future cases only" provision is the normal safeguard adopted in making changes of this nature. I know that, in a few moments, we will turn to Annie Wells's amendments, which touch on that area.

We have also made provision to ensure that people with pending appeals get the opportunity for their cases to be heard. They will be suspended prior to the determination of an appeal, and there will be a maximum period of three months after which, if the appeal remains pending, disqualification will apply. I think that that is a sensible and proportionate approach.

The other amendments in my name seek to amend the bill's provisions on disqualification orders and in relation to intimidation. While those provisions in the existing bill take appeals into account in the same way as is planned for sex offenders, the bill suspends only MSPs—not councillors—during the appeal period. The last time I came to the committee, on 5 September, I said that an important part of our approach should be broad equivalence, where we can achieve it, between the approaches that we take for MSPs and councillors. That is what I seek here. Amendment 17 rectifies the bill so that councillors with pending appeals will be suspended in the same manner as those appealing against other convictions that would cause disqualification.

I now turn to amendments 8A and 9A, in the name of Annie Wells, which seek to disqualify all people who have ever been subject to a relevant restriction or order. I am grateful to her for taking the time to discuss the amendments with me, but I believe that the amendments would raise significant concerns around compliance with the European convention on human rights. I also consider that it would be extremely difficult to enforce them and that obtaining information on historical restrictions and orders, particularly those from outwith Scotland, would be extremely challenging.

I also highlight that her consequential amendments 20A and 20B would be unnecessary unless amendments 9A and 9B were agreed to. If there is support for amendments 9A and 9B, we might want to consider carefully what references to historical restrictions are needed in any transitional provisions.

Given those serious concerns, I urge the committee not to support Annie Wells's amendments.

I now turn to the other non-Government amendments in the group. There is merit in addressing the issue of dual mandates in relation to the Scottish Parliament. However, much as I said about the amendments in the previous group, dual mandates should be addressed with discussion and consultation, not through this bill at stage 2 without a detailed process of consultation having taken place. I have already written to the committee to make that point.

There are policy issues with Graham Simpson's amendments, which I have discussed with him. I am grateful to him for taking the time to do that, particularly in relation to individuals who are elected when they have only around a year left in their councillor roles before the next local government elections are held. It would have implications for the public purse if a significant number of local by-elections were to occur after each Scottish Parliament election.

Given that the ordinary local elections would take place the following year, those elected at the local by-elections would have the roles only for a few months. There would also be a period of up to three months in which a councillor's seat would be vacant before a by-election could be held.

In Wales, because of the experience there, a period has been built in accommodating any imminent council election. There is a timeframe within which a councillor who is elected as a member of the Senedd must make a decision about which office to retain. There would be benefit in further consultation on that type of issue. Therefore, I urge Mr Simpson not to move his amendments. However, if he does, I ask committee members to vote against them.

09:30

I am grateful for the opportunity to discuss with Mr Greer his amendment 58. The amendment goes further than Mr Simpson has done in relation to peers, in that it would not allow them to take a leave of absence as an alternative but would require them to resign from the Lords once and for all in order to take their place as an MSP.

That is another issue that has not been subject to any debate or consultation before today. My personal perspective is that the easiest way to achieve that would be to abolish the House of Lords. However, that is outwith our ability. To be consistent, I should say that my point in relation to my concerns about the need for consultation lands with regard to this amendment, too. Therefore, I urge Mr Greer not to move his amendment. If he does, I ask committee members to vote against it.

All of that suggests to me that a proper consultation process is required to allow a full range of policy options to be considered before we legislate to prohibit dual mandates, as members will see from my recent letter to the committee.

Graham Simpson: I thank the minister for taking an intervention. As he said, we have discussed this matter, and he copied me into the letter that he sent to the committee. When might the minister launch a consultation on dual mandates, if he plans to do that?

Jamie Hepburn: I will give the age-old answer that the consultation would be launched as soon as possible. The point is that the commitment would be to hold and conclude the consultation in this parliamentary session. Given that the issues have been raised earnestly, it is important that I make that commitment, and we would honour that. I am genuinely committed to consulting so that we can gather views. As I said, we will ensure that the consultation takes place during this parliamentary session.

Therefore, I urge the committee to vote against the various amendments that I have spoken to—other than my own—and to allow full and proper consultation to take place before Parliament as a whole can take a position on dual mandates.

I am grateful to Ben Macpherson for taking the time to speak to me about his amendment 59. Although there might be a case for an MSP to be required to be ordinarily resident in Scotland, that is another amendment that has not been subject to any prior debate or discussion—it was not raised at stage 1. It might be another area that is worthy of future consultation, but there are important issues to consider, not least whether there would or should be transitional provision to prevent potentially disqualifying currently serving MSPs if, for example, someone happened to reside just over the border. In the first instance, I urge Mr Macpherson not to move amendment 59. However, if he does so, I urge committee members not to support it.

Ross Greer's remaining amendments in the group cover disqualification orders under the bill and the Elections Act 2022. These are the orders that we are looking to put in place to debar people from office when they are convicted of a crime that involves hostility towards elected representatives, campaigners and electoral workers. Mr Greer's suggestion that any offence that involves abuse in an electoral context should be subject to a sentencing aggravating factor is interesting. We already provide additional protection for certain groups, such as emergency workers, by setting out sentencing aggravating factors.

It is true that concerns about abuse towards elected representatives and election workers have increased in recent years, and that is the reason for the disqualification orders in the bill. However, I am concerned about adding a sentencing aggravating factor at this stage, as that has not been fully considered. There has not been any consultation on such a step, which could, for example, consider how a new aggravating factor would sit with other statutory aggravating factors.

On amendment 61, Mr Greer has touched on a question that we have discussed before with the committee—that is, the checking of candidate eligibility. That is not a feature of our system;

returning officers, in particular, do not check whether candidates are disqualified, and the committee heard evidence at stage 1 about the resource implications if such a system were to be introduced. I would just point out that 2,548 candidates were nominated in the most recent local government elections, while in 2017, 2,572 candidates were nominated. Moreover, in the 2021 Scottish Parliament election, 357 candidates were nominated for constituencies, while in 2016 the equivalent number was 313. I would be very reluctant to set up a screening process without evidence that there was a problem of disqualified people standing for office.

Ross Greer: Will the minister give way?

Jamie Hepburn: I will take Mr Greer's intervention, but I think that I am about to go on to address his point.

Ross Greer: I expect that the minister was indeed about to do so, given that it is something that we have already discussed. However, as he has mentioned the number of candidates standing for election, I would emphasise that, in any system in which a list of disqualified individuals was maintained, surely there would be a mechanism to check the list of disqualified individuals, not the list of candidates.

Unless there is an explosion of the kinds of issues that result in people being disqualified, the list of disqualified individuals will always be far smaller than the 2,500 people who stand for election to local authorities. All that a returning officer would have to do would be to cross-check the list of disqualified individuals; at no point in the system would anyone have to check all 2,500 candidates. It is just a matter of checking one list against another, rather than the other way around. As much as the minister is factually correct to point out the number of people who stand for election, that bears no relation to the workload involved in checking who is disqualified.

Jamie Hepburn: Actually, that was not the point that I was going to come to, but I take the member's point. However, I come back to the issue that I was trying to touch on, which is that such a move starts to open up the notion that there is a requirement on returning officers and those involved in the process of accepting and processing nominations to take a step beyond the checks that they would otherwise carry out. I think that I am right in recalling that the evidence provided to the committee thus far suggests that the system that we have by and large operates effectively and that there has not been any substantial concern in that respect.

The point that I was going to make is that, strictly speaking, Mr Greer's amendment does not, in and of itself, set out to create a full screening process, including in the limited circumstances that he has outlined, but I fear that it starts to move us in that direction. It is also not clear why we would pick out just this one aspect of eligibility for the Electoral Management Board to collate data on, and I am concerned that amendment 61 would send a signal that we were moving towards, if not a full vetting system of nominations, then a wider one, which would have huge logistical consequences. I note that the convener of the Electoral Management Board wrote to the committee yesterday to say that the amendment represented

"significant changes in both policy and practice",

and that his estimation was that it should be "subject to further consultation".

On that basis, I urge the committee not to support amendment 61, but I look forward to the debate that we will have on this group of amendments.

I move amendment 8.

The Convener: Before I move on, I note that, in your evidence, you talked about an amendment 9B. I assume that you were referring to amendment 20B, as we do not have an amendment 9B in our marshalled list. Indeed, I am almost certain that that is what you intended to say.

Jamie Hepburn: Yes, I suspect that that was a slip of the tongue.

The Convener: No problem. Thank you very much, minister.

I call Annie Wells to move amendment 8A and to speak to all the amendments in the group.

Annie Wells: At the outset, I thank the minister for the constructive discussions that we have had on the amendments.

The minister's amendments 8 and 9 will prohibit individuals who are currently on the sex offenders register from standing at Scottish Parliament or local elections, but my amendments 8A, 9A, 20A and 20B go a bit further and would prevent all sex offenders, including those who have been on the sex offenders register, from standing.

I lodged my amendments because the people who I have spoken to have said that they simply would not feel comfortable allowing someone who had committed a sexual offence to stand for the Parliament or as a councillor, simply because a period of time had passed since they had been removed from the sex offenders register.

Jamie Hepburn: We would all recognise and appreciate that point, as it would be an understandable human instinct. However, I wonder whether Ms Wells has reflected on the fact

that we have had to very carefully consider the balance between the concerns that people reasonably have—indeed, they are why we have brought forward the provisions—and ensuring that we are on the right side of the requirements that have been laid out by the Vienna commission. I am genuinely concerned about that.

To put it in context, we had to give very close and careful consideration to the provisions, as we would with anything that we propose in law. At one stage, we considered whether we could even go as far with regard to parliamentarians, because of the requirements of the Vienna commission. I think that we have landed with the appropriate balance. Of course, the Government would have to robustly defend any bill, subsequent to it being passed and becoming an act of Parliament, so I want to ensure that we have legislation that is as robust as it can be.

Although I take Ms Wells's concerns on board, which is the reason that those provisions have been lodged, I wonder whether she has reflected on whether the position that she has asked the committee to take strikes the right balance, and whether it might be a step too far.

Annie Wells: After meeting with the minister, I recognise that my amendments do not meet article 3 of protocol 1 of the European Convention on Human Rights. I lodged the amendments rather hurriedly last week, because I wanted to have a discussion about them. I would be happy to not move my amendments but to further discuss with the minister what else we can do to instil public confidence in what we are trying to achieve.

I turn to my colleague Graham Simpson's amendments 1 to 3.

Joe FitzPatrick: Before we move on, I want to ask some questions about your amendments in the group. We took evidence from Police Scotland last week, and the police were clear that there is not a register or a list, as such. SONR stands for "sex offender notification requirements", so the term concerns someone who is subject to requirements. Last week, we asked the police about their ability to enforce and be part of the process and to ensure that any law in this area is practical and enforceable. The police were comfortable that they and other multi-agency public protection arrangements—MAPPA—partners would be able to comply with what the minister is suggesting.

Annie Wells's suggestions go further because, as the police said, there is no list or register. You would be asking someone—potentially the police—to take action on people who are no longer under the sex offender notification requirements.

Annie Wells: The intention behind my amendments relates to the public perception of politicians. We also need to take victims into account. It is about trying to strike the right balance. I understand that my amendments probably do not comply with the Scotland Act 1998 or the Human Rights Act 1998, which is why I will not be moving them. However, further discussion needs to be had about the issues, because it is right that elected representatives represent the values of the Parliament.

I understand what Joe FitzPatrick is saying, in that there is a length of time for which people are put on to the requirements register, if you want to call it that. However, personally, I would not feel comfortable if someone who had been on the register for 15 years became my representative a year later. That is where I am coming from.

09:45

I will move on to Graham Simpson's amendments 1 to 3, which, as well as amendment 58, seek to end dual mandates, so that MPs and members of the House of Lords or councillors could not be elected as MSPs. The amendments provide a valuable opportunity for us to have a discussion about that, although I do not necessarily think that stage 2 of the bill is the right time to have such a discussion.

As the minister pointed out, he has written and offered to put the amendments out to consultation. I think that that is the right thing to do and that the committee would welcome the opportunity for further clarification and discussion on them. For the same reasons, amendment 59 could be part of that further discussion.

Amendment 61, in the name of Ross Greer, would require the Electoral Management Board for Scotland to have a list of people who would be subject to disqualification orders. I cannot support that now, unless the minister can assure us of further funding for the Electoral Management Board to allow that to happen.

I move amendment 8A.

The Convener: For clarification, I point out that we are talking about the Venice commission rather than the Vienna commission.

Jamie Hepburn: Will the member give way on that point?

The Convener: I am unlikely to give way, but I am prepared to hear the minister.

Jamie Hepburn: I make that mistake frequently. I apologise. There have been so many important commissions and conventions in Vienna throughout history.

The Convener: They are very different.

Jamie Hepburn: Indeed.

The Convener: I invite Graham Simpson to speak to amendment 1 and the other amendments in the group.

Graham Simpson: Thank you, convener. I will start by saying that the value of stage 2 is having the ability to raise issues such as the ones that my three amendments raise. The issues have not come out of the blue; they have come up before. Dual mandate was mentioned in the committee's report, which was very good, and, when I spoke in the stage 1 debate, I was very honest—as I always am—in saying that there are different views on dual mandate, including in my party, but it is entirely right that we have a discussion about that.

If you will permit me, I have from the Scottish Parliament information centre a list of MSPs who have had dual mandate. The list is available to anyone. I am going to go through that list all the way from session 1, because people will find it interesting. It is quite a long list, and it is going to take me a bit of time, but I will read more quickly than I normally speak.

The Convener: I am happy for you to do so, because it is on the public record, and I am happy for it to go into the record.

Graham Simpson: I just found it fascinating.

In session 1, a number of MSPs were also members of the House of Lords: James Douglas-Hamilton, David Steel and Mike Watson. As you would expect, quite a lot of MSPs were also MPs in session 1. The list is as follows: Malcolm Chisholm, Roseanna Cunningham, Donald Dewar, Margaret Ewing, Sam Galbraith, Donald Gorrie, John Home Robertson, John McAllion, Henry McLeish, Alasdair Morgan, Alex Salmond, John Swinney, Jim Wallace and Andrew Welsh.

In session 2, a couple of MSPs were members of the House of Lords—James Douglas-Hamilton and Mike Watson. I do not see any who were also MPs during that session, but we start to see councillors coming through. Those who were MSPs and councillors were Andrew Arbuckle, Charlie Gordon and Mike Pringle.

In session 3, a number of MSPs were members of the House of Lords: George Foulkes, Jack McConnell and Nicol Stephen. Some MSPs were MPs: Margaret Curran, Cathy Jamieson and Alex Salmond. The ones who were councillors in session 3 were Willie Coffey, Jim Hume, Bill Kidd, John Wilson, Nigel Don and—apologies, as I cannot pronounce the name—Stefan Tymkewycz.

The list for session 4 is quite long. The list of MSPs who were also in the Lords consisted of Annabel Goldie. The list of MSPs who were councillors was as follows: George Adam, Clare Adamson, Jayne Baxter, Colin Beattie, Lesley Brennan, Neil Bibby, Willie Coffey, Mary Fee, Neil Findlay, John Finnie, Mark Griffin, Cara Hilton, Jim Hume, Alison Johnstone, Colin Keir, Richard Lyle, Angus MacDonald, Derek Mackay, Hanzala Malik, Mark McDonald, Margaret McDougall, Anne McTaggart, John Pentland, Alex Rowley, Kevin Stewart, David Torrance Jean Urquhart and Bill Walker.

In session 5, the MSPs who were also MPs at some point were Douglas Ross and Ross Thomson. The list of MSPs who were also councillors is actually a very long list, so I will not go through it, but I think—

The Convener: I would be grateful if we could return to your amendments.

Graham Simpson: Over the parliamentary sessions, the number of MSPs who are MPs has tailed off, so we have a small number, and the number of MSPs who are also councillors has increased. I was a councillor, so that included me. In every election, quite a large number of the people who are elected to the Scottish Parliament are councillors at the time of election. Therefore, the minister's point, namely that to do anything about councillors now would be wrong, is well made, so I do not intend to move amendment 3.

I heard what the minister said, I have seen his letter and I have reflected on what he said. I have also reflected on what he has said today, which is that he wants to launch a consultation in this parliamentary session. That is very useful. I am of the clear view that that is the right thing to do. To ban dual mandates for MSPs sitting as MPs—and in the House of Lords, although I will come on to talk about that—is the right thing to do. I think that it is what the public would expect us to do. I think that they expect people to behave in the right way, which means that, if you are elected to two places, you should make the choice between Westminster and here. Bringing that into law would bring us in line with Wales and Northern Ireland. Why should Scotland be an outrider?

I do not think that it is that complicated—it is quite an easy issue—but I accept that there ought to be some consultation. I think that I have the public pulse on the issue, but this bill might not be the place to do that. On that basis, I do not intend to move these amendments. I had intended to move them but, having heard from the minister earlier, I feel that, if he is going to move at pace with that consultation, I am happy not to do so. Unfortunately, that will take us into the next parliamentary session, which means that, if people who are MPs are elected to the Scottish Parliament in 2026, they will not have to resign. I am sure that we can all think of potential candidates. I will not name anyone, but I am sure that we have got people in mind. That would be

unfortunate, but I accept what the minister is saying.

On the amendments that relate to the House of Lords, my amendment 2 would make provision that a member of the House of Lords could stand for election to the Scottish Parliament and that, if they were elected, they could either resign or take a leave of absence. That is what Katy Clark has done, and I think that she has done the right thing. My proposal would put that option in law. Because Ross Greer's amendment goes further than that, I have to say that I disagree with him on this one. I think that we should allow the Katy Clark position to become a matter of law.

I leave it there, convener.

The Convener: I am very grateful to the member. I am conscious of the time, this being a Thursday and therefore an important day in Parliament. As a result, I remind members to speak directly to their amendments. If they do so, they will find me more sympathetic and less likely to intervene.

I call Ross Greer to speak to amendment 58 and the other amendments in the group.

Ross Greer: To start off, I would just say that, as much as I am grateful for the minister's various offers to take to consultation some of the issues that have been raised as part of this process, the fact is that we are now heading towards the point where the Government is committing to a consultation on dual mandates, residence requirements, deposit reform and by-election reform. Indeed, we are getting to the point where there will be further consultation on more issues than are contained in the bill in the first place, which I think brings us back to the issue that I raised before—that this has been a missed opportunity to take forward a more holistic and substantive package of reform.

Nonetheless, amendment 58 seeks to end the anomaly in which peers, quite rightly, cannot be MPs—they cannot even vote in a general election—but they can be MSPs. This is not a judgment on individual peers who have been MSPs; it is purely about the principle of democratic accountability. In that respect, it is somewhat different from Graham Simpson's dual mandate amendments, because it is not concerned about somebody's ability to do two jobs simultaneously. Instead, it is more focused on the issue of democratic accountability.

The Lords is not, by definition, a democratic institution. It is unaccountable; it makes law, but it is not accountable to the public. I find that an affront to parliamentary democracy, and I think that it is contrary to the values of this Parliament, too. Peers are absolutely free to become MSPs—they should just resign from the Lords first. This simple amendment follows through on that simple principle. I welcome the Government's commitment to consult on the matter, although I do not find that, in and of itself, necessarily a reason for Parliament not to move forward with it for the 2026 election. Nonetheless, we are where we are on that.

I should also put on the record that I spoke directly to Katy Clark before lodging this amendment, particularly to emphasise that this is not about individuals but about a democratic principle. Of course, it would apply only from the next election; it would not apply to anybody currently in that position—that is, Ms Clark herself.

On amendments 60 and 62, which relate to the aggravators, I want to give a little bit of clarification with regard to what the minister was indicating. The amendments would give those sentencing someone convicted of an offence against the categories of people involved in the elections the ability—and the option—to reflect on the harm done to the democratic system at large by the offence. It does not mandate the giving of a more substantive or different sentence; it simply gives those sentencing the option to consider the matter. We should recognise that, as well as the harm that is done against the individual, these offences do harm against the democratic process as a whole.

The minister, quite rightly, made the point that we have seen rising concern in recent years. Our democracy is under a bit of pressure—not as much as in some other nations, but increasing nonetheless. Indeed, those who are involved in our democracy face increasing hostility, something that I have no doubt we have all experienced, and the amendments simply give those sentencing an additional option. The measures would apply only to those convicted of an offence that had been directed at one of the six categories of people in question, and there is also the option to consider it as an aggravator in the way that the minister mentioned—that is, with regard to emergency service workers.

With amendment 61, on the disqualification register, I have lodged what I think is quite a simple amendment. As has already been mentioned, there is no list of disqualified individuals. We have a system that relies on self-policing by those who, by and large, have been disqualified because of their conduct in relation to the electoral process and offences committed against those involved in it. These people are generally going to be on the disqualification register because, by definition, they do not particularly respect the democratic process as it stands.

I think that the Electoral Management Board is the appropriate body to maintain such a list and to make it accessible to the returning officers. As I

have already pointed out, nobody will be required to check 2,500 names off the list. For a start, that 2,500 gets divided by 32 at the local council elections, but, in any case, you would be checking the smaller list against the larger one, rather than the other way round. I think, therefore, that this is a simple amendment that would come with a small additional cost, as we would be talking about a—thankfully—relatively small list and a small number of individuals.

We are talking about a group of individuals who have already, by definition, disrespected the democratic process, so relying on self-policing by them would seem to be a vulnerability.

10:00

Ben Macpherson: First, I thank the minister and his officials for their engagement on amendment 59, and I thank the Electoral Commission for its briefing, which makes reference to my amendment, in advance of today's meeting.

The lodging of amendment 59 for consideration today came as a result of a number of discussions over the summer regarding matters in the public discourse following the general election in July. In relation to the rules for candidates, I and others were prompted to think about the local connection to Scotland of people who stand for election to the Scottish Parliament. Having considered the wider issue, and given that the bill was at stage 2, I felt that it was right and pertinent for me to explore the possibility of an amendment in that space. Are our legal obligations and rules strict enough to ensure that people who stand for, and are then elected to, the Scottish Parliament have a suitable and appropriate connection to the people of Scotland and to the communities that they, as candidates, would be seeking to represent and serve?

There were a number of potential ways of lodging such an amendment. I chose to use the term "ordinarily resident", but I could have used the term "habitually resident", which would have been a higher test, and I could have proposed an obligation on candidates to be registered to vote in Scottish Parliament elections in one of the constituencies or regions. However, to be proportionate and balanced, I decided to use the term "ordinarily resident".

The minister and the Electoral Commission have pointed out that this is a significant matter. We need to consider not only how such provisions would operate with the Scotland Act 1998 but people's rights in relation to the requirements for standing in UK elections, the Commonwealth and immigration restrictions.

I am happy not to move amendment 59 at stage 2, but we should consider the issue. I am pleased that the minister has committed to a further consultation on the matter and others, but, in relation to not only my amendment but the amendments that have been lodged by colleagues, the fact that, under the current proposals, the results of the consultation would not be implemented until the next parliamentary session means that there would not be changes relating to these potentially quite important issues until before the 2031 election.

I fully appreciate that the parliamentary timetable for the rest of this session is packed, but given that we have a bill in front of us, the committee and the Government could consider whether there was scope for the consultation to take place between stages 2 and 3, with stage 3 being delayed, in order for the bill to be what it could be. I know that the Government has an obligation to pass and implement the bill ahead of the 2026 election and that there needs to be a suitable timeframe for that.

Graham Simpson: Is there a danger that, with all these welcome consultations, it could look like the Government is trying to park issues and kick them into the long grass? I think that Ben Macpherson is right that, if the matters are not dealt with in the bill, we might need another bill in the next session of Parliament, and it could be many years before there is any action on the issues.

Ben Macpherson: I do not question the Government's good faith. However, not just in this area but more widely, in all subject areas, there is a challenge, in that bills with scope to make changes come around only every so often. Passing bills is a significant process, so we should utilise each bill to make the changes that people wish to see.

It is right that the issues have been raised at stage 2, and the consultation will be an important one. I will leave it up to others to consider whether there is scope, practical ability or enthusiasm from the committee, the Parliament or the Government to have a longer period between stage 2 and stage 3.

Lastly, members will notice that the pronoun that is used in amendment 59 is "he", which is because the pronoun that is used in the Scotland Act 1998 is "he". It would be appropriate for the committee, the Parliament and the Government to consider ahead of stage 3 whether it is possible to change the pronoun across all the criteria, given that we are seeking to have a more equal and representative Parliament that is reflective of Scotland, with more female MSPs. It is archaic that that language is still used.

Sue Webber (Lothian) (Con): I want to ask the minister for clarification on amendment 20,

because he did not specifically address it in his remarks. As I understand it, the amendment would mean that any MSP in the current session who was placed on the sex offenders register or whatever would not be disqualified until the next Holyrood election, as that would not be compatible with article 3 of protocol 1 of the ECHR. Is that the situation, minister?

The Convener: I am about to call the minister to wind up, so I hope that he can deal with that then. Alternatively, would you like to deal with the issue separately, minister?

Jamie Hepburn: I am happy to deal with it at the end, if you would like.

The Convener: I am happy with that.

Jamie Hepburn: I am conscious that this is a debate.

The Convener: I call the minister to wind up.

Jamie Hepburn: I have underlined at the top of my notes that it is Venice and not Vienna, convener—that is a mistake that I make frequently.

I will start with Ms Webber's point, lest I forget. She is right, in that amendment 20 creates transitional provision. She cited the convention, and that is the very purpose of the provision. We need to strike a balance, by creating a set of provisions that I believe will fundamentally improve public safety and trust in our democratic system, but in a way that is proportionate and meets the requirements of the Venice commission—I nearly said "Vienna" again—around the disqualification of parliamentarians. The fundamental point is that there should be a high threshold for disbarring someone who is already in elected office. We need to approach that carefully.

I am happy to give way if Ms Webber seeks more information.

Sue Webber: Article 3 of protocol 1 states that it concerns only legislative bodies. I am looking for clarification. Since councils are not legislative bodies, is it possible to get the changes in place at council level as soon as the bill is passed? The minister and I might have further discussions before stage 3 to consider an amendment that would at least put the changes in place at local authority level, so that there is that sort of equality around this.

Jamie Hepburn: I am just being reminded that I may not have been clear enough. I was referring to those who are already subject to a notification requirement. If, after commencement of the provisions, someone is found to have acted in a such way that they are then covered by an order, they will be disqualified. The provision applies only to those who are subject to such an order just now. I suggest that, if there are any such people, the number will be pretty small. I have no evidence to suggest that there are any.

I refer back to the point that I made about proportionality. I am trying to make sure that we are compliant with our wider obligations. Once we have commenced the provisions, anyone who commits an offence or becomes subject to an order—even if they are elected now—would be caught by such a disqualification. I hope that that provides the reassurance that Sue Webber was looking for. However, if she wants to discuss the matter further, I am happy to do so.

I turn to some—I will not cover all—comments that colleagues have made. On Annie Wells's points, I go back to the point that I made in speaking to the amendments. I completely understand her concerns. It is just a matter of trying to get the balance right. I observe that, before her colleague Sue Webber joined the committee, Oliver Mundell expressed almost the opposite point of view, asking whether we were satisfied that what we seek to do is compliant with the ECHR and almost suggesting that we have to be cautious. I said yes at the time, and I say it now—I am confident—but I take that step further because we are at risk of not being compliant. Of course, I am happy to discuss those matters with her.

Graham Simpson talked about the value of stage 2. Ross Greer and Ben Macpherson have also spoken about that. I completely accept that point. Mr Simpson was right to say that the issue of dual mandates was raised at committee. He raised it in debate. All I will say, convener, is that, although paragraph 358 of the committee's report reflects some comments by witnesses on dual mandates, there was no recommendation for me to act on. That is the point that I was making.

Incidentally, I was happy to hear Graham Simpson's list of all those who had been elected with a dual mandate. It was a reminder of many colleagues from the past. I was happy to be reminded of most of them, and happy not to have been one of them.

I appreciate that Mr Simpson does not plan to move his amendments. Clearly, he has given the matter some consideration. He said that he was of the clear view that what he sought to bring forward deals with the policy matter in the right way; however, he seems to have accepted the need for consultation. I make it clear to him that consultation is not an attempt to kick matters into the long grass. I observe that the bill that we are debating was subject to a thorough and rigorous consultation. The matter of sex offenders was subject to a consultation last year, which shows that we can move quickly on such matters.

Consultation is a genuine attempt to give proper consideration to them.

That relates to the points that Ross Greer made. He said that a move to consultation suggests that the bill has been a missed opportunity. Rather, it reflects the fact that the bill was never going to be the last word or the last time that we would seek to legislate on disqualification from the eligibility to be a candidate or remain as a parliamentarian or councillor. Indeed, I observe that this will not be the only such bill of the session; Graham Simpson seeks to introduce a bill that touches on some of those issues.

I understand Ross Greer's point about aggravators, and I think that we all share significant concerns about what are, as he rightly describes, attacks or assaults on an individual but could be felt collectively to be an attack on our democratic process. I am sympathetic to what Mr Greer is trying to achieve, but we need to think through what the wider ramifications might be, for example, on sentencing policy. I understand his point that it is only a factor that the courts may take into account, but that would still have a consequential impact, and we need to understand better what that might be.

10:15

On his point about the list that he suggested that the Electoral Management Board should have to maintain, I recognise and concede that the amendment and proposition are simple and straightforward. As Annie Wells said, maintenance of the list would come with a cost, but I do not know how considerable that would be. We would need to consider how to resource it. If the Parliament is minded to support the provision, we would need to do that.

Although I accept that it is not necessarily what Mr Greer is seeking to do, my wider point is that the proposition takes us in a direction of travel towards a more substantial process by which those who accept and receive nominations would have to start almost vetting them. That would be quite a big change to our system and I am not convinced that it is required. Again, I go back to the letter that the convener of the Electoral Management Board sent to the committee, in which he set out some concerns, saying that that would be a fairly substantial change to the process.

With regard to Mr Macpherson's points, particularly in reference to his amendment 59, I recognise that he has given thought to the issue. He has given a considered position, as all members have in relation to the amendments that they have lodged. I have some sympathy with the points that he made, but the proposal needs wider consideration. If we legislate in haste on such a requirement, what things will we not have thought through?

I appreciate that what I am asking the committee to agree to would mean that, realistically, any changes that we make in those areas would not take effect until the scheduled election in 2031. That is just a reality, and I am not going to shy away from that. Indeed, I was pretty clear about that in my letter, because I wanted to be up front about it.

In relation to Mr Macpherson's suggestion that we delay the period between stage 2 and stage 3, I am not minded to do that, for a multitude of reasons. With my Minister for Parliamentary Business hat on—well, that is also my hat in this case. However, outwith the confines of this particular bill, we have a wider programme of legislation to get through in this parliamentary session and I need to bear that in mind.

More fundamentally, with regard to the legislation, I also have to be mindful of the Nolan principles around ensuring that those who are involved in—I mean the Gould principles; I am getting a lot of things mixed up today, but I am sure that you would have pointed that out, convener. The Gould principles are that those who are involved in the administration of elections, such as returning officers and the Electoral Commission, must have the appropriate lead-in time of at least six months, and any delay to the process of our legislating and then going through commencement puts that in jeopardy. I understand the request, but I have to balance it with that consideration.

Lastly—as you will be glad to hear, convener—I agree with Mr Macpherson's point about pronouns. He raised it with me directly, so I have already asked officials to look at that area. What seems like a simple and straightforward process is not necessarily so, but we will look at it and see what can be done.

The Convener: I invite Annie Wells to wind up, and to press or withdraw amendment 8A.

Annie Wells: I have nothing further to say. I withdraw amendment 8A.

Amendment 8A, by agreement, withdrawn.

The Convener: I invite the minister to press or withdraw amendment 8.

The question is—

Jamie Hepburn: I will press amendment 8, convener.

The Convener: That is my enthusiasm [*Laughter.*].

Amendment 8 agreed to.

Amendment 9 moved—[Jamie Hepburn].

Amendment 9A not moved.

Amendment 9 agreed to.

Amendments 1, 2, 58, 3 and 59 not moved.

Section 3—Scottish disqualification orders

Amendment 60 moved—[Ross Greer].

The Convener: The question is, that amendment 60 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

For

Webber, Sue (Lothian) (Con)
Wells, Annie (Glasgow) (Con)

Against

Fitzpatrick, Joe (Dundee City West) (SNP)
Mackay, Rona (Strathkelvin and Bearsden) (SNP)

Abstentions

Whitfield, Martin (South Scotland) (Lab)

The Convener: The result of the division is: For 2, Against 2, Abstentions 1. The vote is tied. My casting vote is against.

Amendment 60 disagreed to.

Section 3 agreed to.

Schedule agreed to.

After section 3

Amendment 61 not moved.

Sections 4 to 6 agreed to.

Section 7—Effect of order: Scottish Parliament

Amendment 10 moved—[Jamie Hepburn]—and agreed to.

Section 7, as amended, agreed to.

Section 8—Effect of order: local government

Amendment 11 moved—[Jamie Hepburn]—and agreed to.

Section 8, as amended, agreed to.

Sections 9 to 11 agreed to.

After section 11

Amendment 62 not moved.

Section 12—Persons holding office: temporary relief from effect of disqualification

Amendments 12 to 19 moved—[Jamie Hepburn]—and agreed to.

Section 12, as amended, agreed to.

After section 12

Amendment 20 moved—[Jamie Hepburn].

Amendments 20A and 20B not moved.

Amendment 20 agreed to.

Sections 13 and 14 agreed to.

Section 15—Third parties capable of giving notification

The Convener: Amendment 21, in the name of the minister, is in a group on its own.

Jamie Hepburn: I suspect that this will be a shorter debate, convener, but I might be tempting fate.

The Government's amendment 21 reflects the committee's recommendation in its stage 1 report on the bill. The bill, as introduced, allows ministers to amend the categories of persons eligible to register with the Electoral Commission as third-party campaigners. The removal or varying of a category will require consultation with the commission, whereas the addition of a category will not.

Under amendment 21, which, as I have said, follows the committee's stage 1 recommendation, ministers will be able to add a category of third-party campaigner only after a recommendation by the Electoral Commission. That reflects broad agreement that the Electoral Commission should be a key part of the decision-making process in this type of change to campaigning rules.

I agree that it is important to maintain confidence in the system and that it remains free of any perception of possible political influence. Requiring a recommendation from the Electoral Commission for any changes to be made to categories of third-party campaigners is a helpful safeguard in that respect, and provides for consistency of approach to all amendments to the categories of persons eligible to register as third-party campaigners. I therefore invite the committee to support the amendment in my name.

I move amendment 21.

The Convener: I am grateful, minister. As I have had no indication that any member wishes to speak, I ask the minister whether he would like to wind up.

Jamie Hepburn: I will not seek to extend your patience, convener.

The Convener: Well read.

Amendment 21 agreed to.

Section 15, as amended, agreed to.

Sections 16 to 19 agreed to.

Section 20—Power of Presiding Officer to postpone ordinary election

The Convener: Amendment 22, in the name of the minister, is grouped with amendments 24, 25, 28, 29 and 31 to 34.

Jamie Hepburn: I urge the committee to support my amendments in this group, which relates to the postponement of elections.

The bill's provisions on the emergency rescheduling of elections are deliberately designed to restrict the postponement of an election by an office-holder, such as the convener of the Electoral Management Board. I think that such decisions should be made by Parliament, if that is at all possible.

The principal purpose of the nationwide postponement provision was to provide time to allow Parliament to pass a bill to set a new date for a local election. I am clear that it was never the intention to suggest that a nationwide local government election could be straightforwardly rearranged within two, or even four, weeks. Local government elections are complex and challenging to deliver, because of the e-counting system that is required to calculate results under the STV system. Rather than give the convener of the Electoral Management Board for Scotland the power to postpone an election by, say, six months, the bill provides for a limited postponement, during which Parliament can decide whether it wishes to pass emergency legislation.

Having heard the evidence at stage 1, I accept that the maximum period could be helpfully increased to four weeks—an aim that is achieved with amendments 25 and 29. I think that the approach is most likely to be of assistance at a local level, where an individual returning officer can decide to postpone the election in an authority area based on local circumstances. In individual areas, that could mean a postponement of up to eight weeks, as the EMB convener's power to postpone could be followed by a local postponement by a returning officer.

The other amendments reflect the committee's recommendation in its stage 1 report on ensuring a wider understanding of and confidence in decisions that are taken to reschedule or cancel an election.

The bill as introduced contains provisions to make arrangements to postpone elections and, in the case of certain by-elections, to cancel them. These amendments change part 4 of the bill to require that, when in relation to the Scottish Parliament, the Presiding Officer, and, when in relation to local government, the convener of the Electoral Management Board or relevant returning officer, exercise their power to postpone or cancel an election, they must also publish a statement setting out the reasons for doing so.

10:30

As I said in my letter of 16 May to the committee, the bill's provisions on emergency rescheduling seek to cover situations where postponement is considered essential, but they are deliberately not prescriptive. It is right that those who are entrusted with making those important decisions are not unduly constrained in doing so and are able to draw on their experience and judgment to take account of as wide a range of emergency situations as possible, both local and national.

That said, I also agree with the committee's assessment that such decisions that impact on the democratic functioning of our country be easily understood and command as much confidence as possible among the public. Requiring the person who makes the decision to postpone or cancel an election to publish a statement setting out the reasons for the decision will help in both regards, and will add an important extra layer of transparency and accountability to the process.

I invite the committee to support the amendments in this group.

I move amendment 22.

The Convener: I am grateful, minister. As I have had no indication that any member wishes to speak, I ask the minister whether he would like to wind up.

Jamie Hepburn: Again, I will not irk you, convener.

Amendment 22 agreed to.

Section 20, as amended, agreed to.

Sections 21 and 22 agreed to.

Section 23—Choice of new First Minister after changed election date

The Convener: Amendment 23, in the name of the minister, is grouped with amendments 26, 27, 30, 44, 45 and 48.

Jamie Hepburn: The amendments in this group are either technical adjustments or seek to make changes that tidy up drafting and correct minor typos in the bill as introduced. They make no policy changes.

Amendment 23 adjusts section 23 of the bill for technical reasons. That section currently seeks to amend 46 of the Scotland Act 1998 by adding two new subsections to take account of any delay in Parliament meeting after a rescheduled election. However, because the Scottish Parliament can

modify only certain listed provisions in the 1998 act, that structure would mean that there could, arguably, be doubt about whether our Parliament would be able to amend the section further in the future. The amendment restructures the proposed amendments to leave no doubt that the text can be changed in the future by this Parliament, if that is desired.

Amendments 26, 27 and 30 add the secretary of state to the list of consultees when the convener of the Electoral Management Board or a returning officer is considering rescheduling a local government election. That is to ensure that any rescheduled local election does not fall on the same day as a UK parliamentary election. Although such a situation is considered to be unlikely to arise, were it to happen it would result in a combined election, which would add considerable complexity for administrators and risk voter confusion.

I turn to amendment 44. Existing secondary legislation powers for Scottish Parliament elections allow ministers to make provision for sub-delegating certain responsibilities to other persons. The specific sub-delegation that we have been considering is to place a requirement on the Electoral Commission to provide guidance on ways in which returning officers can assist voters with accessibility needs. The Government plans to legislate on such guidance in 2025 for Scottish Parliament elections, and before 2027 for local elections.

We have established that, as the legislation stands, Scottish ministers have the necessary legislative powers to require the Electoral Commission to provide guidance for Scottish Parliament elections, but do not have the power to do so for council elections. Amendment 44 therefore seeks to change those powers in relation to local government elections so that they match the existing powers on sub-delegation in relation to parliamentary elections. It will allow secondary legislation and council elections to refer to documents such as guidance or forms that are prepared by the Electoral Commission and others, and will provide that those documents form part of the rules in relation to local elections.

Amendment 45 simply corrects a typo. Similarly, amendment 48 corrects an inconsistency in language where the word “code” appears when it should say “plan”.

I invite the committee to support the straightforward amendments in this group in my name.

I move amendment 23.

The Convener: I am grateful, minister. As I have had no indication that any member wishes to speak, I ask the minister whether he would like to wind up.

Jamie Hepburn: I think that I have said my piece.

Amendment 23 agreed to.

Section 23, as amended, agreed to.

Section 24—Rescheduling of by-elections

Amendment 24 moved—[Jamie Hepburn]—and agreed to.

Section 24, as amended, agreed to.

Section 25—Power of convener of Electoral Management Board to postpone ordinary local election

Amendments 25 to 28 moved—[Jamie Hepburn]—and agreed to.

Section 25, as amended, agreed to.

Section 26—Power of returning officers to postpone election for their area

Amendments 29 to 31 moved—[Jamie Hepburn]—and agreed to.

Section 26, as amended, agreed to.

Section 27—Power of returning officer to postpone or cancel by-election

Amendments 32 to 34 moved—[Jamie Hepburn]—and agreed to.

Section 27, as amended, agreed to.

After section 27

The Convener: Amendment 63, in the name of Ross Greer, is grouped with amendments 64 and 65.

Ross Greer: The committee will be glad to know that I will speak to the amendments only very briefly, because I believe that they align with the Government’s intentions. I will use two examples to illustrate why the amendments, which relate to agents and candidates, are necessary.

Amendments 64 and 65 deal with the current requirement for election agents to use their home address. In the relatively recent past, there was an incident in which an individual turned up at the home address of a party election agent on the weekend after an election, because they were seeking the successful candidate who had been elected. The candidate had, quite reasonably, not used their home address in the nomination process, but that individual was able to find the election agent’s home address. Thankfully, the incident did not escalate, but it illustrates the need for us also to give the option that candidates have

to their election agents, to ensure that everyone can engage with the process safely.

Amendment 63 would give candidates a new option to state the ward that they live in. At present, candidates can state the local authority area that they live in or the constituency that they live in, when that is relevant.

The example that I will use for amendment 63 relates to the recent Arran by-election. Arran and Cumbrae are the two islands in the North Ayrshire Council area. As you would expect, it is very important to Arran residents that they know that candidates live on the island and, therefore, understand life in an island community. One of the candidates who was put forward by a party did not live on the island, which resulted in the candidates who were Arran residents feeling under pressure to publish their home addresses in order to demonstrate that they lived on the island. The other option was simply to state that they lived in the North Ayrshire Council area, but that could mean that they lived in Irvine, Kilwinning or Ardrossan—in other words, not on the island—and did not have lived experience of island life.

A number of people have approached me to say that they want to be able to demonstrate that they have a connection to the relevant community. That applies not only to islands: particularly in larger local authority areas, a candidate being able to demonstrate that they live in the area is important. People want to be able to demonstrate that without compromising their and their family's safety by publishing their home address. Amendment 63 would simply provide candidates with the additional option of stating what ward they live in, which would clarify their connection to the community.

I move amendment 63.

Jamie Hepburn: Members will recall that we were already looking at this matter. We received a positive response to the consultation that we held on making the proposed changes through secondary legislation.

The Electoral Commission has said in writing to the committee that it supports the amendments in the group. I am supportive of the policy intent behind the amendments. As Mr Greer alluded to, we would have sought to make the changes through secondary legislation, but the amendments enable us to do so now. I am happy to support the amendments in the group.

Members will recall that we have written to the committee about plans for other changes through future secondary legislation. I commit to continuing to keep the committee up to speed with those changes, but of course that is for down the line. Today, I urge the committee to support Mr Greer's amendments.

The Convener: I call Ross Greer to wind up and to press or seek to withdraw amendment 63.

Ross Greer: I have nothing further to add, convener. I will press amendment 63.

Amendment 63 agreed to.

Amendments 64 and 65 moved—[Ross Greer]—and agreed to.

The Convener: Amendment 66, in the name of Ross Greer, is grouped with amendment 67.

Ross Greer: The question of randomising ballot papers, or the advantage or disadvantage of alphabetical order on ballot papers, is not unique to Scotland or the UK, and I am sure that members will be familiar with the issue. This is a long-standing area of debate in all parliamentary democracies.

There is strong evidence that appearing at the top of the ballot paper is an advantage. A quite comprehensive study in 2015 in Denmark found, on average, a 4 per cent advantage to the candidates at the top of ballot papers. In Scotland, the advantage might not be as significant as 4 per cent—there has not been the same rigorous study here—but there are plenty of other studies from across the world showing various levels of advantage to candidates who are at the top of ballot papers. Nothing can be done to prevent that, because somebody needs to be at the top of the ballot paper.

However, based on the principle of fairness, but also the perception of fairness, I think that we should randomise ballot papers so that there is no way to secure that advantage. I remember one particular incident in which a candidate from my party was accused of having changed their surname so that it began with A. That candidate was successfully elected—

Annie Wells: By 4 per cent.

Ross Greer: Yes, by something in the region of 4 per cent.

I can confirm that that candidate was not particularly enthusiastic about being elected to the local authority in question, and most certainly had not changed their surname to secure that advantage. If they had realised that in advance, they perhaps would have kept their previous surname, although their partner might have had something to say about that.

Because of that unfair advantage, I am proposing randomisation, but I have not prescribed a method of randomisation. Local authority returning officers could simply draw straws or pick names out of a hat. They might want to do it like the cup draw for the football and get minor celebrities in, live stream it and make it a bit more exciting for the three people who will be

watching. That is for returning officers to decide. I have simply stated that the ballot papers should be randomised to tackle the issue.

Joe FitzPatrick: Obviously, randomisation in the way that Mr Greer has mentioned would lock in another disadvantage, because there would still be somebody at the top. There has been a fair bit of discussion and debate about the issue, and it is really difficult to find an answer. Would it be possible for Mr Greer not to press his amendment 66 today, but to have a discussion with the minister about finding a way that the issue can be looked at properly?

When I had Mr Hepburn's role in Government, the issue was looked at, and I fell on the side of thinking that the practical solution is to have two ballot papers—one going from A to Z and one going from Z to A. That would mean that, those who were in the middle would be in the middle. However, some people would be at the top of half the ballot papers and at the bottom of the other half, so the advantage would be removed.

Like Mr Greer, I do not want to be prescriptive. The changes would absolutely have to be taken forward in collaboration with the Convention of Scottish Local Authorities and local government colleagues, because local government is where the proposal would have the most impact. Particularly when there are two members of one party on a ballot paper, it is a big issue.

There is an issue. Perhaps we could introduce a power, so that the change could ultimately be taken forward without waiting for another bill. Maybe we can jointly have a discussion with the minister about a stage 3 amendment.

10:45

Ross Greer: I am grateful to Joe FitzPatrick for that intervention and I recognise the substantial amount of work that he did on the issue when it was part of his ministerial role.

Depending on what the minister is about to say, I am very open to not pressing amendment 66 at this stage. Like some of the other issues that we have discussed, it is an important principle and a long-recognised area of debate that needed to be aired as part of the process. If there is the potential for us to reach agreement ahead of stage 3, I would be more than happy to take that approach, but I will wait to hear what the minister has to say.

I move amendment 66.

Annie Wells: I thank Ross Greer for the amendments that he has lodged. We have heard from disability groups that randomisation of names on ballot papers could negatively impact some disabled people. Therefore, yes, the idea requires further consultation and discussion, but I ask Mr Greer not to press the amendment. If he does press it, I could not support it at this time.

Jamie Hepburn: Mr Greer rightly says that there has been a long-standing debate on these issues. I can well imagine that Mr Greer would take far more interest in watching a draw of the order of names on a ballot paper than he would in watching the Scottish cup draw, but I will leave that to one side.

It is clear that there are strong views among many members and councillors that the alphabetical ordering of names on ballot papers has disadvantages. As other members have touched on, the consideration of the issue has a complex past. For a number of reasons, we could not suddenly move to randomising the order of names on ballot papers, particularly without prior consultation and engagement, not least with councils and councillors.

First and foremost, as Annie Wells mentioned, we must consider the concerns that have been raised about the potential negative effects that that would have on some voters with accessibility needs, particularly those with sight loss. The electoral reform consultation that the Government ran in 2017 looked at the possibility of randomisation and other options. Equality groups responded to both that consultation and a study that was undertaken by the Electoral Commission in 2019 to set out their concerns that the randomisation of names would disadvantage people with disabilities, and the Electoral Commission wrote to the committee to make that point.

In responding to the 2017 consultation, the Scottish Council on Visual Impairment said:

> "SCOVI's very strong preference is to retain alphabetic listing of candidates and would urge against moving away from this method. SCOVI acknowledges the concerns about 'list ordering' but considers the ability of people with vision impairments to undertake their democratic right to vote independently and in secret to be a principle that must not be jeopardised."

In its response, Inclusion Scotland stated:

> "While we would not disagree that counteracting the list-order effect is a worthwhile goal, we would urge that any system used for doing so be balanced with the potential complication it adds for the electorate."

I recently wrote to the committee to update it on work to improve the ability of voters with sight loss to complete their ballot independently and in secret. The on-going development of a tactile ballot, paper overlays and the accompanying audio support could potentially be undermined by the randomisation of names on ballot papers. That might be a step backwards for voters with sight loss. It is clear from what we have been told that many voters rely on memorising the order of

names on the ballot paper in advance of voting or on using the large posters of the ballot paper in polling stations as an aid. I think that we would all concede that randomisation would complicate that. Although there might be work that could be done to ensure that we would not disadvantage anyone in society, the issue needs to be considered before any changes are made.

I heard what Mr Greer said about consultation and the experience of other places—he mentioned Denmark specifically. I have already mentioned the study that the Electoral Commission undertook in 2019. With regard to the order of names on the ballot paper, it said that it could find "no impact" on the ability of voters to cast their vote.

I note that the amendments also apply to parliamentary elections. The list order affecting local government elections has been debated often and is, I think, understood to a degree by us all. However, I am not aware of any issues that are caused by the order of names on ballot papers in Scottish Parliament elections. I should say that I have no skin in the game in that regard—my surname begins with an H and Mr Greer's begins with a G, so I am not saying all this out of self-interest. The list order effect is generally considered to be a feature in STV elections, in which one party has multiple candidates standing in the same ward.

The Government last set out its position on the matter in a letter to the committee in October 2022, in which we concluded that we had no plans to undertake further research unless and until there was a specific proposition that was practical and accessible and which had attracted cross-party support. No such proposal has been brought to our attention since then, otherwise we might have been able to test it out.

I am keen to engage with Mr Greer between now and stage 3 on whether we can determine some way of creating, perhaps, an enabling mechanism in the bill that will provide us with the time and space to consult on how we might best address concerns about the order of names on council ballot papers while accommodating the concerns that some organisations have flagged up. As a result, I ask Mr Greer not to press his amendment. Should he choose to do so, I urge committee members not to support the amendments in this group.

The Convener: I am grateful, minister. I call Ross Greer to wind up and indicate whether he wishes to press or withdraw amendment 66.

Ross Greer: I am happy to take up the minister's offer of further engagement and therefore I seek the committee's agreement to withdraw amendment 66.

Amendment 66, by agreement, withdrawn.

Amendments 67 and 68 not moved.

Section 28—Pilot schemes under the Scottish Local Government (Elections) Act 2002

The Convener: Amendment 69, in the name of Ross Greer, is grouped with amendments 35 to 43 and 4 to 7. I call Ross Greer to speak to amendment 69 and all the amendments in the group.

Ross Greer: I am going to speak only to my own amendment, convener, and I will be quite brief.

Amendment 69 will require parliamentary approval not for all pilots but for any pilot that alters how votes are cast. My primary area of concern is e-voting—electronic voting, digital voting or however you wish to phrase it. I am not seeking to ban e-voting pilots outright, although in all honesty I would do so, but I think that any move from a paper to an electronic ballot, even as part of a pilot, would be of such significance that it should require specific consideration before it went ahead. Any trial of a new system, even in a single area, will still be part of a live election in which somebody will be elected to represent a community.

Given the significance of long-held concerns about the potential ability to compromise such a system, there should be that additional level of scrutiny. Therefore, I propose that any pilot that changes how votes are cast be subject to the Parliament's approval.

I move amendment 69.

The Convener: I am grateful. I call the minister to speak to amendment 35 and the other amendments in the group.

Jamie Hepburn: I will start with Mr Greer's amendment 69, which, as he has laid out, ensures that any electoral innovation pilot that would change the methods used to cast votes must be approved by affirmative resolution of the Parliament.

From the discussion that I had with Mr Greer before today—and which, again, I was grateful for—and from what he has set out today, it is clear that his concerns relate specifically to electronic voting. I am concerned that his proposed wording might have an impact on some possible pilots in which changes to the method of voting might not reach his own threshold of concern with regard to this specific area.

Some pilots might, for example, be focused on accessibility improvements. I know that those who are not on the committee did not receive them, but I sent the committee samples of the new tactile voting devices that are being piloted. I could be

wrong—the committee might take an alternative view—but I do not think that that example crosses the threshold to require an affirmative vote of Parliament.

I suggest that I discuss the matter further with him. I should say that, in doing so, I am not necessarily going to agree with him at stage 3. If his concern is as narrowly focused as it is, it might be better if he did not press amendment 69 today and instead brought back at stage 3 a more specific amendment on a specific area of concern relating to electronic voting. Indeed, I urge him to consider doing that today.

Amendments 35 to 43, which respond to the committee's recommendation that the Electoral Commission should be added to the list of bodies that must be consulted on proposed election pilots, will mean that persons who propose an electoral pilot must consult the Electoral Commission before making such a proposal. They will also mean that the Scottish ministers will be obliged to consult the Electoral Commission as well as the Electoral Management Board before making any modifications to a pilot scheme that has been proposed by a local authority or a registration officer under section 5 of Scottish Local Government (Elections) Act 2002.

Mr Doris's amendments 4 to 7, which will allow the Government to make regulations on pilots for the registration of electors, set out how such pilots may be proposed and evaluated, and made permanent if desirable. They relate to a recommendation that was made by the committee at stage 1. I am grateful to Mr Doris for lodging them, and I was pleased to work with him in advance of stage 2 to help to develop them.

Amendments 4 and 5 will allow the Scottish ministers to make regulations for temporary pilots on voter registration. Any pilots that are proposed to ministers must be the subject of consultation with the Electoral Management Board and the Electoral Commission before they can be approved, to ensure that the expertise of the electoral community, for want of a better term, has been taken into account. Those bodies will be involved in implementing the roll-out of any successful pilots.

Amendments 6 and 7 will ensure that the pilots will be fully evaluated by the Electoral Commission. Ministers will be able to seek to make a change permanent through an affirmative instrument, but only if the Electoral Commission has independently made such a recommendation in its evaluation report.

Information sharing is likely to be a key aspect of any pilot on voter registration, such as a pilot on automatic voter registration, and Mr Doris's amendments include provisions to facilitate that. Specifically, amendment 4 includes provision about the processing of information in relation to registration.

The Government supports amendments 6 and 7. We are committed to ensuring that everyone who is eligible to vote is able to register. Complete and accurate electoral registers are an important part of that. We know that certain groups, such as young people, people in private rented accommodation and foreign nationals, are far less likely to be registered. Piloting innovative forms of voter registration, such as those that make better use of public data, is one way in which we can seek to improve the electoral registers.

Mr Doris's amendments set out a robust procedure to ensure that such innovations will be proposed in consultation with those who have responsibility for administering elections, piloted on a temporary basis and fully evaluated before being put to Parliament for a decision on whether to make the reforms apply generally and on a permanent basis.

I urge members to support all the amendments in the group, save for amendment 69, which I ask Mr Greer not to press.

The Convener: I welcome Bob Doris back to the committee and invite him to speak to amendment 4 and other amendments in the group.

Bob Doris (Glasgow Maryhill and Springburn) (SNP): Thank you, convener. There will be a degree of duplication and overlap between my comments and the minister's, given that we worked quite closely on the amendments in this group, so I ask for the committee's indulgence.

In speaking to my amendments 4 to 7, I commend the committee for its stage 1 recommendation on automatic voter registration pilots and acknowledge the Electoral Commission's support for such pilots. I also thank Councillor Alex Kerr from Glasgow City Council. Together, we met the minister to make the case for automatic voter registration pilots and to seek an assurance that there was a robust legislative framework that would enable such pilots to happen.

Amendments 4 to 7, which were drafted with Government support following our discussions, demonstrate strong partnership working, and I am grateful for those efforts.

Amendment 4 will enable the Scottish ministers to make regulations for temporary provision about the registration of electors in the registers that are used for local government and Scottish Parliament elections. The registration pilots are expected to be run by public bodies or bodies with public

functions, by agreement with the relevant bodies. The amendment also clarifies that the regulations cannot affect someone's right to be registered to vote in itself.

As pilots or temporary regulations that are made under the power for which amendment 4 provides must include a date by which they expire, ministers will be able to make regulations under the proposed new section only when a proposal for a pilot has been made and approved in accordance with amendment 5, to which I now turn.

Amendment 5 makes it clear that pilots can be proposed by ministers, the Electoral Management Board for Scotland, a local authority or an electoral registration officer, either on their own or jointly, by submitting such proposals to the Scottish ministers. It also makes clear the necessary consultation requirements to approve or modify those proposals, and states that a registration of electors pilot may be put in place only if the provision is considered likely to facilitate registration or encourage more persons to register.

11:00

Regulations that are made under this provision must specify a date before which the Electoral Commission must send a report to evaluate the pilot, and the procedure for that subsection is subject to the negative procedure.

Amendment 6 deals with the evaluation report. It sets out that the Electoral Commission must prepare a report on the operation of the pilot, send a copy of the report to the Scottish ministers, any local authority to which the pilot relates, the Electoral Management Board and any electoral registration officer who proposed the pilot in the first place, and publish the report.

The amendment also sets out aspects that the report must cover, such as the assessment of the success or otherwise of the pilot provisions. Importantly, the report must also include an assessment of

"whether provision similar to that made by the regulations should apply generally, and on a permanent basis",

with a move from a temporary pilot to permanency.

That move is the subject of amendment 7, which provides Scottish ministers with the power to permanently modify electoral law if, following the Electoral Commission's report, they decide that the piloted provisions or similar provisions should apply generally and on a permanent basis, contingent on the recommendation of the Electoral Commission's report. It also sets out the consultation requirements.

Together, the amendments provide a clear pathway for public bodies such as Glasgow City Council and others to work in partnership and to progress an automatic voter registration pilot.

In closing, I note that the Electoral Commission estimated that, in 2023, 19 per cent of voters—up to 1 million people—were either not on an electoral register or were registered inaccurately, which put at risk their right to vote. Addressing that is the real policy intent of the amendments.

The Convener: Minister, do you have any comments?

Jamie Hepburn: None, other than to once again urge Mr Greer to consider withdrawing his amendment.

The Convener: I call Ross Greer to wind up and to press or withdraw amendment 69.

Ross Greer: I am happy to take up the minister's offer of engagement ahead of stage 3, with the caveat that we might end up not reaching agreement anyway. However, I am happy to give that a go and, therefore, I seek to withdraw amendment 69.

Amendment 69, by agreement, withdrawn.

Amendments 35 to 43 moved—[Jamie Hepburn]—and agreed to.

Section 28, as amended, agreed to.

After section 28

Amendments 4 to 7 moved—[Bob Doris]—and agreed to.

The Convener: We have come to the end of that group of amendments. Given the time, it would be appropriate to close the meeting and complete stage 2 of the bill next week.

Meeting closed at 11:03.

Official Report
Room T2.20
Scottish Parliament
Edinburgh
EH99 1SP

Email: official.report@parliament.scot
Telephone: 0131 348 5447

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

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