

LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

Tuesday 2 December 2003
(*Afternoon*)

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2003.

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

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The
Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now
trading as The Stationery Office Ltd, which is responsible for printing and publishing
Scottish Parliamentary Corporate Body publications.

CONTENTS

Tuesday 2 December 2003

Col.

LOCAL GOVERNANCE (SCOTLAND) BILL: STAGE 1	273
---	-----

LOCAL GOVERNMENT AND TRANSPORT COMMITTEE 10th Meeting 2003, Session 2

CONVENER

*Bristow Muldoon (Livingston) (Lab)

DEPUTY CONVENER

*Mr Andrew Welsh (Angus) (SNP)

COMMITTEE MEMBERS

*Dr Sylvia Jackson (Stirling) (Lab)
*Mr Bruce McFee (West of Scotland) (SNP)
*Michael McMahon (Hamilton North and Bellshill) (Lab)
*Paul Martin (Glasgow Springburn) (Lab)
*David Mundell (South of Scotland) (Con)
*Tommy Sheridan (Glasgow) (SSP)
*Iain Smith (North East Fife) (LD)

COMMITTEE SUBSTITUTES

Bill Butler (Glasgow Anniesland) (Lab)
Colin Fox (Lothians) (SSP)
Mr Kenny MacAskill (Lothians) (SNP)
Mr Brian Monteith (Mid Scotland and Fife) (Con)
John Farquhar Munro (Ross, Skye and Inverness West) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Alasdair Bovaird (Argyll and Bute Council)
Professor John Curtice (University of Strathclyde)
Leslie Evans (Scottish Executive Finance and Central Services Department)
Councillor Alex Macdonald (Convention of Scottish Local Authorities)
Professor Bill Miller (University of Glasgow)
Sarah Morrell (Scottish Executive Finance and Central Services Department)
Councillor John Morrison (East Dunbartonshire Council)
Gillian Russell (Scottish Executive Legal and Parliamentary Services)
Councillor Len Scoullar (Argyll and Bute Council)
Nigel Stewart (Argyll and Bute Council)
Paolo Vestri (Convention of Scottish Local Authorities)
Councillor Pat Watters (Convention of Scottish Local Authorities)

CLERK TO THE COMMITTEE

Eugene Windsor

SENIOR ASSISTANT CLERK

Alastair Macfie

ASSISTANT CLERK

Euan Donald

LOCATION

Committee Room 1

Scottish Parliament

Local Government and Transport Committee

Tuesday 2 December 2003

(Afternoon)

[THE CONVENER opened the meeting at 14:06]

Local Governance (Scotland) Bill: Stage 1

The Convener (Bristow Muldoon): I call to order this meeting of the Transport and the Environment Committee. I am sorry—I mean the Local Government and Transport Committee; I was getting a bit historical there.

Today's meeting is our first evidence-taking session on the Local Governance (Scotland) Bill. I welcome Leslie Evans, Sarah Morrell and Gillian Russell, who will set out the Scottish Executive's thinking behind the bill. They will take questions in due course. Before I invite the Executive officials to give their opening evidence, I declare an interest in relation to the bill. My wife is a local authority councillor in West Lothian.

Mr Andrew Welsh (Angus) (SNP): My wife has been an Angus councillor since 1980.

Mr Bruce McFee (West of Scotland) (SNP): Should we just put up our hands if we have not been employed in local government?

David Mundell (South of Scotland) (Con): I do not wish to make a declaration. However, it is important, given the controversy that surrounds the bill, that the committee makes it clear at the start that our evidence-taking exercise will be objective, in accordance with the principles of the Parliament. When other MSPs appear in the media and say that if the Parliament does not agree to the passing of the bill, the Scottish Executive will be brought down, and when—

The Convener: If we are to have an objective evidence-taking session, it might help to get to the evidence and to take it objectively, rather than getting into a political debate before we even start.

David Mundell: I am reassured that you are committing to an objective process; I was sure that you would do that.

The Convener: Absolutely.

Let us hear the Executive's opening statement.

Paul Martin (Glasgow Springburn) (Lab): Will you confirm that members are entitled to make political comments outside the committee?

The Convener: Look—

Paul Martin: It is important, convener.

The Convener: We should desist from having a debate around the issue at this stage. I do not think that it is helpful to start our evidence taking in this manner.

I believe that Leslie Evans intends to make some opening remarks.

Leslie Evans (Scottish Executive Finance and Central Services Department): I will make four or five short points about the bill.

We know that the bill's introduction of the single transferable vote system is prompting particular interest. Quite rightly, people want to be able to compare and contrast STV as it might operate here in Scotland with how it operates elsewhere in the world. It is important to remember that we are starting from a particular position, as an established democracy that is moving from a long-established system to a different system, which will always be a challenge. It is difficult to make direct comparisons between aspects of the first-past-the-post process and the STV process. It is a little bit like comparing oranges and apples—they are both fruits, but they have very different characteristics. That is especially true when one considers the voting process for STV.

There has been quite a lot of comment about the level of detail in the bill. Some people feel that there is too much detail; others have commented that there is too little. On that basis, one could say that we have perhaps got the balance about right. We know that people have strong feelings on the subject, and we have sought to strike a balance. The bill seeks to ensure that the key principles are spelled out in primary legislation, but the bill's implementation and its flexibility will be ensured through the use of secondary legislation.

A lot of consultation has taken place on the principles behind the bill and, more recently, on the bill itself, and we are happy to be here to contribute to the debate. Indeed, the draft bill was amended as a result of the consultation process and the useful away day that was held earlier in the year. Other things are going on around, and in support of, the bill. Three independent working groups—on the implementation of STV, councillors' remuneration and widening access to council membership—have begun their work. I know that the committee will take evidence from the chairs of those groups later.

We know that there is a robust debate around the introduction of the new electoral system, and I am sure that that will continue during the

parliamentary process. We are happy to answer members' factual questions. If we cannot answer any of them today, we promise to come back to the committee with evidence as soon as possible.

I apologise for a small technical error in the explanatory notes; I reassure the committee that it does not affect the content of the bill, nor does it affect the notes' explanation of the bill's provisions. Paragraph 15 on page 4 of the explanatory notes gives a worked example, or illustration. In that example, we have rounded up rather than rounded down the figures. We apologise for that error, but I reassure members that it does not affect the contents of the bill, and that the explanatory notes are accurate. We circulated revised pages to the committee and to the Scottish Parliament information centre today.

The Convener: Thank you for those introductory remarks. Can you outline any ways in which the bill was changed from its original draft form in the process of, and following, the consultation?

Leslie Evans: Most changes have been fairly technical and have explained or made clearer the bill's technical provisions. Sarah Morrell will give a couple of specific examples.

Sarah Morrell (Scottish Executive Finance and Central Services Department): Key changes were made to clarify the electoral reform provisions in part 1, as Leslie Evans said. In particular, we have attempted to clarify the distinction between votes and ballot papers. That point arose both at the committee's away day in August and in the responses to the consultation. Still on part 1, we have made it clear that the transfer value of a vote cannot be more than one; that point arose during consultation. We have adjusted section 9 to make it clear that secondary legislation will cover, among other things, the definition of rejected ballot papers; that point arose in several consultation responses.

The first key change that we made to remuneration was to adjust the drafting to ensure that allowances can be paid to councillors. The draft bill had originally included remuneration and expenses, and we wanted to be sure that if, for example, a remuneration committee wished to consider child care allowances—a matter that also arose during consultation—the power to introduce such allowances would be there.

There are two other significant changes to remuneration. First, the provision on severance pay has been expanded. Secondly, we have made it clear that ministers will consider any information, advice or recommendations from the remuneration committee before they make regulations on remuneration, severance pay and pensions.

The Convener: Members should stick to the first part of the bill when they ask questions.

Dr Sylvia Jackson (Stirling) (Lab): I am not sure whether I will keep to the first part of the bill, as I have a general question about time scales. When do you envisage the reports by the three working groups being produced? Most important, on boundary reviews, when do you expect the Local Government Boundary Commission for Scotland's review?

14:15

Leslie Evans: The three working groups have been set up and have been asked to report fully to ministers by September next year. However, all three groups are already actively considering the bill and have been encouraged to do so in order that, if they wish to raise any issues as part of their work and deliberations that have a read-across to the bill, they can raise them now rather than leave them until the bill's parliamentary time and process have passed. The STV working group, for example, is considering issues relating to boundaries, the boundary review and guidance on boundaries that might be given to the Local Government Boundary Commission for Scotland, which is now live in the bill, if you like. Although the working group is not due to report until September, it has the opportunity to make comments to ministers if it wishes to do so. Ministers must then decide whether to take the group's comments on board during the bill's parliamentary process.

Dr Jackson: And the boundary review?

Leslie Evans: The latest time by which the boundary review should be completed is the end of 2006, to enable the elections to take place in 2007.

Mr Welsh: Does that time scale allow for appeals?

Leslie Evans: Yes—that is the whole process.

Dr Jackson: Could we receive information on important questions relating to the bill? What are the dates by which you expect to get such information back from the three working groups?

Leslie Evans: The working groups will give the committee their evidence and findings to date over the next weeks. I think that David Green will talk about the STV working group next week and update the committee on its findings to date. The bill is proceeding through Parliament and there are key milestones by which the working groups must speak to ministers or give them their initial findings in order that ministers can take those findings into account as the bill proceeds. The initial information that would come out as a result of what is in the bill would have to come out quite quickly. All the working groups are aware of that.

Dr Jackson: Are they?

Leslie Evans: Yes.

David Mundell: In your opening statement, you said that we must start from where we are in Scotland rather than necessarily take on board what is happening elsewhere. However, in section 5(4) of the bill, you have chosen to adopt provisions that apply in Northern Ireland in respect of the transfer of surplus votes. Why have you done that? The provisions mean that when votes are transferred to candidates who did not previously make the quota, not all the votes are transferred, but only the surplus.

Leslie Evans: As you know, we have taken the Northern Ireland model as our prime model for the bill because we wanted to ensure that we used a model that was already being used successfully in a similar context to that within which the Scottish democratic process operates. Perhaps Sarah Morrell would like to comment on the specifics of the provision.

Sarah Morrell: As Leslie Evans said, the bill is based broadly on the Northern Irish system of STV. Under that system, after the first transfer of surpluses, only the last bundle of papers that has been received by a candidate is transferred. That means that the full votes that have so far been awarded to that candidate are not transferred.

My understanding is that the system is considered to achieve a balance that is practical, so that the system does not become incredibly complicated to administer. If, as we moved down the transfer process, we were to try at each stage to transfer all the votes that candidates who have been elected have received, the number of votes to be transferred would become very large. There would also be an increasing range of different values associated with the papers that were being transferred.

That is why the system that is used in Northern Ireland takes only the last bundle of papers that has been transferred. It is an attempt to achieve a balance between what is accurate and what is practical and workable.

David Mundell: That does not seem consistent with trying to give every vote an equal value. People who cast their first-preference votes for a candidate may find that their second preference is never counted under that system.

Sarah Morrell: That is right—sorry, I had to think about that. If somebody has just failed to make the quota on the first-preference count, their votes stay with them. The bundle of papers that they receive to take them over the quota transfers at reduced value.

David Mundell: However, if another candidate has achieved, say, just 100 votes more, all their first-preference votes are counted for the purposes of second preferences.

Sarah Morrell: Yes. For any candidate or candidates who exceed the quota after the first count, all their votes are transferred at reduced value.

David Mundell: Is it fair to say that, even under the system as envisaged, some people's votes count more than others?

Sarah Morrell: I am not sure that they count more than others. They are transferred at reduced value, so they never count as more than one vote; they do not in some way count as two votes. However, you are right to say that some votes are transferred more often than others.

David Mundell: And some votes are never transferred.

Sarah Morrell: Some votes do not transfer as part of the process. That is also true of candidates for whom the number of first-preference votes is somewhere in the middle. They are neither eliminated because they are so far down, nor do they manage to exceed the quota and become elected.

David Mundell: On that point—

The Convener: Just a second, David. A couple of other members wish to ask supplementaries on this point, so I will allow them to come in.

Michael McMahon (Hamilton North and Bellshill) (Lab): We had a close look at the Northern Ireland model. The examples of the system that we saw in operation in a district of Belfast threw up a great many anomalies along the lines that David Mundell mentioned. Of all the STV systems that I have looked at, the Northern Ireland one is probably the worst. I am a bit concerned that we are using that as the base model.

We were struck by the fact that, of the 20 candidates who stood in the Belfast East election, the votes of a large number were not transferred, as David Mundell said. Also, three of the seven candidates who were elected were elected on less than a majority. There is also a problem for independents. Both the McIntosh and Kerley reports said that we had to find a system that specifically recognised independents. However, the evidence from Northern Ireland was that the number of independents who were successful under that model had decreased.

On those two counts—that the system does not provide for majorities and does not provide for independents—I would like to hear your comments.

Sarah Morrell: In addition to the reasons that Leslie Evans gave, one of the main reasons for our adopting that system was that it is one of the two systems—the system in Northern Ireland and

the system in the Republic of Ireland—that are closest to home, that have been in use for longest and that some people would say are working well, according to different points of view. It is clear that the system in Northern Ireland contains fewer arbitrary elements than the system in the Republic of Ireland.

The main difference between the system in Northern Ireland and the system in the Republic of Ireland lies in the way in which votes are transferred. As I understand it, in the Republic, a sample is taken of all the votes that have been allocated to the person who has equalled or exceeded the quota. That produces a result. However, it has been argued that it is perfectly possible—or at least theoretically possible—to carry out the same count again and, by taking a different sample, produce a different result. The Northern Ireland system does not have that idiosyncrasy; no matter who does the count, the result should be the same. That is one of the key reasons why we adopted the existing Northern Ireland model rather than the existing Republic of Ireland model.

The evidence on independents varies from country to country. There seems to be an argument that independents may do reasonably well in some parts of Ireland, but that in other parts they may not. Under STV, it seems that independents need to have wider appeal. The evidence from Northern Ireland is that votes do not transfer between the opposing parts of the community. As a result, the situation there has been characterised as being two elections, because votes are being transferred within narrow ranges of candidates. In other parts of the world, one might expect votes to transfer more widely and that probably has an effect on independents.

Iain Smith (North East Fife) (LD): In answering David Mundell's question on section 5(4), you seemed to indicate that there was a balance between practicality and purity of result. If electronic voting or counting were possible, would that get round the practicality problem, thereby allowing a system in which all votes would be counted in any transfer of a surplus?

Sarah Morrell: That is certainly a possibility. My understanding is that the people who are getting nearest to introducing the purest form of STV are the people in New Zealand, who are introducing STV for some—but not all—local government elections next year. They are introducing STV and electronic methods together, from day one.

Iain Smith: In local government elections, the electorate is relatively small. Is it not possible that using the surplus transfer system will end up giving a small number of people a disproportionate say, because their surplus will transfer and transfer and transfer, whereas other people's will

not transfer? Using a sample may imbalance the result because of the relatively small numbers involved.

Sarah Morrell: I suspect that that is theoretically possible—it will depend on voting patterns and the subsequent preferences of the voters whose votes are transferred.

Iain Smith: I will explain my point a little further. Because a relatively small number of papers is involved, any sample is less likely to be representative of all the votes than it would be in a parliamentary constituency, where more votes would be transferring.

David Mundell: To add to that—

The Convener: Can we avoid having a debate among ourselves?

David Mundell: This is an additional question to the witnesses, not a remark to Iain Smith. When votes transfer more often, is it not much more likely that there will be non-transferable votes because voters have not given their seventh, eighth or ninth preferences? The second preference will be much more likely to transfer.

Sarah Morrell: Yes, if someone has put three or four preferences on their ballot paper but not gone any further, and if there are a number of transfers, at some point their vote will become non-transferable.

Tommy Sheridan (Glasgow) (SSP): I want to explore the Northern Ireland model. The McIntosh commission highlighted five key criteria—proportionality; the councillor-ward link; a fair chance for independents; allowance for geographical diversity; and a close fit between council wards and natural communities. Was your choice of the Northern Ireland model as the “prime model”, as Leslie Evans called it, based on those five criteria?

Leslie Evans: The Kerley group used those criteria and concluded—not unanimously, because some people demurred—that STV was the correct model.

We revisited the options on proportional representation when we went out to consultation and we restated the criteria on the bases of voter preferences being clearly expressed, maintaining the councillor-ward link, having clear support for the system and not requiring a change in councillor numbers. On those bases and the preferences that were expressed in relation to the consultation paper, we noted that there was clear support for having STV.

Not many countries use STV. New Zealand, as Sarah Morrell said, is just about to introduce it in a complex and electronically based form. Northern Ireland, the Republic of Ireland, Malta and one or

two cities in America have STV and one or two aspects of Australia's democracy are based on it. We did not have huge numbers of examples, but we wanted to ensure that the model that we had was working and had proved to be operable in a democratic context that was similar to ours.

14:30

Tommy Sheridan: Is it your opinion that the Northern Ireland model met the criteria that were established by McIntosh and recommended by Kerley?

Leslie Evans: The criteria were for whether STV should be selected for the route that we took in relation to proportional representation. We took the view that STV operated in a context in Northern Ireland and the Republic of Ireland that was similar to ours. We therefore had to decide which of those models would probably operate best in Scotland. As Sarah Morrell said, the way in which the second vote was considered in the Republic of Ireland model influenced our thinking.

Tommy Sheridan: How many members are elected per ward in Northern Ireland?

Leslie Evans: The number varies. My recollection is that there are between three and six members per local authority ward and that there are more members per ward—six, I think—for the Assembly.

Tommy Sheridan: My understanding is that there is an average of six members per ward and that only in the most rural areas are there fewer than that. Why is it recommended in the bill that we have three or four members per ward? Are there technical reasons?

Leslie Evans: That number is considered to provide a balance between proportionality and the councillor-ward link. Having three to four members per ward is deemed to be a fair reflection of the balance between those two aspects.

Tommy Sheridan: Based on what?

Leslie Evans: Based on studying STV and the levels of proportionality that are available when there are greater numbers of seats and the greater degree of councillor-ward link that is attained when there are smaller numbers of ward members.

Tommy Sheridan: Kerley said that the preferable number of seats is between three and five, and Farrell and McAllister's study stated:

"In short, there is a trade-off in the use of STV. The constituency needs to be large enough to produce as proportional a result as possible (that is, to give candidates from all parties a fair chance), but it must not be so large that it makes the voters' job of choosing between candidates impossible. It is generally accepted that the optimal size for STV constituencies is at least five seats."

Why, then, is it suggested that we should have three or four?

Leslie Evans: Because we are trying to strike a balance between the member-ward link and proportionality. There are two further important points. First, when we consulted on the bill, we found that there was some support for the allocation of three to four seats. Secondly, I know that the STV working group is interested in the figure of three to four seats that is in the bill and is deciding whether it wants to comment on that.

Tommy Sheridan: How many responses to the consultation argued for larger numbers of members per ward?

Sarah Morrell: My recollection is that around 40-something respondents commented on that point and that around 23 respondents expressed concern about how a system that used three to four members would operate in rural areas. I will find the exact figures.

Yes: 42 respondents commented on that point and 23 expressed concerns about the number of members per ward in remote and rural areas in particular. My recollection is that, of the remainder, a small number supported the idea of having three to four members per ward, as Leslie Evans said; others had a variety of views on how many members per ward there should be, which I think ranged from one to eight members per ward.

Tommy Sheridan: Do you agree with the academics who have studied the operation of such systems throughout the world, who believe that, technically, the smaller the ward size, the smaller the chance that smaller parties and independents have of securing election?

Leslie Evans: As I have said, it is a question of finding a balance. At the moment, the choice is that there should be three or four members per ward, because that would give a balance between proportionality and the other factors.

Tommy Sheridan: It is fair to say that it is a political balance that is being foisted on the system. If the academic evidence were to be reflected, five members per ward would be selected—that is what Kerley and Farrell said.

Leslie Evans: I cannot comment on the political aspects. The bill mentions three or four members per ward, as does the partnership agreement.

The Convener: We will move on, because several other members want to come in. Tommy Sheridan can pursue other issues later on, if he wishes.

I have a brief supplementary on the number of members per ward. If some wards are based on three members per ward and some are based on four members per ward, there will be a difference

in the proportional outcome in different wards in different parts of the country. Does the Executive intend to give guidance on where it believes that it would be appropriate to deploy each of the two options, or does it intend to leave that to the discretion of the boundary commission?

Leslie Evans: The bill will provide the opportunity for ministers to revise schedule 6 to the Local Government (Scotland) Act 1973, which gives criteria on the size of the electorate per member and the tie between communities and boundaries. As it stands, the bill will allow schedule 6 to be repealed and replaced, with particular emphasis on those two criteria. The bill includes the power to make such revisions, which will feed into the instructions that will be given to the boundary commission to act on those criteria.

The Convener: About half a dozen members have questions, but I just want to ask whether the Executive has considered making the number of members in a ward consistent, so that the degree of proportionality will be consistent throughout Scotland?

Leslie Evans: Do you mean having only three or only four members per ward?

The Convener: Yes.

Leslie Evans: No—the bill states clearly that there will be “three or four” councillors in an electoral ward so that there will be flexibility.

The Convener: Bruce McFee has a question on the same issue. I ask other members to be patient.

Mr McFee: I want to return to the reasons why the bill refers to having three or four members per ward. We got to that position simply because that is what the partnership agreement says; in other words, the decision was political. Is that right?

The Convener: The officials are not here to answer political questions.

Mr McFee: I simply want to establish how we have got to the position of having three or four members per ward. My information is that we have got there because that is what is in the partnership agreement. The bill prescribes “either three or four” members, even though the proposal to have three or four members per ward had only minority support in the responses to the consultation. Having three or four members will reflect neither the balance within urban areas nor the particular problems that will be experienced in more rural authorities.

The Convener: Do you have a question? It sounds as if you are developing an argument.

Mr McFee: I have a question, but I am trying to develop the rationale behind the proposal. Instead of having a one-size-fits-all proposal, would it not have been better to have allowed rural authorities,

where appropriate, to have two-member wards, which was one of Kerley’s recommendations? Kerley said that, ideally, the number of members per ward should be between three and five, but that there should be the ability to have two-member wards in exceptional circumstances. For example, having three or four members per ward in Argyll and Bute would produce council wards that were larger than some parliamentary constituencies. Do you agree that the one-size-fits-all option does not address the geographical situation or the proportionality issue?

Leslie Evans: It is an attempt to create a balance between those two considerations. It is in the partnership agreement. I know that, given its remit to look at the implementation of STV, the STV working group has some views on the number of members per ward as laid out in the bill. I am sure that the group will share those views with you next week. At the moment, the bill says “three or four” and that is the intention.

Mr McFee: That is clear. We will take that matter up.

Mr Welsh: We are beginning to hear about some of the complexities of the system. How will it cope with recounts?

Sarah Morrell: The detail on recounts is not set out in the bill; it will be in the secondary legislation. My understanding is that, by and large, recounts will be carried out as they are under the existing system.

Mr Welsh: So, again, it will be left to ministers to decide by way of secondary legislation.

Sarah Morrell: At present, much of the detail of the administration of elections is set out in secondary legislation. Under the bill, similar detail will be set out in secondary legislation, which will, of course, come before the Parliament in due course.

Mr Welsh: In due course, after the bill is through.

Sarah Morrell: Yes. We cannot introduce the secondary legislation until the bill is through.

The Convener: However, it would be possible for draft secondary legislation to be put before parliamentary committees before consideration of the bill is completed, as has happened with other bills.

Sarah Morrell: Yes. That is certainly possible. We might reach the point where draft secondary legislation could be available on a number of elements of the bill. We might consult on the secondary legislation. Some of the points raised so far concern elements that we are waiting for a view on from the STV working group, for instance. Ministers will have to consider that view, which will inform how issues are handled.

We will begin work as soon as we can on the more technical aspects that are to be included in secondary legislation, some of which have been referred to. I cannot say as yet when we will have a full set of secondary legislation. We do not know what the outcome of the STV working group's work will be.

Mr Welsh: You are saying that it would be possible for draft legislation to come before us. Is that likely?

Sarah Morrell: Given what I know of the amount of secondary legislation that is required on the nitty-gritty of how elections are conducted, I suspect that that is unlikely. It is more likely that some of the detail of the secondary legislation on the boundary review might be produced at an earlier stage.

Mr Welsh: Boundaries are at the very heart of what goes on. What criteria will guide the boundary commission in drawing up the boundaries by 2006? Will that be done by rules or guidance? Will any of that be included in the bill or will all of it be in secondary legislation? I am thinking of the criteria for boundaries.

Leslie Evans: That would be in secondary legislation. I should point out that the STV working group is closely involved in looking at the criteria that will inform the boundary commission's actions on the review. I mentioned the criteria that will inform the commission's judgments when I referred to the ties to local communities and the electorate per ward member.

The other issue is how the boundary commission will conduct its review. It could ask councils to produce ideas about how the wards should look or it could say that it will come up with a new scheme and consult on it. The third way would be to bolt the current wards together. Those are three different ways in which the commission could seek to carry out its review.

However, we know that the STV working group is already wrestling with those issues and considering what is the best way of conducting a review in the current circumstances, when there is not a huge amount of time. There has to be consultation on whichever of the three processes is decided on. Our intention is for the consultation to last at least three months.

Mr Welsh: Consultation can be a much-abused word. I want to be clear about the process. The working group will make recommendations. Who will take the decision on the recommendations?

Leslie Evans: The working group will make its points to ministers. Ministers will have the opportunity to look at the most appropriate way, which will then be converted into secondary legislation.

Mr Welsh: Therefore, ministers will decide. That raises the question why the procedure has not been included in the bill. Is it without precedent in the United Kingdom for the procedure not to be included in the bill? It is crucial to the operation of the whole system.

Leslie Evans: As Sarah Morrell said, most legislation to do with the detail of how elections are administered is secondary legislation. I cannot give you an exact answer on whether there is a precedent. Perhaps Gillian Russell can.

Mr Welsh: I am asking specifically about the boundaries on which the whole system is based.

Gillian Russell (Scottish Executive Legal and Parliamentary Services): The local authority boundaries will stay the same; we are talking about the ward boundaries within those areas. Schedule 6 to the 1973 act determines how the electoral wards are made up. That schedule is due to be repealed and will be replaced with rules that are made by the Scottish ministers. It should be noted that those rules will be subject to the affirmative resolution procedure and will come before the Parliament in draft form for the Parliament to debate them and decide whether it is happy to affirm them. There is a role for the Parliament in that process.

14:45

Mr Welsh: Is that normal procedure?

Gillian Russell: I do not think that there is normal procedure in such a matter. It is a matter of policy whether something is put in the bill or whether it is left to secondary legislation. That is for discussion while the bill is before the Parliament; it is not a question of legal precedent.

Mr Welsh: I take your point, but I believe that it is without precedent in the UK for secondary legislation to be used for such rules.

The Convener: We can come back to that issue. Several other members want to ask questions on this point.

Dr Jackson: I have two questions to ask, based on what Andrew Welsh has been saying. First, do you accept the fact that if the rules governing the new ward boundaries are made in subordinate legislation and come before the Parliament as an affirmative instrument, there will not be the same rigorous parliamentary debate on them that there would be if they went through bill stages 1, 2 and 3?

Gillian Russell: The affirmative resolution procedure is generally regarded as being a much tougher procedure than the negative resolution procedure and is usually thought appropriate.

Dr Jackson: That was not my question. I am not asking you to compare the affirmative resolution procedure with the negative resolution procedure; I am suggesting that if the rules were included in the bill, they would be discussed at stages 1 and 2 and there would be much more opportunity for the ward boundaries and the procedure for defining them to be discussed. Do you agree that if the rules and procedure were in the bill, they would receive a much more rigorous examination by Parliament?

Gillian Russell: I agree that we are not able to discuss that particular issue at present because the committee does not have that detail before it. Whether the order should be drafted, so that you could look at the details of it, is ultimately a matter for us to consider if the committee feels strongly about it.

Mr Welsh: I would like to press you on that issue with a straight question. Am I right in thinking that statutory instruments must be accepted wholly or rejected wholly, as they cannot be amended?

Gillian Russell: It depends on the nature of the procedure. The affirmative resolution procedure requires the Parliament either to affirm the instrument or to reject it. There is an alternative procedure, with which some members will be familiar, which allows some modification of secondary legislation by the Parliament. That is quite a rare procedure, but it is used occasionally. For example, the Parliament can suggest modifications to an order that is made under the Census Act 1920.

Mr Welsh: However, as Sylvia Jackson said, matters in secondary legislation do not receive the detailed scrutiny that they would receive if they were in a bill.

Dr Jackson: My second question relates to recounts and the point that David Mundell made earlier about the difficulties in transferring votes in Northern Ireland, compared with the situation in the Republic of Ireland, where a sample is used. When we visited the Republic of Ireland, it was suggested to us quite strongly that e-voting would get round many of the difficulties. What evidence have you received about e-voting and why are we not waiting to improve the system by introducing e-voting?

Sarah Morrell: Electronic voting will be introduced for the elections that will take place in the Republic of Ireland next year. The New Zealand local government elections will also be conducted electronically. Our difficulty with electronic voting is that experience of using it in the UK is limited. In particular, experience of using electronic voting for STV elections is limited. No obvious examples exist of places that use electronic voting for STV elections.

In the consultation on the bill, we sought views on practical measures that might ease the introduction of the single transferable vote and we mentioned electronic counting and electronic voting. The responses were mixed. Some people felt that electronic counting might help. The response to electronic voting was more mixed. A fairly significant number of electoral administrators were concerned that introducing electronic voting at the same time as introducing STV might cause more difficulties for them.

The single transferable vote has operated in Ireland for some time. People understand or are familiar with the system and they appear comfortable with it. Electronic voting is being introduced there, where people are used to the process. No decision has been taken on when or whether electronic voting will be introduced here, but concern is felt that introducing electronic voting at the same time as moving from a first-past-the-post system to STV may take away transparency about what is happening. I am not sure to what extent that is a concern, but some electoral administrators have expressed that concern and I suspect that it might be a concern for some political parties.

The Convener: We will move on, because several other members wish to speak.

Michael McMahon: My questions are about what is and is not in the bill. We talked about the time scale for passing the bill next year, after which the boundary commission will consider the wards. If the matter must return to Parliament for an affirmative resolution on subordinate legislation, can the new electoral system be in place for the 2007 elections? If not, is that why the requirement to introduce the system by 2007 is not in the bill?

Leslie Evans: We are speaking and will continue to speak to the boundary commission about its role in executing the review in time. The boundary commission has a good deal of experience because it has experienced commissioners, has access to more detailed information on registration and other matters now than it had a few years ago and has information technology equipment giving it the capacity to turn round review information and data more quickly than before.

The Executive and the STV working group are examining carefully the process and the programme of work that need to be put in place before the review is completed, but the intention is that the review will be complete before the next local government elections.

Michael McMahon: I will take up Andrew Welsh's point. If the requirement that I mentioned is not in the bill, there is no guarantee that we will

have a process that delivers the new electoral system by 2007.

Leslie Evans: I am not sure whether anything is ever guaranteed, but the boundary commission has the capacity to undertake the review and the STV working group is already discussing the key issues about what will go into the criteria and the guidance for the commission, so the process that is in place is designed to ensure that the programme and the review are complete before the local government elections in 2007.

The Convener: A couple of members have supplementary questions, but Iain Smith and Paul Martin have not yet asked their initial questions, so I will call them to speak first, after which I will return to the people who have supplementaries.

Paul Martin: Leslie Evans touched on voters' preference for the STV system, and East Dunbartonshire Council's submission to the committee says:

"The system can be easily understood by the electorate, and only requires a single ballot paper".

How is the single transferable vote system easily understood by the electorate? What kind of consultation was carried out among ordinary members of the public? Those who responded to the first white paper were lobby groups and elected members.

Leslie Evans: It will not be difficult to communicate to the public an understanding of what happens when they enter the voting booth. The technicalities of the voting and the transfer are much more difficult to understand—not just for members of the public, but for everyone. One has to be submerged in the issue to do that. In considering our voter education priorities and programme, we will need to be very clear about what members of the public want and need to know about the process, so that they may exercise their voter preference properly. We need to learn from other education packages that have been used how much information we need to give the public about the technicalities of transferring votes.

Clearly, people must have confidence in the system and must understand what is expected of them. Blinding them with every piece of detail about what happens to second, third and fourth preferences, quotas and so on may not be the best way of ensuring that.

You asked about the consultation. The white paper was sent out to a very wide range of people, including community councils, organisations and groups. We received about 1,075 responses, which were quite varied.

Paul Martin: Are you talking about responses from community councils?

Leslie Evans: We did not receive 1,075 responses from community councils, but 1,075 responses in total.

Paul Martin: Nine hundred postcards?

Leslie Evans: The total number of preferences expressed for STV was about 900, which included 700 from the postcard campaign. Even if we subtract those, a significant proportion of people expressed a preference for STV as against the first-past-the-post voting system, for example.

Paul Martin: The issue is the merits of STV compared with those of the first-past-the-post system, which is much simpler.

Leslie Evans: It is not necessarily much simpler, if we are talking about what faces people when they enter the voting booth.

Paul Martin: What about the method of counting and electing members?

Leslie Evans: Undoubtedly, the technicalities behind the scenes in STV are more complicated. We cannot pretend otherwise. The important point for members of the public to understand is what they gain from a proportional representation system, in that almost every vote counts. That is not true of the first-past-the-post system.

Paul Martin: We take it that the purpose of the Local Governance (Scotland) Bill is to improve local government and the delivery of services. In which other places where STV has been introduced has service delivery been improved?

Leslie Evans: It would be very difficult to do a scientific study linking the change in the electoral system to the upgrading of services. I am not sure that such a study has been conducted.

Paul Martin: So the purpose of introducing STV is not to improve service delivery.

Leslie Evans: The bill is part of the modernising government agenda. It reflects the Scottish Executive's commitment to renewing local democracy. That is what it attempts to do.

Iain Smith: I want to ask a couple of questions about what is and is not in the bill. I have never been entirely sure why quite so much detail about how the ballot is to be counted has been included as sections of the bill, rather than as a schedule or even as regulations. What is the thinking behind that?

I find no provision in the bill for dealing with casual vacancies. What is your view on how those should be dealt with? I do not think that existing legislation would cover a situation in which more than one casual vacancy arose in one ward at the same time. The other issue that I wanted to raise relates to boundaries and has already been covered.

Leslie Evans: There are two reasons for the amount of detail in the bill. First, it is important that people understand how STV works. It is such a big change in the way that the electoral system works that it is important to spell it out. Secondly, it has been the tradition in Scotland to give such detail in the bill; the Scotland Act 1998 is quite detailed on the way in which the system works. Sarah Morrell might want to talk about casual vacancies.

Sarah Morrell: The point came up during consultation. Casual vacancies are covered by section 2. The same provisions apply in any ward where there is a contested election.

15:00

Iain Smith: Would it not be better to spell out in the bill how you intend to deal with casual vacancies? In the Scottish Parliament, the provision for casual vacancies was spelled out in the 1998 act. In Ireland, for example, casual vacancies in local authorities are dealt with by co-option. Without specifying how you are going to deal with it, are you not leaving a blank?

The Convener: To clarify, you are saying that if there were a casual vacancy, there would be a by-election, and if there were only one vacancy, only one councillor would be elected at that election.

Sarah Morrell: Yes. The arrangements would vary depending on the number of vacancies and candidates. If there were one vacancy and one candidate, that candidate would be returned unopposed. If there were one vacancy and two candidates, there would be a by-election but there would be no expression of preference.

Iain Smith: Why not?

Sarah Morrell: Because in effect—

Iain Smith: Are you saying that, in the event of there being a single vacancy in a multimember ward, the procedure will revert to first past the post?

Sarah Morrell: Yes, if there are only two candidates. If a quota is created and a candidate exceeds it, they are elected. If no candidate exceeds the quota, the candidate with fewest votes is eliminated and there is only one person left standing.

Iain Smith: You seem to be making it unnecessarily complicated.

Sarah Morrell: If there were one vacancy and three or more candidates, there would be an STV election.

Iain Smith: Or an alternative vote election, to be more accurate.

The Convener: I am conscious that we are running quite late and that we have a lot of

witnesses to see, but there are at least four members who want to come back with questions. I want us to spend some time on the other aspects of the bill, so I ask the four members who have indicated that they want to speak—it is five now—to be brief, to avoid speeches and debates, and to put a straight question.

Mr Welsh: On e-voting, you said that the intention is to complete the work before the election and that no decision has been taken on electronic voting. However, it will require finance, planning and testing, and it will require to be implemented. Will you explain a contradiction that the committee read in a letter from Andy Kerr regarding resources that have been set aside for running elections? He said that the

“additional costs which may arise from our Partnership Agreement commitment to reform voting”

will include

“further investigation of postal and electronic voting. We estimate that these costs could amount to about £30 million”.

However, in the next paragraph he says:

“I was also asked if we had set aside resources for any costs associated with the introduction of the Single Transferable Vote (STV) for the next local government elections. The actual costs of introducing STV are likely to be relatively small, but will include additional resources for voter education and training for elections staff”.

There is a big difference between £30 million and a “relatively small” amount. What will we be facing at the first local government election using STV?

Sarah Morrell: I suppose that the two things are separate, in that the bill does not require us to use electronic voting or electronic counting. As the bill stands, the system could be introduced and done manually. So the costs of introducing STV are as set out in the minister's letter.

There is a separate issue to do with the introduction of electronic voting, which could happen at some future date. The introduction of electronic voting does not depend on the bill; it is handled separately elsewhere.

Mr Welsh: Do I take it therefore that there will not be electronic voting in that first election, and that the counting will be done manually?

Sarah Morrell: It is probably too early to say. The two issues are separate because the introduction of electronic voting and the estimated costs associated with it do not depend on anything that is in the bill.

The Convener: We will move on. Perhaps the witnesses could clarify that in correspondence.

Mr McFee: I return to the question of boundaries. As I understand it, the bill seeks to repeal the rules that the boundary commission currently operates under and to replace those

rules with nothing. Can you clarify that that is the case?

Leslie Evans: I am not sure what you mean by nothing. The bill gives us the opportunity to repeal schedule 6 to the 1973 act and replace it with something else.

Mr McFee: It will repeal it but not replace it until a later date.

Leslie Evans: Yes, through secondary legislation.

Mr McFee: That is a major omission and would be unique in UK legislation, with the exception of the example in Northern Ireland where the process seems to be split into two phases. I put it to you that the reason why the question of boundaries is not included in the bill is that it is extremely controversial and would be one controversy too many for the bill.

Leslie Evans: No, that is not the thinking behind it. We are listening to people with expertise and experience in setting boundaries—not least local authorities themselves through the STV working group—to determine how they think the boundary review would work best, both in these circumstances and in the context of the new electoral system that is being introduced. It would have been difficult for us to include that in the bill, given the timing of the introduction of the bill. We are listening to those people and they will make their views clear to ministers, who will then have to decide how the criteria and the way in which the review is to be handled are set out in secondary legislation. However, I get the feeling that the committee does not feel very happy about that.

Mr McFee: Yes, that is it. Good.

David Mundell: I would like to finish my questioning, as the convener interrupted me mid-flow. Leslie, I want to pull you up slightly on something that you said. In answer to Paul Martin's question, you said that the system would be sold to voters on the basis that almost every vote will count. However, in earlier evidence we established that, under the system that you have adopted, some votes will not count in the same way as other votes. That was, therefore, a factually incorrect statement.

Leslie Evans: I am saying that every vote will count in that the vast majority of votes will count in comparison with the current, first-past-the-post system, in which a huge number of votes do not count. I was talking in relative terms. If I misled you, I apologise.

David Mundell: Right. They will count in a different way.

I would like to clarify a couple of things regarding the boundaries, which Gillian Russell mentioned.

The option of bolting together existing wards is still on the table as one way in which to proceed—is that correct?

Gillian Russell: Yes. That is what was said in evidence.

David Mundell: So that option is still on the table.

Leslie Evans: Yes.

David Mundell: Given that some wards in Scotland contain 750 electors while other wards contain 6,000 electors, for the purposes of the new system some wards could contain 2,250 electors and others could contain 24,000 electors. Is that possible?

Leslie Evans: The criteria that would be applied, as far as schedule 6 to the 1973 act is concerned, would ensure that the community ties and the proportionality between the number of elected members and the number of the electorate to whom they were accountable would still be live criteria. The bill will not do away with those criteria altogether.

David Mundell: So the intention is to keep the current linkage between the number of electors and the number of councillors.

Leslie Evans: Sarah Morrell will keep me right if I go astray. Under the terms of schedule 6 to the 1973 act, the two criteria that operate relate to parity and community ties. Under the bill, those criteria are being considered; the bill allows for the option to repeal and replace that schedule. It is unlikely that those factors would be thrown out and not referred to at all in the criteria for the boundary commission. In producing the next set of ward boundaries, whether they are bolted on or are the result of local government suggestions, the boundary commission will need to consider the parity and community ties criteria.

David Mundell: Finally, on the boundaries issue, the process of reviewing the Westminster boundaries is just about complete. How will that be factored into the process? Those boundary changes are some of the most significant that have been suggested for some time.

Gillian Russell: As I understand it, the boundary commission will look at the wards within local authority areas. The local authority areas themselves are not being looked at.

David Mundell: That was not the question. The question was whether changes to Westminster parliamentary boundaries will be factored into the boundaries for the new wards.

Leslie Evans: That would have to be considered again as part of the review.

The Convener: I think that the answer was no.

David Mundell: That is fine, although it is an unsatisfactory answer.

My final question is about transparency and voter understanding. How much weight is given to voters' understanding of how they can vote?

Leslie Evans: Clearly, voter education is one of the big issues. It has been an issue from the very beginning. The Executive stated—I think that it is in the financial memorandum—that it has put money aside for a voter education programme that will be aimed specifically at ensuring that people are confident about what they are going to be faced with when they enter the ballot booth in 2007. That is an important part of the implementation programme for STV. I suspect that the STV working group will have views on the issue.

David Mundell: Is there a view about whether there is an acceptable level of non-ability to cope with the system? I am thinking about the level of spoiled ballots.

Leslie Evans: We want to ensure that the number of spoiled ballots is as small as possible. That is our intention. We need to ensure that any education programme that we propose is undertaken on the basis that people need to be clear about what is expected of them when they go into the ballot booth.

David Mundell: If you—

The Convener: I want to move on; we are overrunning.

David Mundell: I am sorry, but I want to complete this important point.

The Convener: I hope that it is important.

David Mundell: I also want to put the point to other witnesses. Is it realistic to suggest that we can conduct an STV ballot on the same day as an additional member system vote is being conducted for the Scottish Parliament, in which people are being asked to put an X on two pieces of paper? I ask that question because, when that was attempted in elections to the Belfast City Council and the Northern Ireland Assembly two years ago, 3.3 per cent of the people who voted for candidates in the Belfast City Council elections failed to exercise their votes correctly. That would approximate to 62,388 spoiled ballots in the recent Scottish council elections. Is that an acceptable number of spoiled ballots? Would that number influence your decision to press ahead and have the election on the same day as the Scottish Parliament elections?

Leslie Evans: The intention is that the elections would be on the same day. Any voter education programme that we initiate needs to take account of that fact.

David Mundell: You would be determined to

press ahead and hold the elections on the same day regardless of external evidence that a significant number of people might not be able successfully to cast a ballot.

Leslie Evans: We would want to ensure that the voter education programme took that fact into account in its intentions and in the way in which it was set out.

David Mundell: You would not know whether the voters understood the system until after they had voted, would you?

The Convener: I think that you have had the answer, David. We must move on.

15:15

Tommy Sheridan: You might not be able to answer one or two of my questions at the moment, but I would appreciate it if you would write to the committee later. Can you provide any international examples of STV systems operating with as few as three or four members to a ward? Moreover, can you give us examples of thresholds for election based on a three-member ward, a four-member ward, a five-member ward and a six-member ward, if it is possible to establish that? That would allow the committee to compare the relative thresholds.

Did any of the consultation responses argue for a separation of the local government and Scottish Parliament elections because of their use of different electoral systems?

How many submissions argued for a lowering of the voting age to 16? If the Scottish Parliament were to seek to lower the voting age to 16, would we be allowed to do so? Would that move affect any other substantial legislation?

Earlier, you said that the consultation process resulted in changes to some elements of the bill, giving severance pay as an example. Is it still the case that it is only councillors—

The Convener: On that issue, Tommy, I intend to allow members a few minutes to ask about part 2 of the bill later. If our witnesses can answer your other questions, you can ask your question on severance pay later.

Leslie Evans: We might be able to supply you with an international comparator at the moment, but I would rather write to you on that matter to ensure that the facts are absolutely right.

Some respondents commented on the separation of the local government election from the Scottish Parliament election. I believe that Sarah Morrell has the exact numbers.

Sarah Morrell: About 50 respondents commented on the practical difficulties inherent in running the elections on the same day. Twenty-four respondents said that, if STV were introduced, local government elections should be held separately.

Leslie Evans: The changing of the voting age is reserved legislation.

Tommy Sheridan: Completely?

Leslie Evans: Yes. The Scottish Parliament would not be allowed to change it.

Tommy Sheridan: Will you write to us on the issue of thresholds?

Leslie Evans: Yes.

Paul Martin: On the implementation of STV, will you provide us with a breakdown of the position of the local authorities throughout Scotland?

Leslie Evans: Based on the recent consultation?

Paul Martin: In relation both to the first white paper and the current position. It would be useful if that were placed on the public record.

The Convener: I have asked that question of SPICe. Stephen Herbert has helpfully provided a briefing on that matter. I will arrange for that to be circulated to members.

Paul Martin: I have the briefing, but I think that it is important to set out the information on the public record.

Leslie Evans: We can give you that information in writing.

Paul Martin: Can you tell us which councils are in favour of the implementation of STV, which ones are unclear and which ones are not in favour?

Leslie Evans: We can give you the consultation responses that we received, although I have to say that some councils did not respond directly but asked political parties to respond on their behalf. On the bill, we did not ask people whether they wanted proportional representation; our questions related more to what people thought of the bill. I can pass on the results of both of those exercises.

Paul Martin: We have our own record of the views of local authorities. It would be useful to get that information into the *Official Report*.

The Convener: I am happy to circulate the SPICe briefing.

Leslie Evans: In that case, let us know if you require further information.

The Convener: I realise that we have a lot of evidence to hear today. I have allowed this part of

our meeting to overrun, as there is a lot of political controversy over part 1 of the bill. However, as it is important that we scrutinise the rest of the bill as well, I will allow some time now for questions on the issues that it deals with, including participation and the remuneration of councillors. Tommy, I know that you have a question on part 2 of the bill.

Tommy Sheridan: I have a brief question. Earlier, Leslie Evans said that consultation had influenced substantive elements of the bill. Is it still the case that only councillors who do not stand for re-election will be eligible for severance payments? If it is, is there any precedent for that anywhere in the UK or Europe? Is it unfair that people who might have served 10, 15 or 20 years will lose out on severance payments simply because they competed in another election and were beaten in it?

Sarah Morrell: On your first question, it is the intention that the payment of severance pay will be linked to a decision not to stand in an election. On your second question, there is some precedent. Some time ago, a scheme was used in Ireland that paid money to councillors not to stand again. I cannot recall the details of the Welsh scheme that is being introduced, but my recollection is that it is linked to a person's decision not to stand again. I can check that and write to the committee about it when we come back on the other points that have been raised.

The Convener: The proposed system for councillors is perhaps not the same sort of system that applies for members of Parliament or members of the Scottish Parliament, for example. Is there any reason why consideration has not been given to bringing the system for councillors into line with the system and rules for other elected members in the UK?

Leslie Evans: The severance system is being introduced in order to acknowledge the level of public service that many councillors have given over many years and in recognition of the fact that no pension scheme has operated for councillors during that time. From the next election, a pension scheme will operate. We expect that councillors will enjoy the pension scheme that is on offer and that they will make use of it. Until then, the severance scheme is designed to allow an opportunity for long-standing councillors to be recompensed for the lack of a pension scheme. In many cases, councillors have had to give up pension schemes in which they have participated through business and so on. The severance scheme is very much about recognising such things, but it is clearly seen as a one-off.

Tommy Sheridan: I hope that you will reflect on what you have said. You said that the severance scheme is about recognising public service. We are discussing the introduction of a scheme

whereby a person might have served as a councillor for 20 years and decided that they want to serve for another four years. If they are beaten in an election, they could end up with nothing. However, someone could stand in a Scottish Parliament election and serve for four years. When they are beaten in an election, they will end up with severance pay. Is that not completely and utterly unfair?

Leslie Evans: To use a phrase that I used earlier, it is a bit like comparing oranges and apples. We intend to recompense councillors for what has happened in respect of the lack of pension provision. The system would give councillors an opportunity to take a decision there and then—

Tommy Sheridan: With respect, Leslie, you said that the aim of the system was to recognise public service. Therefore, we are not comparing apples with oranges. We are talking about public service with a council and public service as an MSP.

Leslie Evans: Public service is being recognised, but we are considering public service in the context of the lack of pension provision for councillors to date. We do not know what the severance scheme will be or what the cut-off points will be for years of service or anything else. Such matters have still to be discussed and decided.

The Convener: I will express Tommy Sheridan's point in another way. Someone who had been a councillor for 20 years and was beaten in an election would get no severance pay, whereas someone who had been a councillor for only one term would receive severance pay if they did not stand for election.

Leslie Evans: That is theoretically possible, but it depends on the terms of the scheme. We do not know what the terms of the scheme will be. There might be a cut-off point relating to longevity within the criteria that will inform the scheme. Such matters must still be decided and discussed.

Mr McFee: You said that, as well as recognising public service, the severance system recognised the current lack of a pension scheme for local government councillors. Surely, if that is the case, the system is more generous than the one for MSPs. In fact, is not the proposal a voluntary redundancy package rather than a severance payment? Someone who leaves work voluntarily will be entitled to severance pay, whereas, if the electorate make someone leave work involuntarily, that person will not receive the payment.

That observation is further backed up by section 18(4), which stipulates that someone who has taken a severance payment will not be entitled to stand again as a local councillor. As far as I know,

the same stipulation does not apply to MPs and MSPs. However, it would apply to a person who received a voluntary redundancy package because, after all, they would not be re-engaged in the same job by the same company.

I listened carefully to what you said about recognising public service. However, is it not the case that the bill's provisions do not recognise such service or the lack of a pension, because the rules apply no matter whether one leaves work voluntarily or involuntarily? Instead, the provisions buy off councillors in the changeover to the new system and amount to a voluntary redundancy scheme.

Leslie Evans: Much of the detail of the system has still to be decided, because the criteria will all be informed by the remuneration committee. However, the bill will certainly require councillors to decide before any election is held whether to take the severance package or to stand for that election. As a result, councillors must take that decision sufficiently early to allow others to know whether they intend to stand again.

Mr McFee: So that makes the proposal a voluntary redundancy package.

Leslie Evans: One could give it a whole range of names. However, the criteria of the severance package have still to be decided. As far as timing is concerned, the bill stipulates that elected members must decide whether to take the package before any election.

Mr McFee: Yes, but, with respect, eligibility for the package is enshrined in the bill. Issues such as the point at which the people who qualify make a decision about the package and the amount that they get do not really matter, because eligibility is clearly set out in section 18.

Leslie Evans: As far as not standing again is concerned?

Mr McFee: Yes.

Leslie Evans: Yes, that is stipulated in the bill.

David Mundell: I seek clarification on a minor point. It was suggested in some of the previous discussions on councillor remuneration that there would be fewer councillors but that they would be paid more. That would ensure that the package was self-financing. Does that approach form any part of current thinking on the matter?

Leslie Evans: There is no intention to change the current number of councillors.

David Mundell: So increasing the remuneration package would mean additional costs.

Leslie Evans: We know so little about the package that it is hard to draw that conclusion. Indeed, that issue has been highlighted in the

financial memorandum. Because we do not know the contents of the package, we do not know what the final cost will be.

The Convener: Your response to earlier questions makes it clear that the working groups have still to determine when they will report. Obviously, we will ask the groups questions directly. However, it would be useful for the committee and the Parliament in our consideration of the bill to have greater clarity about any proposals as early as possible.

Leslie Evans: Are you referring to the severance and remuneration packages?

The Convener: Yes.

Leslie Evans: The remuneration progress group, which is chaired by Lord Sewel—who will visit the committee in a few weeks' time—is already examining these issues. However, the group is considering various options because recommendations on the final package will be made by the statutory committee that will be set up as a result of the bill. That will come a little further down the route, but Lord Sewel's group has already had discussions and expressed points of view, some of which he might share with the committee in a few weeks' time. I know that he is considering the pensions issue.

Michael McMahon: I am concerned about the financial implications of the severance pay proposals. It is inherently unfair to stipulate that someone who participates in a democratic process and loses out on that gamble must walk away with nothing, whereas someone who is prepared not to take part in the process should benefit financially. That sends out a highly questionable signal as far as our expectations of and attitudes to councillors are concerned.

We have to bear in mind the fact that there will be huge implications for some local authorities, depending on their size, if the severance package has to be financed from their own budgets. There are huge implications relating to whether members would want to walk away and the pressure that would be brought to bear on them because of the implications of their walking away and taking the severance package, but the bill does not take account of such matters. Will a chief executive decide how many councillors the authority could afford to have walk away? There has to be some detail and some explanation of the thinking behind the proposal. The implications might be horrendous for some local authorities.

15:30

Sarah Morrell: As the financial memorandum makes clear, one of our difficulties in trying to work out the financial implications of severance

payments is the fact that we do not know any of the elements of the package. As you have just indicated, we do not know how many councillors would opt for such a package, we do not know what the criteria for the scheme would be—or, in other words, how many councillors would be eligible for it—and we do not know what the payments would be, so working out the financial implications is very difficult.

I suppose that, in theory, it is possible that the remuneration committee might want to consider the financial implications for a council of a large number of councillors wanting to take severance and the implications of the loss of experience and knowledge that would occur if a high proportion of the councillors in a particular local authority wanted to leave at the same time. The remuneration committee, which is not yet in existence, might want to consider those issues and might have views on how they should be handled.

Michael McMahon: Surely there should be something in the bill or in the financial memorandum that sets out the basis on which the remuneration committee should examine those issues. It should not be left open to the committee to debate the subject in the way in which we are debating it. No one knows what the implications of the loss of experience might be and no account has been taken of the financial implications on the local taxpayer. A sitting councillor's decision on whether to walk away or to fight an election could put a burden on the local taxpayer. Surely something should be produced to indicate what the committee will consider. The bill proposes to set up a committee to consider those issues, but it does not say on what basis that committee should address them.

Leslie Evans: Two sources of information could inform the way in which the statutory remuneration committee goes about its task. First, there is the progress group under Lord Sewel, which is up and running. It has the task of preparing the ground so that the statutory committee can get up and running as soon as possible after it has been established. Lord Sewel's group might well have some views on the kinds of issues that you have raised; I would be surprised if it did not. That work will have been done and will be passed on to the statutory remuneration committee.

The bill gives ministers the power to express their views to the remuneration committee on how it should go about its business. The issues relating to pressures on the public purse that you have mentioned may well feature in the discussions of the remuneration committee and may well form part of the information that is passed on to it through Lord Sewel's progress group or by the ministers, although we do not know whether that will be the case.

At the moment, as Sarah Morrell said, there is no way in which we can do anything in the bill that might be seen to prejudice the opportunities that the remuneration committee will have to take a clear view of what is required in relation to councillors' remuneration in the coming years.

Michael McMahon: It is not normal practice for us to be asked to consider and to pass a bill that states a desire to give powers to a minister to consider the outcome of a committee or working group when we do not know what the implications of that will be when we are discussing the bill. In our discussions, surely we should have had information about the lines that the remuneration committee would be considering, to allow us to consider whether the proposed powers should be given to the minister.

Leslie Evans: The minister has the opportunity to give the remuneration committee views and guidance, which may well include some of the points that you make.

Michael McMahon: The bill does not give us the power to tell the minister what to do. We are being asked to give ministers powers and we do not know what issues will be considered.

Leslie Evans: At the moment, we do not know what the total cost will be. If we tried to put that in the financial memorandum, that might be considered to constrain the severance and remuneration packages that the remuneration committee could produce.

Mr Welsh: It is proposed that subordinate legislation on remuneration and severance payments should proceed via the negative procedure, which is an all-or-nothing procedure that does not involve detailed parliamentary scrutiny. What is the rationale behind that choice?

Gillian Russell: Whether regulations are subject to the affirmative or the negative procedure is ultimately a policy decision. The view was taken that the negative procedure was appropriate for regulations that set out the detail of schemes. Obviously, we will listen to the views of this committee and other committees on the bill and on whether that procedure is appropriate.

Mr Welsh: The rationale is that the negative procedure was thought to be appropriate.

Gillian Russell: It was thought appropriate to have the negative procedure because the regulations are technical. Normally, the affirmative procedure is used for instruments that may amend primary legislation or because the subject is very important.

Mr Welsh: I know that we are asking the wrong people. I would like to ask the right question of the right people.

The Convener: I will conclude the evidence session. What is the evidence in the bill that the

Executive took full account of the mainstreaming of equal opportunities in considering the bill?

Leslie Evans: We would like the bill to be seen in the context of the work of the widening access working group, which is up and running. That group has been asked to work on its remit and to consider the bill with a view to ensuring that equal opportunities are thoroughly reflected in the bill's implementation and in anything else in the bill on which it needs to comment. Sarah Morrell will talk in detail about equal opportunities aspects of the bill.

Sarah Morrell: Apart from the work of the widening access working group, the provisions that deal with the membership of local authorities are intended to provide more opportunity for some groups of people to stand as councillors. In considering councils, councillors and council membership, the working group is aware that many consider the remuneration measures in the bill to be one of the biggest aspects that could affect who can stand as a councillor. Remuneration may be one of the biggest factors in broadening the profile of councillors. That may appear slightly separate from the broader widening access agenda, but the working group is aware that the work of the councillors' remuneration working group and of the widening access working group overlaps.

The Convener: That brings us to the end of the questions for this panel. The session has been lengthy and I thank the witnesses for their participation. I apologise to the other witnesses who are sitting behind the panel, waiting to give evidence. The session has been useful.

We will move on swiftly to our next witness. I welcome Professor John Curtice to the committee and apologise that we are running a little bit late. While sitting in the public gallery, you will have heard the degree of interest that exists in aspects of the bill. Before we move to questions, you have the opportunity to make some introductory remarks on the bill.

Professor John Curtice (University of Strathclyde): Thank you very much, convener. I shall be brief. It is clear to me, from your line of questioning to the previous witnesses, that you have read my submission and understand its implications. I will summarise where I think the bill stands in respect of the five criteria that the McIntosh commission elaborated. That is, effectively, where the bill originated.

The first criterion is in respect of proportionality. It is undoubted that a three or four-member single transferable vote system can, at best, be described as moderately proportional. That has two implications: one is that the people who would like greater proportionality would be unhappy with it; the other is that those who want to defend the existing system on the ground that it is more likely

to produce majoritarian outcomes would find that their case is, if not undermined, not as strong as it could be.

It is commonly argued that the current electoral system ensures that we have single-party control of Scotland's local authorities and the benefits that that brings, but the evidence shows—as I state in my submission—that only 15 of the 32 councils in Scotland are under single-party majority control. My best estimate is that, depending on some of the crucial details of the bill and how it will be implemented, it is probable that half of local authorities would be in that position under the bill. The system that the bill proposes would certainly not require a party to receive 50 per cent of the vote to get a majority of seats—45 per cent would probably be enough. Depending on how the cookie crumbled, even less than that might be sufficient.

The second criterion—undoubtedly the criterion that has attracted most controversy in the public debate about the subject over recent years—is the councillor-ward link. It is worth reminding politicians that although the people with whom they come into contact appear important to them—indeed, they are an important part of the political process—they are always a minority. Therefore, the service function that is provided by politicians, or even the wider levels of contact, should not be exaggerated. I have provided the committee with evidence from the “Scottish Household Survey”, which found that, under the current system, in a typical 12-month period, 8 per cent of people in Scotland have contact with their councillors. In so far as that is something that we wish to promote, we must ask ourselves whether that level is likely to be lower under the proposed new system.

The main characteristic of the proposed system is that voters will vote for candidates, not for parties. Crucially, when a party fields more than one candidate, a voter will have the chance to choose between candidates from the same party. Voters will also be able to mix and match as they want—they will be able to vote for a Conservative candidate first, for a Scottish National Party candidate second, for a Labour candidate third, for a Scottish Socialist Party candidate fourth, and so on, coming back to the next Conservative candidate seventh. It is very much a personal system.

In my evidence, I have argued that if having a councillor whom it is thought will provide a strong service function and advocate the local interests of their ward is something voters value, the proposed system should ensure that voters are able to express that view. It should also give incentives to politicians to perform that role. All the evidence from the Republic of Ireland is that that is what Irish politicians spend an awful lot of their time doing.

Of course, the constraint that the system creates on that function is that politicians will have to serve larger wards. I have given you some evidence that, at least in urban Scotland, wards would not be of an unprecedented size in comparison with wards in other parts of the United Kingdom. On the other hand, the position in rural Scotland is undoubtedly somewhat more difficult, although not necessarily impossible. I have suggested that there may be a link between parts 1 and 2 of the bill in that, if we are to move to larger wards, that may need to be reflected in the expenses and allowances that are made available to councillors to ensure that they perform their function.

The other thing to bear in mind is that, under this system, someone does not have to be popular in, or the local champion of, the whole of the ward to be elected; about a quarter of the ward will be sufficient. In those circumstances, it is open to councillors to divide a ward up between them.

On the other criteria, there is nothing in this system that will guarantee the survival of independent councillors. Equally, there is nothing that will guarantee their demise. To some degree, their survival will depend on their ability to adapt to the system. Certainly, there is still as significant a level of independent councillors in the Republic of Ireland as there is in Scotland, although it is not as high here as it was before.

On the criterion of allowance for geographical diversity, the question is the degree to which the particular needs of rural Scotland are being met. There might well be some parts of rural Scotland where one might decide that even a three-member ward might be a bit too big. That might not apply to much of rural Scotland, but it might be that the bill should be written in such a way as to allow the Local Government Boundary Commission to keep the “special exceptional circumstances” get-out clause that it already has.

15:45

My submission goes on to deal with some of the questions about what is and what is not in the bill. Paragraph 21 outlines the current statutory position with respect to the rules for redistribution. As you have already said, the current bill is more or less unprecedented.

My reading of the evidence that you heard from previous witnesses is that the Executive has still not quite worked out how it is going to implement the proposals. I admit that my reading of the bill and the extensive consultation documents did not lead me to believe that the Executive still had in mind the idea of combining existing wards as opposed to completely redrawing the boundaries.

I am not saying that either approach is wrong, but it is crucial to appreciate that the counting

rules are technical. The most politically important part of the bill relates to the rules for redistribution, particularly the rules that will govern where there will be three-member wards and where there will be four-member wards and, therefore, their incidence. As the committee has already discussed, the system will be less proportional where there are three-member wards. That is the most crucial part of the bill and, even if the Executive has difficulty elaborating what the rules are at the moment, I suggest that, before this legislation goes through, ministers should be persuaded to write them into the bill.

In other respects, I simply remark that it is often not obvious why some things are in the bill and other things are not. Given that, for the most part, the bill is a fair plagiarism of existing Northern Ireland legislation, it is not always obvious why some of that legislation is in the bill and some of it is not. It strikes me that some of what is not in the bill could be included if the committee felt that that were necessary, although I do not think that that matter involves anything like the same degree of issues of principle as does the question of the rules for the redistribution of wards.

Michael McMahon: I would like you to comment further on some of the information that we received from the previous witnesses. You talked about having a strong service function and the role of the councillor in the system. When I visited Northern Ireland to examine the system, I was struck by the fact that there is no comparability between the role of a councillor in that part of the world and the role of a councillor in Scotland. Although the mechanism for the election can be transferred from there to here, the reason for Northern Ireland having that system does not apply in Scotland. The strong service function that Scottish councillors have and under which our local authorities operate is not the same as that which operates in Northern Ireland and, therefore, a straight comparison of what is delivered by the system there and what might be delivered here might not be possible. Do you have any views on that?

I will give you an idea about why I think that. One local councillor to whom we spoke in Belfast said that his primary role was not to be a champion of local issues: it was more important to be seen at a lot of funerals than to make a lot of decisions.

Professor Curtice: My remarks were about the Republic of Ireland rather than the north of Ireland. For what it is worth, it is universally accepted in the literature that local councillors in the Republic of Ireland and TDs in the Irish Dáil spend an awful lot of time serving their constituents' needs, which includes going to funerals and shaking many hands. Representatives must be well known.

There are several ways to have contact with voters—one is to hold surgeries and another is to attend funerals. We can argue about which of those is more useful to constituents.

Another point is that local government powers in Northern Ireland have been heavily circumscribed by the political situation. In so far as my remarks have any validity when applied to Northern Ireland, it may well be true that a voter of a unionist persuasion might decide which Ulster Unionist Party or Democratic Unionist Party candidate to vote for on the basis of their local service, but they would not decide to vote for a Sinn Féin or Social Democratic and Labour Party candidate on that criterion. That divide in Northern Ireland is so strong that it outweighs the importance of the service function.

I will not hide the fact, and I have made it clear in my evidence, that whether the new electoral system encourages the service function will depend on how voters vote under it. The system does not do that particularly in Australia and Malta, where it is heavily politicised. However, I suppose that the argument in the system's favour is that if people want such a system, they will have it, and if they do not want it, they will not have it, but at least people will now be able to tell politicians what they do and do not want.

Michael McMahon: In considering whether the system will deliver good government, is it not vital that we know why the system operates in one part of the world and why it may not operate here?

Professor Curtice: Yes.

Michael McMahon: The services that local government in Scotland delivers are not delivered by local government in Northern Ireland, so councillors there are elected for a different purpose from that for which we ask people to be elected in Scotland. That is fundamentally important.

Professor Curtice: I say with respect that county councils in the south of Ireland are reasonably analogous to Scottish local councils.

Michael McMahon: That is not the evidence that we received in Northern Ireland. It was said that centrally appointed officials on non-departmental public bodies were much more important than councillors, who advocate only for the local electorate. That point is vital.

Professor Curtice: If you asked me to make a guess that was based on what we know about how people vote in Scotland, I would suspect that we will discover that a candidate's personality is more important in rural Scotland than it is in urban Scotland. However, that is already true under the existing system. I suspect that the difference that a councillor's local reputation and popularity make to

their probability of being elected will be greater in some parts of Scotland than it is in others, but that is already the case.

Mr Welsh: When we visited Ireland, we found that managers, rather than councillors, had power. I am worried that the severance pay scheme here will be based on the Irish scheme. We found that the severance pay scheme there was used to prevent TDs from also being councillors, because councillors do not have much to do. At the last moment, we discovered that the Scottish assumptions were different from the Irish assumptions. The power rests with managers for areas and the Irish situation is different.

Professor Curtice: Even if you want to argue that point, nobody argues that the Dáil does not have power. Irrespective of the powers of the institutions in the Republic of Ireland, if an electorate appear to value local contact with their politicians, that is what they will tend to have, because that is what politicians will tend to emphasise.

Mr Welsh: TDs asked us how many members of the Scottish Parliament were local councillors and were surprised by our answer, because they had totally different assumptions. The Dáil does have power, but money was provided in Ireland to ensure that people did not stand both for the Dáil and for a council and that they worked full time in the Dáil, rather than in a local authority.

Professor Curtice: With respect, you are taking what I said too literally. I suggested in my evidence that the single transferable vote does not always produce the same outcome in the degree to which the personal popularity of politicians makes a difference to how people vote. That is crucial point number 1. Crucial point number 2 is that, irrespective of the powers that politicians have, if personal popularity matters in a society, it will matter a great deal to politicians' chances of being elected. It follows that, if we accept the variance in the experience of STV as the crucial lesson and if voters in Scotland are like voters in Ireland—in that personality rather than the powers of the institution for which they are voting is the crucial point—whether the system delivers a strong councillor-ward link will in essence depend on how voters behave. The crucial issue that determines how such systems work is how voters vote in reflecting what they want.

Mr Welsh: So the matter will be down to the machinery of government. The working groups have the information that will eventually emerge. From what I heard this afternoon, I am concerned that the process will simply go from working groups to ministers to statutory instruments.

Professor Curtice: I am with you entirely. There are two issues. One is about the merits of the

introduction of the single transferable vote; the other is about the technical merits of certain aspects of the bill. I am in sympathy with the argument that the bill gives too much leeway to ministers to decide on crucial aspects, for example on the rules for redistribution in part 1. Although we may need a bit of a fix to get the system in place for 2007, the Executive is failing to take on board the danger that if the bill is open to change by secondary legislation, it will be open to a future Scottish Executive—the intentions of which may not be as benign as the present Executive's intentions—to rewrite the rules through secondary legislation.

A basic defence against attempts to gerrymander by altering the system is to ensure that any attempt to rewrite the rules must be done through primary legislation, which is open to the fullest possible legislative scrutiny. That would not prevent the possibility that an Executive with a majority could steamroller changes through, but at least it would have to do so in public and in the face of Opposition scrutiny.

Mr McFee: The second paragraph of your paper mentions the views of local government from

"a majoritarian and a proportional perspective."

You state:

"The latter focuses on the ability of elections to produce an assembly that is representative of the range of public opinion on the future direction of public policy."

I want to take a step forward to something that is not in the bill. The bill is supposed to be about modernising local government and good governance, but once we get past the elections and a coalition is formed in many areas, there is nothing in the bill to determine how local authorities will construct their committee and board structures. Some local authorities delegate a lot of power to their boards and committees. There is nothing in the bill to stop a small majority that has been cobbled together excluding opposition councillors from boards and committees. The idea of a proportional system could go out the window.

I will give a hypothetical scenario. There could be a local authority in which the ruling group had been elected by a minority of the votes. It might not even be the largest group, but nevertheless control the local authority. It could take 75 per cent of the seats on the authority's education committee. Is it not a deficiency in the bill that it does not take into account the proportional issue within council chambers, but simply assumes that if we get the election right, everything else will fall into place?

Professor Curtice: You are correct: the bill does not deal with that issue. It follows from your argument that it is at present possible for a

majority administration that is backed by a minority of the votes to act in the way you describe.

I also accept entirely—some people would argue that it is the experience of this body—that simply creating a proportional system that requires a coalition government does not mean that power is necessarily shared proportionately among its membership.

It is worth bearing in mind the fact that, rightly or wrongly, local government legislation in recent years has tended towards creating cabinets and stronger executives. To that degree at least, there has been tension in debates in local government. On one hand there is this debate about trying to change the electoral system; on the other there is a move towards creating stronger executive authority in local government. I simply read the runes; I do not wish to defend them.

16:00

Mr McFee: I do not wish to defend first past the post. The Widdecombe inquiry south of the border established proportionality, but that was never implemented north of the border. We are talking about good governance in local authorities throughout Scotland, but the bill misses an opportunity. I have read section 18 on severance payments, and we have heard responses from the last—

Professor Curtice: May I interrupt you? I am not going to claim any expertise on part 2 of the bill. I am happy to talk about parts 1 and 3, but I know no more about part 2 than a person you might drag in off the streets of Edinburgh.

Mr McFee: I will rephrase my question, because you do not need to know the technicalities to form an opinion. As the bill is set out, if a councillor elects not to stand at an election, they will be entitled to receive a severance payment, but they will not be entitled to stand again at a future election. That is entirely at odds with the system that we have as MSPs, or that MPs have. Are not such payments a sweetener? It is a voluntary redundancy scheme to make the selection of candidates—primarily in the Labour Party—for local government seats easier, by buying off at public expense those who are prepared to go without a fuss.

Professor Curtice: I simply say to Mr McFee that it is my understanding that it is not entirely an accident that parts 1 and 2 of the bill happen to be in the same legislation.

Tommy Sheridan: You heard most, if not all, of the previous evidence-taking session. As an academic studying the various advantages and disadvantages of voting systems, do you feel that the optimal proportionality has been applied in the bill in relation to three or four-member wards?

Professor Curtice: Clearly, if the only criterion that you were going to take into account was proportionality, you would not go for three or four-member wards. As I said in my evidence, the STV implementation in the bill will have the smallest seat number of any current implementation, and undoubtedly it will be less proportional as a result.

The question we face is, how big are the wards that we can tolerate without significantly undermining the councillor-ward link? I take the view that in urban Scotland the maximum size of wards under a multimember system is not four members, but I understand that four was chosen because it is the minimum number the Liberal Democrats were willing to tolerate and the maximum number the Labour Party found acceptable. That is why we are where we are.

Tommy Sheridan: How authoritative is the Farrell and McAllister report in academic circles?

Professor Curtice: There is a simple rule with electoral systems, which is that under the class of systems that use some mechanism of proportionality to elect representatives, the thing that most determines the proportionality of the system is the number of persons elected per district. Forget whether it is d'Hondt, Sainte-Laguë, party list or whatever. The most important criterion is the number of persons elected per district. It is undoubtedly the case that if you only have three or four members per district, you will not have a system that is highly proportional—QED.

Tommy Sheridan: I am sorry, but I must press you on this a wee bit. Both Kerley and the Farrell and McAllister report attempted to arrive at the balance that you are talking about, but they did not conclude that there should be at least three to five members per ward in order to get the most proportional system. Farrell said that there should be at least five members to get a balance, and Kerley said that there should be between three and five members. Is it your firm opinion that—not in order to err on the side of proportionality against the member-ward link, but to get a balance—three or four members per ward is too few?

Professor Curtice: I am aware of the Kerley source that you cite. Kerley undoubtedly came to the conclusion that, given the criteria that he had inherited from the McIntosh commission—of which the councillor-ward link and proportionality criteria were the most important—a range of three to five members would be best. I am not sure about the Farrell and McAllister report to which you refer, although I am well aware of their argument that five members is the minimum number that is required to achieve reasonable proportionality under STV. However, with respect, if that is the point that Tommy Sheridan is making, it is a slightly different point from Kerley's point.

There is no doubt that, if we want to ensure a reasonably high degree of proportionality under the single transferable vote system—although, even then, it would not be as proportional as other systems that we could devise—we should head towards five members per ward as the norm. The judgment that Kerley made was, as members know, that there should be between three and five members per ward. I see no reason why one could not implement without a great deal of difficulty a system of five-member wards in local authorities such as Glasgow City Council and the City of Edinburgh Council. However, I suspect that we would have great difficulty in creating five-member wards in certain parts of the Highlands.

If I were amending the bill, even if I were to accept the political constraints of the partnership agreement—which I know that Tommy Sheridan would not want to do—I would suggest that, as a minimum, we should allow the odd two-member and five-member ward, simply to get the Local Government Boundary Commission out of a bind.

I heard the Executive officials say that wards will have three or four members to provide flexibility; however, in truth, the bill provides very little flexibility. The danger with flexibility is that we could create small wards in the areas where one party is strong and big wards in other areas, which would produce a bias in the system. There are, therefore, dangers in providing a high degree of flexibility.

Nevertheless, having some flexibility might just make the Local Government Boundary Commission's life a little bit easier. For the most part, virtually all rules for redistribution that boundary commissions in the UK operate have an exceptional circumstances clause that enables them occasionally to be flexible. That is how, for example, we have in rural Scotland relatively small parliamentary constituencies for Westminster and the Scottish Parliament.

Tommy Sheridan: Have you been working on any outcomes of the allocation of the various numbers of members to wards—for example, of having five or three members in a Glasgow or Edinburgh ward?

Professor Curtice: I have been playing this game endlessly for the past five or six years, and various people have asked me that question, so the answer is yes.

Tommy Sheridan: In relation to the stability of local government, do you think that the roof will fall in if we adopt five-member wards?

Professor Curtice: Has the roof fallen in over Scotland because we have a coalition Government?

The Convener: David Mundell wants to ask a question—but I ask him not to answer that last question.

David Mundell: My answer is that we will wait and see.

What do you regard as a significant number of invalid votes cast?

Professor Curtice: I heard you inquire about that earlier and I would like to correct slightly the line of questioning that you pursued with the previous witnesses. There is no doubt that a somewhat higher number of invalid votes will be cast under the new system than are cast under the current system. The evidence from the north and the south of Ireland—including the Northern Ireland Assembly elections, which took place last week—is that, in important elections such as those for the Dáil, there is an invalid vote rate of about 1.5 per cent.

I am afraid that I cannot give you the figure off the top of my head—I see Electoral Commission representatives sitting behind me—but if I remember correctly, that compares with a rate of 0.8 per cent in the election to the Scottish Parliament earlier this year. You have to decide whether going from about 0.8 per cent to 1.5 per cent means that the roof is falling in. On the whole, I do not think that it is.

Earlier, David Mundell pursued the issue of coincident elections. The evidence is that in previous Northern Irish elections—I think in 1998—that took place on their own, the level of invalid votes throughout the province was 2.1 per cent. When local elections took place on the same day as the Westminster election in 2001, the rate throughout the province—as opposed to the Belfast figure that David Mundell quoted—was 2.5 per cent. There is some evidence that the level of invalid votes is a little bit higher as a result of holding coincident elections, but the roof did not fall in.

There is also evidence, which I have given to the committee in the past, about what happened in New York when it had coincident STV and mayoral elections in the late 1930s and 1940s. We do not have the direct measure of the invalid vote, but we have the difference between the number of people who cast a mayoral vote and the number of people who cast a council vote, and that gap did not widen following the introduction of STV for council elections. It appears that it is possible to hold a “1, 2, 3” election and an “X” election on the same day. I am not arguing that we should do that, but it seems possible.

Mr Welsh: Was there a breakdown of the reasons why the votes were invalid?

Professor Curtice: I have not seen the evidence from Northern Ireland. I do not know whether the chief electoral officer for Northern Ireland has that evidence. He publishes routinely the level of invalid votes, but the documents that I

have seen on that do not show the reasons for it. Having worked with the Electoral Commission on the level of such votes for the elections to the Scottish Parliament, I can tell you that that breakdown was not acquired.

David Mundell: In the Northern Ireland count, the overwhelming majority of the invalid votes were ruled out of order because they had more than one cross on the ballot paper. People had understood that they could vote for more than one person, but they did not understand that they had to rank them 1, 2 and 3.

Professor Curtice: There is a trade-off between a slightly higher level of invalid votes and what the advocates of STV would argue is the greater power and range of choice that voters get under that system. We all make different judgments about where that trade-off is. I quite agree that the level of invalid votes will be higher and that there will be a degree of confusion, but it is a matter of judgment as to whether the level of confusion will be so high as to be intolerable. I am happy to write to the committee citing examples of other countries in which the level of invalid votes is much higher than 1.5 per cent.

David Mundell: I agree with you that the issue is worth debating. It is significant that in the election that I observed in Northern Ireland, there were more than 700 invalid votes and the final margin between the candidates was 83. The numbers are significant. As you pointed out, in the most recent Scottish Parliament elections, the level of invalid votes was 0.8 per cent. The Belfast level of 3.3 per cent would approximate to 60,000 Scottish votes. Even 2.5 per cent would approximate to 50,000 votes.

Professor Curtice: The rate is 2.5 per cent for local government elections and 1.5 per cent for the Assembly election.

David Mundell: We are talking about more than 50,000 people. STV is presented as a somehow purer form of voting that more accurately reflects people's intentions, but one of its consequences is that a significant number of people's intentions are not reflected.

Professor Curtice: I agree with you, but with the deletion of the adjective "significant".

David Mundell: It is obviously possible to hold the elections on the same day, but whether doing so is desirable is another matter. However, given the desirability of having different voting systems on the same day, is there any reason to push headlong into curtailing the Local Government Boundary Commission processes, such as the bolt-on wards, as has been alluded to today? In the interests of voter understanding and getting the boundaries right, would not it be better to move the date of the elections?

16:15

Professor Curtice: Yes, and then we could decide how you want to do that. Do you want to move the election forward to 2006 or back to 2008? Both options could be defended equally. As members might have gathered, I do not want to defend the Executive, but I think that the Executive could defend the idea of bolt-on wards on the ground that the next normal redistribution of wards would not occur until after the 2007 Scottish elections because of the 10 to 15 year cycle. Therefore, it is not unreasonable to bolt wards together.

I have looked at one or two examples; it is true that there are already parts of Scotland where there are substantial differences in the size of electorates, to the extent that the proportionality of the system could be compromised to a degree. If there are larger wards that are geographically contiguous to each other under the current system, there is a clear danger that they will end up being larger wards than those in places where that is not the case. The short cut could probably be defended on the ground that it would not make things any worse than they are under the current system and rules, although that would be less than desirable.

I was interested to hear the evidence about the belief that the Local Government Boundary Commission for Scotland could cope because of the merits of IT. I would think that the change will cost something over the next couple of years and, as I said in my evidence, I am somewhat surprised that there was no reference in the financial memorandum to the costs of ensuring that the boundary commission will be able to do its job in time. The implication in the bill is that the commission will have work to do that it would not otherwise have had; that must have a financial consequence. Which model one can get through, and the speed with which one can do that, will undoubtedly be functions of resources.

As David Mundell is probably aware, when the last Conservative Administration decided to speed up the parliamentary boundary review following the 1992 general election, it did not simply change the rules; rather, it gave the parliamentary Boundary Commission for England the resources to ensure that the boundary review could be done in the new legislative timetable.

David Mundell: That is a good point on which to finish.

Paul Martin: I have three questions. It is still possible to hold first-past-the-post elections under the STV system. Electors could decide to vote for only one candidate here, unlike the Australian system, in which one is compelled to vote for every candidate. If, for every electorate of 18,000

people, 50 per cent turned out, it would still technically be possible that they could take part in a first-past-the-post election by voting for one candidate each.

Professor Curtice: I have two points to make. We would have a first-past-the-post election except that, in effect, it would not be the single-member plurality system. It would be the limited vote system, whereby there are multiple members, but each voter has only one vote. That was the system that the House of Commons used before 1885. We would be reverting to British tradition, which the single-member priority system is not.

One of the things to watch out for when it comes to the definition of an invalid vote, which is currently missing from the legislation, is whether we allow for a voter who puts down a single X on the ballot paper—as opposed to the voter who puts down more than one X—to be counted as a first-preference vote. That is one of the ways to minimise the level of invalid votes at the level of first preferences, at least.

Paul Martin: You raised some points about multimember wards. You said that there could be an informal arrangement whereby three members could decide which areas to allocate to themselves in a particular system. Would not that represent a flaw in the system if the purpose of STV is to allow the voter to select the party that they wish to represent them? If I, as a Labour member who represented the Springburn ward, made such an informal arrangement, and a constituent who stays in the Wallacewell ward said that Paul Martin had decided informally that he would represent people there, would not that be a flaw in the system?

Professor Curtice: Let me make two points. First, I would expect councillors to divide up areas in the Highlands, but I would be astonished if that happened among Labour and SNP councillors in Glasgow. In other words, I can imagine it happening where the system is less partisan, but where it is highly partisan it would not happen. To that extent, your suggestion is correct.

Secondly, political parties will not just stand back from this system and say, “O voters—please rule and tell us what you want.” The parties will attempt to manipulate the system. With STV, it is important to ensure that you do not have one candidate with an enormous surplus and another with very few votes. Parties will therefore try to manage the incidence of first preferences. For example, in one half of Springburn, Labour may ask for the first preference to be given to one Labour candidate and, in the other half of Springburn, it may ask for the first preference to be given to another Labour candidate. To that degree at least, the parties will attempt to manipulate the system.

If the Labour Party wants that vote-management strategy to work, it will, if it is sensible, ensure that the candidate for whom it wants one half of the constituency to vote is well known in that part of the ward. If the candidate is an existing councillor, the party would ensure that he or she had concentrated on that area. The same would go for the candidate in the other half of the constituency.

There will be interaction between parties and voters. If voters want locally popular candidates, parties will need nomination strategies as well as vote-management strategies to ensure that they can maximise their chances of election. There is variation in the degree to which parties are able to get voters to vote as the parties want them to. In the Republic of Ireland, although the parties try to do that, they are still struggling because lots of voters do not vote on the party ticket. In Australia, partly because of the ballot design, the parties’ success is very high. It depends on the voters.

Paul Martin: Other countries have scrapped the STV system. Why did they do that?

Professor Curtice: The best example of scrapping the system was in Stormont in the 1920s. It was scrapped because the unionist majority thought that it would benefit from scrapping it. A second example that I know of is the scrapping of STV in New York in 1945. If I remember correctly, that was because STV was linked to the existence of an at-large election. The system helped to ensure the election of black candidates and people wanted to stop that.

I stand to be corrected, but, to the best of my knowledge, there is no incidence of STV being scrapped in a national—that is, state-wide—legislature.

Paul Martin: The Isle of Man?

Professor Curtice: You are one ahead of me on the Isle of Man.

Michael McMahon: I want to come back to a question that John Curtice has raised again—what voters want. In Belfast, there was a carve-up among councillors. I found it surprising because they did not divide things up in terms of geography, but in terms of particular services. What they are doing is not actually providing something for the local electorate, but they are advocating on behalf of the local electorate.

Professor Curtice: Sure.

Michael McMahon: The councillors carve things up with one person looking after planning issues, one person looking after housing issues, and one person looking after social services. Is it a good idea to have councillors elected from a wide range of areas in a ward and to have the electorate not knowing whom they should phone because they do not know the category of the particular issue

that they want to phone about? Is that an improvement on our present system, in which people know their local councillors and can phone to ask them to represent them?

Professor Curtice: Two points arise from that. You are asking me whether I would prefer to have a single generalist or three specialists. When I get hold of the councillor who thinks they can deal with my particular subject, it may be that he or she at least knows something about planning law, for example. The second point to raise is that the system of multimember wards is the norm in the United Kingdom—Scotland is currently the exception.

Of course, it could happen that a councillor who is on the housing committee but not on the planning committee might find that their fellow ward councillor is on the planning committee but not on the housing committee. If that happened, there would be a certain amount of sense, even under the plurality system, of dividing up work as your question suggested. A councillor might be obstructive and not tell a person who rings them with a problem that the other ward councillor could be of more help. If that is what Michael McMahon is saying, that could be a major barrier to the process. However, I presume that councillors would want to be a little bit more helpful than that.

Dr Jackson: I want to follow on from some of the points that Bruce McFee made. I am interested in the difference that the system could make. People might like the voting system better if they know that they have more choice. When we were in Dublin, it was pointed out to us that people like the STV system and that the results of two referenda showed that people want to keep it. That said, it was also pointed out that people have not known a system other than STV and do not have much to compare it to.

I return to Bruce McFee's point about the realities and practicalities of how things might work in practice. Certainly the Dublin experience showed—the Belfast experience seems to have been similar—that there is a different kind of local government in those two areas than there appears to be here. There is no doubt that local government there is a lot weaker than it is here. Given that local government is weaker in those areas, the STV factor might not be as important if, as Bruce McFee suggested, a small number of those who were elected were to hold the balance of power. As we found out, the business managers took more of the decisions. However, we might get more instability in Scotland because STV might have an effect on the long-term policies that are being pursued in different electoral areas. Will you comment on that?

You know a lot more about the political complexion of individual councils in Scotland.

First, if an STV system was put in place, how many councils might have the problem that Bruce McFee identified of a small number of councillors holding the balance of power, which could result in instability?

One of the other big issues that we heard about in Dublin was the bitterness that exists between councillors—particularly at election time—and between members of the same party. Do you know of any research on that issue? It certainly seemed to be a particularly bad side of the STV system.

Professor Curtice: I will answer both of those points. I think that the answer to the first question depends on whether one takes the view that the quality of public services and policies in Aberdeen and Dundee is worse than it is in Glasgow or Edinburgh. In other words, as I said in my submission, under the existing system, hung councils—to use the colloquial phrase—have become commonplace. In recent years, they have also become commonplace south of the border under multimember plurality. The roof does not seem to have fallen in as yet. As I say in my submission, because the current system does not guarantee a majority, often a group of councillors are left with something that approaches the balance of power or at least some form of coalition arrangement.

As Tommy Sheridan has complained, the system that is written into the bill is not that proportional. We are talking about a change of degree in so far as the creation of a majority under the bill is concerned; we are not talking about a revolution. The only extent to which the change will be a revolution is that for the first time there will be an opposition in council areas like Glasgow and South Lanarkshire, where there will still be majorities. Members will have to decide whether it will be useful to have an opposition in a council. STV is not as dramatic a change as they might imagine it will be.

The second point that Dr Jackson makes is that the system is terrible because it encourages politicians of the same party to compete with each other. I am sure that that is inconvenient for political parties, but whether it is inconvenient for voters is another matter. I tend to take the view that in recent years most professions have been told by politicians that competition is good for them. Therefore I presume that politicians, for the most part, accept that it is good for them, too.

Dr Jackson: What are your views on e-voting? Dublin was moving forward in thinking that it would give the fairest and quickest counting system.

16:30

Professor Curtice: You are obviously aware that it is currently UK Government policy to make it

possible to have e-enabled elections after 2006. You will also be aware that the Electoral Commission is somewhat less enthusiastic than is the UK Government. There are a couple of clearly related issues. The first is that in the electronic voting pilots that have been undertaken south of the border there has been concern that it has not been possible, in effect, to verify the ballot. For example, there have been commercial issues about the reluctance of companies to make their code public, so it has been impossible for anybody to check that the count has happened correctly.

That links to the second issue, which is that it looks as though the electorate will be willing to accept electronic voting if they can be assured that it is secure. There are important issues. I was slightly surprised that this was not referred to earlier, but the Republic of Ireland already has experience of electronic voting using the single transferable vote—it was used in some constituencies there last time round. That succeeded, although I am not aware of the detail of how security issues were coped with.

Electronic voting is part of a wider subject. There are arguments about electronic voting that are not simply to do with making counting easier. There is also the possibility of allowing voting to take place remotely and therefore—allegedly—more conveniently. Although it is true that doing an STV count by hand is somewhat slow and burdensome, it can be done, but that is not a basis on which to decide whether to introduce the system. If we can make electronic voting work, and if the various important problems that are involved can be solved, there is no reason why electronic voting cannot be implemented for STV. Equally, however, there is no reason why we should not introduce the single transferable vote just because we might not have electronic counting by 2007.

Dr Jackson: I understand that, with electronic voting, the transfer of votes can be made fairer, because everything can be taken into account.

Professor Curtice: Yes. Without getting into some real complexities, the Irish practice of taking a sample of ballot papers when a surplus is distributed could be avoided. The Northern Ireland rules could also be changed; they do not take a sample, but do not necessarily take all the ballot papers when a surplus is distributed. In truth, if you dislike that aspect of the system, you could change the rules and still have a manual count. If you wanted to, you could distribute all the papers of a candidate who has a surplus, whenever a surplus occurs. It would just take a bit longer.

Iain Smith: I am glad that David Mundell has returned, because I want to say that in at least two elections to this Parliament at the last election, the numbers of spoiled papers were greater than the majorities of the winning candidates. I

acknowledge the point that he tried to make, but it is not valid.

In your opening evidence you mentioned that some aspects of the Northern Ireland legislation had been taken on board in the bill and some had not. Which aspects have been included in the bill that should not have been, and which have not been included but should have been? Should there be a specific provision in the bill to deal with casual vacancies?

Professor Curtice: I will take the last point first. To be honest, to work out whether there needs to be a provision for casual vacancies I would have to dig into the existing legislation on casual vacancies. I assumed—but it may be incorrect—that the existing legislation would be sufficient, because the bill makes it perfectly possible to run a one, two, three or whatever-member election. To know whether anything is required, one would have to go through the legislation in detail. It was not evident to me that anything was required.

I leave aside the drawing of boundaries, about which something will have to happen at some point. The other provisions in the existing Northern Ireland legislation that are absent from the bill include the provision for a recount. That provision cannot be as it is in the current system; a provision is needed to make it possible for a candidate to request a recount under certain criteria at each stage of the count. It might be bad enough to conduct counts manually, but someone having to go all the way back to the beginning because they thought they made a mistake at the beginning of a count is rather overdoing it. The requirement is that if it is felt that there is a need for a recount, it has to happen at each stage of the count. The provisions are in the Northern Ireland legislation; they could be added to the bill quite easily if you wanted that to happen.

There is other useful material in the Northern Ireland legislation. When a surplus is transferred and, as a result, a ballot paper has a transfer value of less than one, the returning officer is instructed to write the transfer value of the ballot on the ballot paper. That is not currently in the bill. There are also instructions in Northern Ireland legislation that force the returning officer to ensure that he or she has not lost any votes at each stage of the count by in effect doing a check of all the totals, but they are not in the bill.

There is separate legislation on how the result of an STV election is to be declared, but that is not covered in the bill. What to do when a voter's first preference is clear but their second or subsequent preference is not is not included and an invalid vote is not defined. It is clear from section 9(2) that the Executive proposes to introduce legislation to deal with the second two of those points.

On invalid votes, I cannot read the Executive's mind, but given that the Electoral Commission is experimenting with different forms of ballot paper and moving towards the possibility of watermarking ballot papers rather than using the official stamp, there might be a good case for not trying to write into the bill provisions that are going to be out of date in 12 months' time because the UK-wide norm has changed. On the other hand, we know that we will have to do something about recounts and the transfer value of a ballot paper. It is not obvious why provisions on those issues are not included in the bill, given what is in the bill. However, I accept that they do not raise in my mind the issues of principle that the question of ward boundaries raises.

The Convener: What impact do you believe the introduction of STV will have first on turnout and secondly on the representation of groups that are currently under-represented in local authorities, such as ethnic minorities and women?

Professor Curtice: I will take the first part of your question first. If the local government election takes place on the same day as the Scottish Parliament election, the answer is zero—I do not think that the introduction of the STV system will stop anyone going to the polling station. If it is reasonable to assume that the Scottish Parliament is still regarded as more important than local government—turnout for the elections to the Parliament was only somewhat higher than turnout for the most recent independent local government elections—the system will not make any difference, because the Holyrood election will drive turnout.

With respect, the academic evidence is in relation to national state-wide elections rather than local elections. Virtually all attempts to study the issue have suggested that turnout is somewhat higher under systems of proportional representation, but not particularly under STV. There is disagreement about how big the impact is, but the lesson to take away is that turnout might be a bit higher, but do not expect STV to solve all the problems of low turnout. If the local government election is separate, evidence suggests that turnout might be 3, 4 or 5 per cent higher than it would have been without the introduction of STV. That possibility is something else to put in the pot of judgment against the fact that there might be a somewhat higher number of invalid votes. What was the second part of your question?

The Convener: It was on the representation of groups such as ethnic minorities.

Professor Curtice: The impact on that will depend entirely on the voters. A political party standing in the south side of Glasgow would be pretty stupid not to put up at least one ethnic

minority candidate. Whether that candidate would get elected would depend on the voters, including ethnic minority voters. Political parties would have to decide whether they thought it was sensible for them always to put up a man and a woman. That relates to party strategy. Parties are invited to think about the balance of their ticket under the STV system. In contrast to closed party list systems, under STV the parties cannot control the order of candidates and who is elected.

The parties will have some encouragement to increase the number of women candidates and ethnic minority candidates where there is an ethnic minority population but, on the other hand, there is no guarantee that voters will produce the balance of men and women or elect what we consider the appropriate number of ethnic minority candidates.

Tommy Sheridan: I think that you said this already, John, but I would like you to repeat it. Are you aware of anywhere else where STV is practised where the maximum number of seats per ward is four?

Professor Curtice: No.

Tommy Sheridan: Recent publicity has suggested that there is a move by some to show that STV as proposed by the Executive should be applied to the Scottish Parliament elections. Do you think that it would produce a less proportional result than does the current party list system, given the size of the seats? Given the evidence that you seem to be leading, do you agree—

The Convener: Tommy, the Scottish Parliament elections are obviously not part of the bill, nor are they something over which we have legislative power.

Tommy Sheridan: My question is related to the previous question. Given your evidence, do you think that the suggested size of the wards has more to do with a political fix than a democratic expansion?

The Convener: Discuss.

Professor Curtice: The answer to the question that you were not allowed to ask is both yes and no and I will explain that to you later in private if you want. Undoubtedly, the size of wards in the bill is as much a political fix as are the size of the Parliament and the ratio of constituency to list members. It is a general lesson of political science that electoral systems are the product of political compromise and fixes between politicians. That is probably true of all electoral systems.

The Convener: That brings us to the end of questions. Thank you for your contribution, which has been very useful. We will have a short break of two or three minutes; I realise that we still have a lot of witnesses to hear from.

16:42

Meeting suspended.

16:47

On resuming—

The Convener: I welcome Professor Bill Miller from the University of Glasgow. We look forward to your evidence. Before I ask you to give us some introductory remarks, I apologise to you and to other witnesses for the serious overrunning of the meeting. I am sure that you will appreciate that members are asking a lot of pertinent questions on the bill, but I apologise sincerely if the overrun is causing any of the witnesses any difficulty.

Professor Bill Miller (University of Glasgow): I was able to hear the last 10 minutes of John Curtice's evidence and I must say that I agreed with almost everything he said. I was greatly impressed by the depth and detail of his knowledge—you will not get that from me.

My current research ranges from Vietnam to Ukraine. Given that background, members will perhaps understand that, for me, the system that translates votes into seats does not seem that important an aspect of an electoral system. Other aspects are far more important—freedom of debate, freedom to contest, freedom of the media, the quality of the debate in the media, and so on.

In the present circumstances, switching from a first-past-the-post system to an STV system will not produce a major improvement in local government in Scotland. However, I do not think that you will do worse or that you will do major damage. All the other aspects of the British and Scottish electoral systems will be operating; all that you will be changing is the system for allocating seats. That means that you will have to consider whether it is worth the expense, disruption and trouble of switching from one system to another when, at best, the advantage will be marginal. That said, I am not suggesting that switching would be a disaster.

I want to say a few general things on the advantages and disadvantages of PR and then a few particular things about the advantages and disadvantages of the STV version of PR. That will allow me to comment on the particular implementation of STV in the bill. I will probably comment on the disadvantages that I see in that implementation.

STV is a PR system and, like any other PR system, it has advantages and disadvantages. An advantage is a somewhat greater party proportionality than under first past the post. However, it is not a zero-one situation: you get a bit more proportionality, but there is already a certain amount of proportionality and you will not get perfect proportionality under any PR system.

A disadvantage is a greater likelihood of perpetually hung councils. I know that John Curtice has pointed out that you can get hung councils anyway, but you will get them more often and in more places if you have a PR system. There will be what the Jenkins commission called a "hinge power" for small parties—especially those that are prepared to bargain away their votes between two major blocks, if there are two major blocks on the council. Not all parties will be equally favoured—only the ones that are willing to, as it were, sell their votes will be favoured.

Voters are unable to dismiss the executive of a hung council because voters do not determine the executive or the management committee. All they do is shift the balances in coalition bargaining after the election.

There is sometimes a pressure to balance greater proportionality at one level with much less proportionality at another. In local government, that means adopting PR for the council and then having a directly elected mayor of some kind. We do not have mayors in Scotland at the moment but there will be pressure for that kind of thing in order to give a decisive face to local governance. A directly elected mayor is the most disproportionate, winner-takes-all system that could ever be invented. There is only one body and 100 per cent goes to that person and that party.

PR does not guarantee more competitive elections or more social proportionality. Members have talked about social proportionality in the case of ethnic minorities. You will be well aware that minorities are better represented under first-past-the-post in local government and at Westminster than they are under the more proportionate AMS in the Scottish Parliament. At Westminster, there is ethnic minority representation among Glasgow MPs; in local government in the west of Scotland, there are provosts from ethnic minorities.

It does not seem to me that a permanent Lib-Lab coalition is any more immobile, or that the election that leads to it is any more competitive, than the situation under a single-party Government. The difference between, on the one hand, a particular coalition being in power after the election as it was before the election, and, on the other hand, a particular party being in power after the election as it was before the election, is not immediately obvious.

PR's advocates sometimes claim that it would lead to greater civic involvement. John Curtice has said that evidence shows the effect to be slight—so small that, although statisticians would say that it was statistically significant, politicians and political scientists would say that it was not. The impact is 2 or 3 per cent at most. The way to raise voter turnout is through the law or through politics.

You can have compulsory voting or you can have simultaneous local and national elections. Both those methods are proven to have a big effect on turnout. Another method would be to have a different kind of politics, with a more polarised set-up and with more cliffhangers. You will get huge turnouts at an election that is polarised between two parties with very different ideologies and when they are equally likely to win—when it is a cliffhanger between polarised contestants. That might not be a pleasant place to live, but it guarantees a high turnout.

Let me compare the advantages and disadvantages of STV with other PR systems. The first alleged advantage of STV is that the geographic link is maintained, unlike with AMS, with which you are familiar. Secondly, voters can choose between candidates, rather than parties, which they cannot do under the Scottish version of AMS. Thirdly, voters can facilitate coalition building by switching their votes between parties with their third, fourth, fifth, sixth and seventh preferences. In short, STV is less party dominated than other PR systems. That is trumpeted as a virtue, but it is a bit odd: the whole idea of having PR is because you say that first past the post is unfair to parties, but you invent a PR system that is not particularly kind to parties and focuses more on candidates.

Against those advantages are the alleged disadvantages of STV, some of which are the flipside of those advantages. First, the geographic link is retained only by having constituencies with relatively few seats, such as three or four—a point that Tommy Sheridan raised. A constituency with a large number of seats has got to be a big constituency over a wide area, and any sense of geographic link tends to get lost. Someone mentioned David Farrell, whose book—which I have here—recommends a minimum of five seats per constituency. He is firm about that.

With regard to the southern Irish case, where constituencies have between three and five members, Arend Lijphart calculates—in another book that I have here—what he calls the effective threshold of 17 per cent. Get less than 17 per cent of the vote and you cannot expect to get elected. It is not quite a mathematical calculation—it depends on how many parties stand in opposition and so on—but the threshold under STV is quite high, and with fewer than five seats the effective threshold is higher still.

STV will give a degree of proportionality between the larger parties, but it may be a good means—or a bad means, if you like—of excluding the smaller parties from representation as a whole. The Jenkins report, which I also have here and which is an excellent review of electoral systems, sees the lack of proportionality under STV as an

advantage of the system. It says that it is a good way of keeping out fringe parties. So STV, which to some people is a good way of introducing proportionality, is for others, quite consciously, a good way of limiting it.

Secondly, choice between candidates means competition between candidates. There is some evidence that, in southern Ireland, when candidates lose their seats, they lose them to rivals within the same party rather than to the opposition. So the opposition is in front of you and your enemies are behind you, to use a famous phrase from the House of Commons.

Thirdly, coalition building, which can be an advantage of STV, necessarily erodes the significance of parties and erodes the clear line of responsibility between a party and the voters.

Those are three disadvantages that are the flipside of the advantages. There are another four disadvantages of STV, which relate to the sheer complexity of the system. The Jenkins report describes the STV system as “excessively complicated” and “incontestably opaque”, and states that the complexity is not in the voting, but in the counting. It is not that difficult for people to vote under STV, but it is enormously complex to undertake the counting. We have had some questions about that.

The counting procedures are extremely complex and obscure. If you are going to put the bill before the Scottish Parliament, you should ask members of the Scottish Parliament to focus their attention on section 5(6), on the transfer of ballot papers, which refers to the transfer value of a vote once the counting is going on. If members cannot understand that procedure, and if they do not find it to be clear and correct, I suggest that they should not put their names to a procedure that they cannot understand. My point is not that the section is wrong, but that I suspect that MSPs do not know whether it is right or wrong. I suspect that many members of this committee would have great difficulty telling me whether it is correct or incorrect.

I think that section 5(6) is completely wrong. The procedures in the bill for calculating the value of a transferred vote are either extremely badly expressed or arithmetically incorrect. One key test is to establish whether votes increase or decrease in number as they are transferred. Obviously, in a transfer system, there should be the same number of votes after the transfer as there were before it. The procedures in the bill pass that test, but unfortunately that test is only a necessary, not a sufficient, condition for a proper STV system. If the procedures that the bill sets out were followed, the system would work correctly at the first and second counts, but on the third count—and there will always be a third count as the third seat is

allocated—and thereafter, it would go a bit haywire.

In 1931, Churchill criticised preferential voting systems for giving the same weight to second and third preferences as they give to first preferences. He would have been delighted that the bill does not appear to give the same weight to second and third preferences, but he would have been appalled that the bill seems to give more weight to second, third and subsequent preferences than it gives to the first preference. I do not propose to run a chalk-and-blackboard session to explain the mathematics, but I suggest that the committee invites mathematicians to check out the procedures.

17:00

My fifth criticism is that, paradoxically, the counting system is so obscure that the parties might try to take control of the voters—and might succeed in doing so. Farrell noted that, when the STV system in Australia was changed to allow voters simply to tick a party box to allow the parties to decide how to allocate their preferences from one to five, the bulk of the voters handed over control to the parties and did not choose to use the STV system, which was below the lines—as it is called—on the Australian ballots. When given the choice, voters pass responsibility back to the parties.

Sixthly, the sheer complexity of the vote and the counting, as well as the questions of geographical linkage, militate towards having small constituencies with relatively few people to be elected. If that is not the case, there will have to be a vast ballot paper, vast amounts of transfers and vast numbers of counts before people can be elected and there will be grave doubts about whether everything has been done correctly.

Finally and seventhly, the system is open to abuse if the number of seats per constituency is allowed to vary, because, as John Curtice clearly pointed out, the most critical part of any PR system is how many seats there are per constituency. That is much more important than whether the system is STV, AMS, or any other, and it makes the system more or less proportionate. If there are more seats in some constituencies than in others, there will be more proportionality in some constituencies than in others. I find no excuse whatever for that kind of variation.

In short, STV is a system of party proportionality that, in fact, does not value parties—one of the trumpeted virtues of the system is that it is not kind to parties. It does not value proportionality—another trumpeted virtue is that it is not actually very proportional. As a bonus, it is obscure and

expensive to operate, so it is likely to be badly implemented. According to my calculations, the bill would implement it badly.

I heard the question about the possibility of using computers. Computers are great things—I did my graduate studies in computing, more decades ago than I choose to remember, and to this day I use them too often—but they do things either wonderfully correctly or wonderfully wrongly. They are remarkably opaque; the voter cannot look over the computer's shoulder to ascertain whether the program it operates is justifiable. If the procedures in the bill were hidden inside a computer program, it would be very difficult for someone to say, "Aha! There is something wrong here." If the computer program programmed the bill wrongly, it would be extremely difficult for you to look over the programmer's shoulder and say, "Aha! What you have programmed is not actually what we intended in the bill."

There are significant questions in the United States about computerised balloting, not least because of the fact that all the firms that are tendering for the contracts to write the computer programs seem to be affiliated to the Republican Party. All of them invoke commercial copyright to prevent anyone else looking at their computer code. I do not think that the computer code in any computer system should be secret; the computer code should be published, like a bill, so that other people—there are many computer programmers around these days—can look over it and pass judgment on it.

The Convener: Thanks very much, Bill.

Paul Martin: I have two points. First, in respect of the participation of candidates, one theme that has come out of the presentations is that some parties would almost be encouraged not to put up several candidates in multimember wards to give themselves a better chance of being elected. Do you see that as a flaw in the system? We want to encourage participation and democracy, but it would almost be in a party's interest not to put up three candidates in a three or four-member ward.

Professor Miller: There might be some advantages to the parties not dividing up their votes into too small packages. The extreme example of that is the limited vote, to which John Curtice referred and which was used in the 1880s, when each person has fewer votes than there are seats to be filled. However, I do not think that that will be a decisive factor. In a list system, a party can have a very long list, at the bottom of which it puts people who have no hope of election and who are there just as decoration. Whether they are much noticed by the people who are casting their votes is another question. Down at the bottom of the list, they are in a very insignificant place. That can cause all sorts of problems.

Paul Martin: Under the proposed system, if there are three seats available in a multimember ward, a party might put up two candidates.

Professor Miller: Indeed. It might even go as far as running in harness with other parties. There might be some pressures towards coalition.

Paul Martin: Secondly, you talked about preference voting, but should the electorate be forced to cast a preference vote? They may see three candidates as having an equal standing in the system.

Professor Miller: As a general rule, in a democracy, voters should be allowed the widest possible choice and that includes the choice not to vote for candidates whom they dislike or do not particularly want. I certainly agree that they should be allowed to cast a single-preference vote. I would also advocate, in both first-past-the-post and STV elections, that voters should have the option—which they always had under the Soviet system—of voting for none of the candidates because they consider none of them worthy of election.

Paul Martin: But why should someone be forced to choose between three candidates—

Professor Miller: I am saying that they should not even be forced to choose one candidate. There should be a box for people who are there to do their civic duty but who do not like any of the candidates on offer.

Tommy Sheridan: You could find yourself in Parliament soon, by making yourself the leader of the none-of-the-above party—you might even win a majority.

I am not sure whether you are pointing out the weaknesses in this specific STV system or whether you are opposing a more proportionate electoral system in principle. On 1 May, the Labour Party secured 90 per cent of the seats on Glasgow City Council with 33 per cent of the vote. Are you defending that type of system, or are you saying that there should be a more proportionate system but not this form of STV?

Professor Miller: I am not a strong advocate of more proportionate systems, but I recognise that there are certain circumstances in which the extreme disproportionality of the result strengthens the case for a more proportionate system. That is certainly the case in national elections. When the Liberals got within 2 per cent of the Labour Party in the UK elections but won only a tenth of the seats at Westminster, many people who had not been keen on proportional representation the year before were more in favour the year after.

Proportionality is one ingredient that you might like, but I would still like it to be possible for parties to win outright and take sole responsibility for

government, and then be defeated and thrown out on their ear. That is less likely to happen under a PR system. A problem in places such as the west of Scotland is that people keep on electing the same party. That is as much a problem with the mentality of the voters as it is with the electoral system.

Tommy Sheridan: Yes, but you would surely agree that, if the voters want to keep voting for the same party, that is up to them.

You said that it was not very competitive to have a permanent Lib-Lab pact. However, we have had only two elections to the Scottish Parliament, so is it not a bit premature to talk about a permanent Lib-Lab pact?

Professor Miller: The people who researched the downfall of communism said that they would know that there was a democracy somewhere when the Government had been defeated twice and had left office peaceably. The problem in Russia is that that has never happened with the presidency, which is the Government. In Scotland, it has not happened either—we have not had a change of Government. It is all very well to have elections, but the glory of elections is Government defeats, not Government re-elections. What is critical is what we can do to Governments when we do not like their stewardship. In the Scottish Parliament, it looks as if it might be difficult to remove the Lib-Lab coalition—although I know that you are doing your best, Tommy.

Tommy Sheridan: Even after only two elections.

If you can suspend for a moment your criticisms of the system, do you agree with John Curtice when he says that, if we are to introduce an STV system and try to be proportional, we should have five-member wards instead of the three or four-member wards that have been suggested?

Professor Miller: The more seats you have per constituency, the more proportional it is. If there are only three seats, a candidate who does not get between a fifth and quarter of the vote will not be elected. That is a very high threshold. You personally, Tommy, might get a vote that big, but it would be difficult for your party to get many people elected in such a system, which would be very biased against small parties unless high support for a particular personality is concentrated in one area.

David Mundell: Of course, one way in which we might get a different Government would be by voting this bill down, if we are to believe media reports. Is it common in other countries to have as many different voting systems as we will have in Scotland for elections to different institutions?

Professor Miller: Some countries have a variety of systems and you have heard about

some of them already. To give you more detailed information, I might have to get the gazetteer out, but Australia and America are two prominent examples. Several electoral systems run simultaneously for the different institutions in the Australian system of government. In the United States, they have tried anything and everything, often simultaneously, including things such as winner-takes-all slates, a system that has some charm about it for local government.

David Mundell: I want to come to a point that I raised earlier and that I will explain in more detail for Iain Smith's benefit. I do not think that you can say that a system is fairer if more people fail to register their vote under that system. In the Belfast City Council elections in 2001, roughly the same number of people voted as voted in the Fife Council elections in 2003. In the Fife elections, there were 962 spoiled ballots; in Belfast, there were 4,200 spoiled ballots—primarily because people had not understood how they were to vote when they were asked to use two different voting systems at the same time. That is what people will be asked to do in 2007. Is it fair to promote and introduce a system that is likely to increase the number of people who cast their votes invalidly?

17:15

Professor Miller: Elections are confusing enough and people should not be confused further. I see no reason why there should not be different electoral systems at different levels to different bodies in the same country. However, it can be argued that if elections are going to be held simultaneously so that people go into the same polling station on the same day, too much variety in the voting systems that are used in the polling station is likely to add unnecessarily to confusion. If it is thought that simultaneity is important in order to raise turnout levels and that shifting local government elections to the same day as the national election is the only way of raising turnout levels in local government elections, there is an argument for having voting systems for the national body and the local body that are at least reasonably compatible.

There is a noticeable difference between around 1,000 and around 4,000 spoiled ballot papers, which you mentioned. Again, it is important that one is as flexible as possible in interpreting an elector's wishes. For my sins, I have sometimes been the returning officer for rectorial elections at the University of Glasgow. We have tended to operate on a principle of great flexibility in those elections. If somebody puts only one mark on the ballot paper and it is an X, it is beyond the bounds of reason to disallow it and say that it is not a single vote for a single candidate and is non-transferable. Perhaps such flexibility needs to be

written into the bill or perhaps one can simply use common sense, although writing it into the bill would be a pity, as common sense should be exercised. One should certainly not go out of one's way to trip up voters by demanding that they number all the candidates in order of preference, which is possible in some systems, although I do not think that that is being proposed in the system in question.

There is a third possibility. Historically, people in Ireland have spoiled ballot papers because they wish to dissociate themselves from the United Kingdom. There are principled abstainers. In that context, none of the previous options that I have mentioned could be used. Such votes should be recorded not as a mistake, but as an intentional vote against all the candidates on offer or against the whole system under which the vote is taking place.

David Mundell: The great benefit of observing an election is that one can see how spoiled votes are cast and one does not need to speculate about them. In observing, I have been clear that spoiled votes were overwhelmingly those of people who had put an X beside one or two candidates and clearly wished to vote for them, but showed no preference for them, which Mr Martin mentioned.

Professor Miller: Interpreting such things in any reasonable way is impossible.

David Mundell: Finally, I want to say something about the idea that everybody's vote is equal and carries equal weight under the system in question. You alluded to section 5 of the bill and the arrangements for the transfer of preferences. It is clear that every voter's vote does not carry equal weight in the system, as the preferences of some people count more than the preferences of other people.

Professor Miller: In a properly organised STV count, each voter's vote should be of equal value. Some votes are used up in electing people; the question then is how transfers should be carried out. The southern Irish system simply takes the top 300 votes if 300 votes have to be transferred, hopes for a random sample of the rest of the pile and transfers them. Given the numbers that are involved, the sample is probably a random sample that will not be very wrong. That is a simple way of doing an STV count and simplicity is an enormous virtue in counting votes—it should not be underestimated. Of course, the clever way of doing things is to transfer all the votes, but count each vote as worth only a fraction of a vote. The trouble is that that can be too clever by half. In the bill as it stands, the calculations are wrongly specified and the wrong proportions would be applied. That is why some people's votes would count far more than they should at the third count.

Iain Smith: Bill Miller has raised so many issues that I am not sure where it would be best to start. You talked in your opening statement about the lack of proportionality in the system that the Executive proposes. Do you not accept that, throughout the process from Kerley onwards, the aim has been to balance proportionality with the councillor-ward link, and that the bill achieves that?

Professor Miller: I also quoted the Jenkins report, which I prefer to the Kerley report. The Jenkins commission described STV's disproportionality as one of its virtues, even though it dismissed the STV system as too complex and troublesome, despite all its advantages.

There is no reason to believe that maximum proportionality is maximum virtue or that minimum proportionality is minimum virtue. Every presidential election has no proportionality, but people do not go around the world campaigning against presidential elections—I feel that they ought to and that that level of disproportionality is a mistake.

Tommy Sheridan: People campaign against some Presidents.

Professor Miller: People campaign against individual Presidents and they think that the candidate with more votes should be elected. The concept of electing one person to a supreme office is monarchical. That level of disproportionality is bad. I would not go to the other extreme of supporting the level of proportionality that applies in places such as the Netherlands or Israel, where the whole country is taken as a single constituency and where parties with 1 per cent of the vote have 1 per cent of parliamentary members. If the whole of Scotland were taken as one constituency, that would produce extreme proportionality in the Scottish Parliament. That method is an option, but it has disadvantages, some of which are especially obvious in the Israeli Parliament.

Iain Smith: So it is a reasonable policy objective to balance proportionality and the ward-member link.

Professor Miller: That is certainly the case. People who advocate STV should be up front about wanting as much proportionality as could benefit a party that might receive 20 per cent of the vote but not as much proportionality as could benefit parties that might receive 5 or 10 per cent of the vote. Guess which parties those might be?

Iain Smith: My party has worked out that it would not benefit from STV and that, if anything, it is likely to be a net loser, so you cannot preach to me on that.

Mr McFee: You are selling the system.

Iain Smith: We sell it because we think that it is right, not because it is in our party's interest, which is unlike the way in which some others operate.

Bill Miller said that proportionality concerned giving parties their proportion of the vote. It also ensures that a party does not have a large majority when it does not have the share of the vote to support that. You talked about voters being unable to get rid of a coalition Executive because they cannot vote against the Executive. How do you square that with the past two elections for the City of Edinburgh Council, in which Edinburgh voters voted in increasingly smaller numbers for the administration—at the last election, less than a third voted for the administration—yet the administration managed to retain a majority? Does the present system allow voters to vote out Executives?

Professor Miller: Members should not imagine that a perfect electoral system exists. Systems are rough-and-ready devices. The pursuit of perfection and the feeling that one mechanism will solve all the problems are extreme delusions that should not be pursued.

Even better examples of what you described can be found at the national level. In 1951 and 1974, one party secured a majority in Parliament although it was beaten in the popular vote in the whole country—that is to say nothing of the recent case involving George Bush.

It is easier to defend the first-past-the-post system's disproportionality than its perversity. A situation in which one party receives more votes but has fewer seats cannot be defended. However, a graduated system of disproportionality can be defended. That might involve a bonus for having larger shares of the vote. For example, under a PR system, council seats could be awarded in proportion to the square of each proportion of the votes that had been cast. That would mean that there would never be perversity and the order would always be correct, but that the bigger parties would get even bigger—a sort of winner's bonus. The winner's bonus operates in most systems, including the southern Irish one. The track record of STV in southern Ireland shows that a party does not need to get 50 per cent of the vote to get 50 per cent of the seats. Under STV, around 45 per cent of the vote guarantees a party more than 50 per cent of the seats in the southern Irish Parliament.

Iain Smith: I am aware of that. I am an advocate of STV, but I do not claim that it is a perfect proportional system; I claim that it strikes a good balance between proportionality and the need to retain links between members and wards.

You raise questions about the detail of section 5. I accept that the drafting may not be perfect. It would be helpful for members to have an

indication of improvements that could be made to the drafting to make it clearer. Are you willing to suggest amendments to the bill to make it clearer, either in writing or now?

Professor Miller: The issue is complex. One would have to follow a worked example to see what has gone wrong. However, I will say that, as votes are transferred from one candidate to a second and then to a third, the proportions—the transfer values—should decline sharply, but that would not happen under the proposed system.

Iain Smith: That goes back to an issue that was raised earlier when we took evidence from Executive officials about the transferring stage. When a surplus is transferred, that might create a further surplus that will be transferred again. Is that the issue to which you are referring?

Professor Miller: That is right. I am talking about the second transfer. When the transfers cumulate, the transfer value should go down multiplicatively, but it would not under the bill.

Iain Smith: Is that because of the non-transferable papers?

Professor Miller: No; it has nothing to do with that. To keep life simple, the worked example that I used was one in which there were no non-transferable papers. That is another problem: the system is complex, but if all the papers are retained, the system of transfer is too simple. The basic problem is that the bill tries to be clever, but it is not clever enough. If a returning officer from Northern Ireland looked at the bill, he or she would say that they do not work like that, although he or she might read their way of working into the bill because they would not believe what is written there. As drafted, the bill is wrong.

The Convener: We note that you have drawn attention to the issue. Will you give us a copy of the worked example that demonstrates the flaw?

Professor Miller: I can give you a sheet of paper that can be photocopied—I hope that you will be able to make deductions from it. There would be no problem explaining the matter to a school mathematics class. As the First Minister is a mathematics teacher, perhaps he would like to sponsor a competition among maths classes in secondary schools to find out whether my criticism is correct. My criticism is that votes would not always have the same value, as they are transferred too often.

The Convener: As my maths is quite good, I am interested to see your work.

In your introduction, you drew attention to the differing degree of proportionality that would exist if there were three and four-member wards. That might produce distortion within a single authority or across different parts of Scotland. If we adopt

the system, should we define a consistent level of proportionality, whether that means having three or four-member wards?

Professor Miller: I would be inclined to do that. John Curtice alluded to the particularly perverse situation in which there is a correlation between the level of party support and the degree of proportionality. That is the famous Tullymander from southern Ireland—Mr Tully deliberately tried to adjust proportionality to benefit one party. It would be perverse if there were a correlation between the degree of proportionality and the local level of support for any of the parties. However, if the two were uncorrelated and cross cut, everything would come out in the wash.

To some extent, that would mean that voters in different parts of the country would be treated a little differently, but that is not an enormous problem in terms of parties. However, voters may feel that they should be treated equally in different parts of the country and that the system should be proportionate to the same degree everywhere. A simple solution would be to have five-member wards everywhere in all local authorities. As John Curtice suggested, an escape clause would be needed that, in exceptional circumstances—perhaps for the final ward in a council area that cannot be fitted in—a different size would be allowed, but that should not be a general norm of variability.

The Convener: Do you agree that the rules or guidance for the Local Government Boundary Commission for Scotland should be detailed in primary legislation, not subject to secondary legislation? That is similar to John Curtice's proposal.

Professor Miller: I do not have a view on that question. I defer to John Curtice on it.

17:30

Mr Welsh: If the bill is trying to be too clever, I hope that you will try to teach us to be cleverer. If I have not misunderstood you, you said that PR will bring about shifting balances between different objectives, but no real revolutionary change.

Professor Miller: Yes. I think that John Curtice said the same.

Mr Welsh: You said that there is no perfect system, so will you make it clear to us whether you are against STV totally or whether the bill can be altered to produce practical, useful, positive alternatives?

Professor Miller: I repeat the advice that I gave the last time that I appeared before the committee, which was taken from the great book by Taagepera and Shugart: you should not waste a lot of effort, time, money and hassle on switching

electoral systems unless you are going to get enormous benefits out of it. You should also keep the system as simple as possible, unless you are going to get enormous benefits from a more complex system. Simplicity, lack of change and familiarity are enormous virtues in a democratic system. They are not absolute virtues, but they must be weighed carefully against the other possibilities. If you want to keep the system simple but use STV, you should seriously consider the southern Irish technique, which is not guaranteed to work in all circumstances, but will work most of the time to a high degree. It is most unlikely that things would often go very wrong under such a system, whereas, if you get the formula wrong in a more complicated system, big errors could be made much more frequently.

Mr Welsh: Are you saying that the STV system is bedevilled by complexity and that we cannot change that, because it is built into the system?

Professor Miller: That is exactly what Jenkins said, and I agree with him entirely. He called STV "excessively complicated" and "incontestably opaque" and, for that reason, he advocated the additional member system, which is much simpler for people to grapple with; it is also simpler to count.

Mr Welsh: Thank you for that clarification.

Mr McFee: I have listened to the evidence and read some of the comments around the matter and I think that it lends weight to the adage, "If you are not totally confused, you have not been paying attention." You said that you found the idea of different ward sizes to be almost indefensible. Do you mean ward sizes in terms of members per ward or electorate per member, or both?

Professor Miller: I mean size in terms of members per ward. When we say "size" in electoral systems literature, we are almost always talking about the number of representatives rather than the number of voters, because the number of representatives affects the degree of proportionality and the number of voters does not.

Mr McFee: I disagree. If 2,000 people were to elect one person in a council area, but 10,000 were to elect another person in the same area, that would add to disproportionality.

Professor Miller: That is a different question.

Mr McFee: That is why I asked you whether you were referring to members per ward or to the electorate per member. If you are referring to members per ward, that raises a question about rural areas in particular. As you are aware, the Kerley report advocated between three and five members per ward, with the possibility of two members per ward in exceptional circumstances, which some of the more rural local authorities would consider in certain areas.

Professor Miller: That would be a very high threshold of proportionality.

Mr McFee: It certainly would; it would be a third plus one, if my mathematics is correct.

Professor Miller: Roughly.

Mr McFee: I think that it is exactly a third plus one.

Professor Miller: It is exactly that by one definition, but only roughly that depending on the number of people that we are contesting.

Mr McFee: It is that adage again.

Professor Miller: The difference is between effective thresholds and guaranteed thresholds.

Mr McFee: Given the fact that neither those who want proportionality nor those who advocate keeping a ward-member link are particularly happy with the bill, would you say that, far from being a reasonable compromise, it satisfies none of the camps and is not worth a candle?

Professor Miller: As I said before, my view should not be seen as definitive and, speaking as an individual citizen, not as an academic, I find the Jenkins commission's arguments on AMS to be persuasive: it is relatively simple and very flexible and adjustable; it is relatively easy to operate; and we can make it as proportionate as we want it to be by varying the number of additional members.

Mr McFee: So that is a broad yes.

Professor Miller: My broad answer is that STV is a very complex system, which I would use only if I was really driven to it, and I do not feel really driven to it. It is perhaps significant that only a handful of places in the world have adopted it. Although the fact that those places are not among the worst governed in the world tells us that the system is not a disaster, it cannot be a coincidence that it has been such an unpopular system around the world.

Mr McFee: Am I allowed another question?

The Convener: If you are brief.

David Mundell: I want my tea.

Mr McFee: You can always go.

My question is about what, in my view, is one of the omissions from the bill. Once the election has taken place and the bartering has finished, if one party is not in overall control and a coalition is formed, there is nothing to push proportionality down into a council's committee or board structure. It will still be possible for the coalition—or the single party in power, if that is the case—to all but exclude the smaller parties, which may account for 45 to 55 per cent of the vote, from boards and committees. Do you think that it would

be a useful addition to the bill if we were to implement some of the principles that were set out by the Widdecombe committee in relation to English local government, where it was necessary to ensure proportionality on the committees? Many of those committees have wide ranging and deeply delegated powers, so the matters that they consider would never come back to the council.

Professor Miller: You are quite right. A PR electoral system does not guarantee PR beyond the council or the Parliament that gets elected. If proportionality is highly significant in a particular society—the obvious example that we think of is Northern Ireland—it is important to push PR beyond the level of the elected body. That means pushing it into the body's machinery of working—a process that could go beyond the committees, as is the case in Northern Ireland, where concurrent agreements that go beyond simply proportionality are necessary. Where there is a deeply divided community and it is important to engage everyone across all sides of the divide, it is possible to go as far as having intentional disproportionality, which involves being particularly kind to the minority within a system.

That is of much less concern in cases in which the political situation is more relaxed and all that the people in the community are considering is a choice between this party or that party—sometimes they might vote for this party and sometimes they might vote for that party. That was particularly the case with the British Liberal Party, for example. One striking point is that very few people have habitually voted Liberal. Frequently, very large numbers of Liberal votes have been caused by a great turnover in support from the Conservative or Labour parties.

On two occasions in 1974, six months apart, the Liberal Party got the same share of the Westminster vote—20 per cent. The polls show us that the party carried through only half of their spring vote through to the autumn; it replaced those votes by making as many gains as it made losses. The Liberals were not flesh and blood—they were not the same group of people in the autumn as they were in the spring, even though the party got the same number of votes. It was a case of the famous example of the bath with the taps running and the plug out—the water level stays the same, but it is not the same water for any length of time.

In such circumstances, one does not have to worry about people becoming permanently disaffected by the lack of proportionality, because they are not permanently in the minority. Where there is not only a minority, but a permanent minority—the people who are part of the minority now will be so in five years' and 10 years' time—it is necessary to give much more consideration to proportionality.

Michael McMahon: You mentioned the example of Northern Ireland. In its evidence, the Scottish Executive said that it based the bill on the system in Northern Ireland. You commented on the section that seeks to give a greater proportion to votes as they are transferred, which is drawn from that model. When members were in Belfast, we were given an example, and picked up that that is exactly what happens. The problem is built into the system, so it has simply been lifted from the Northern Ireland system and put into the one in the bill. Going to Northern Ireland did not help us to clarify the problem; it showed us how it arises in practice.

It showed us something else that happens in practice, which goes against the criteria that McIntosh and Kerley recommended. People told us that there had to be a place for independents in the system. Given that the bill proposes three or four-member wards, do you have a view on the chances of independents getting the recognition that they currently have and maintaining their position? In Northern Ireland the number of independents has appeared to decrease where there are five, six or seven-member wards.

Your other point was about the ability of independents to enjoy proportional representation on committees in local authorities. The example was given of the only independent elected in Belfast having to give up his independence and join one of the unionist parties to have any influence in the council, because of proportional distribution in the committees.

Professor Miller: Much depends on the threshold. An independent will find it much easier if the threshold is low. Under the system in the Scottish Parliament, independents have done quite well both in the list system and under first past the post, where they have a high vote in a restricted area. The classic case is of campaigning against a hospital closure. That is in the interests of the people in an immediate locality and against the interests of people in the wider locality. The independent is likely to have concentrated, but possibly intense, support. At the other extreme, someone who has a degree of name recognition in a wider area but a not particularly high level of support will benefit under the list system.

Under STV, with the proposed three or four-member wards, candidates would be looking to have something like 20 per cent support within the STV constituency before they could get elected. People would not get elected by having 7 per cent support over a broad area, so it would be more difficult for someone who had broad but fairly weak support. That would not be quite as difficult as being elected through the first-past-the-post system, in which someone has to have high, concentrated support. The level of support needed

would be intermediate between that for getting elected through AMS and that for getting elected through first past the post.

Michael McMahon: You have considered that in depth. Are you concerned that the system will not meet the criterion of having independents benefit from a change to the electoral system?

Professor Miller: The system would not lead to the election of Scottish Socialist Party members, who normally do not get the level of support that would be needed except in fairly limited areas or for a particular personality who might be seen separately from the party—we have one sitting here. It would be much more difficult for parties with the level of support that the SSP has across the whole of Glasgow to get elected under STV than it is for them to get elected under the additional member system.

Michael McMahon: But we are not talking about parties; we are talking about independents.

Professor Miller: That applies to independents as well. Under STV, to get elected, the independent would have to have 20 to 25 per cent support broadly over a three or four-member constituency but not necessarily broader than that. The level of support needed would be intermediate in both ways—it would have to be a bit broader than under the present first-past-the-post system and a bit stronger than under AMS.

The Convener: That brings us to the end of questions. Thank you for your evidence.

Tommy Sheridan: Can we ask Bill Miller whether he plays the lottery and, if he does, what his numbers are?

17:45

The Convener: I welcome the next panel, which consists of representatives of Argyll and Bute Council. We have with us Councillor Len Scoullar, Alasdair Bovaird and Nigel Stewart. I invite Councillor Scoullar to make some introductory remarks.

Councillor Len Scoullar (Argyll and Bute Council): I am the independent member for Bute South. I thank the committee and the convener for the opportunity to appear before members today to say a little about the likely effects on Argyll and Bute of the single transferable vote, and multimember wards in particular. I have a prepared statement, copies of which I would be delighted to give the committee.

I sit as an independent member of Argyll and Bute Council. I am not a member of the majority group on the council, but I am here to represent the council as a whole, with the agreement of the majority and minority groups on the council.

Members will have received a submission from Argyll and Bute Council in advance of today's meeting. I do not wish to spend a long time repeating the information that is in that submission, but I will emphasise and illustrate how three issues in particular impact on our communities.

Argyll and Bute Council is on record as being content with the first-past-the-post system in single-member wards. However, the discussion today is not about that principle, but about the practical implications of the proposed system. I ask the committee to recognise that the consequences of some of the proposed features of the system will, we feel, be damaging to the pattern and quality of community representation in Argyll and Bute, and to accept that that needs to be considered in more depth before proceeding. In particular, the implications for some of our island communities and for those living in the more sparsely populated parts of Argyll and Bute will be difficult. The practicalities of running and counting an STV election also give rise to two particular timing issues.

Paragraphs 8 to 14 of the council's submission outline the possible impact that multimember wards may have on our Atlantic islands in particular. Regretfully, the advice offered by the Executive in its policy memorandum—that councillors would be expected to work co-operatively and consensually—is, at best, disingenuous. I represent Bute South. Two colleagues represent Bute North and Bute Central. I would like to think that we work well as a team on issues affecting the island as a whole, but that is easier to do when we are not in competition with each other for votes, as we could be in three years' time.

I do not say that co-operation is impossible in a multimember ward—doubtless there are examples of it happening—but the reality is that I have to account to my electorate, and other councillors have to account to theirs. In future, my colleagues and I will need to account to the same electors. However the Scottish Executive might like to think the situation is, the reality is inevitably one of competition. That will be true even among members of the same party.

Besides that, there are hurdles in the way of representation in island communities. If ferries travel to an island only three times a week, the ability of councillors to attend constituents is limited. Islanders on Coll and Tiree currently enjoy a representative of their own. In a multimember ward, they face the real prospect of having to persuade a councillor from a different island to listen to and represent their concerns. As members of the committee will know, there is sometimes no substitute for a face-to-face

meeting, and constituents expect their representatives to spend time in the communities that they represent, even—or especially—when their residence is elsewhere.

When the McIntosh commission reported, it cited five criteria that should be used to judge the appropriateness of an electoral system: the member-ward link; proportionality; fairness for independents; an allowance for geographical diversity; and the matching of wards to natural communities. For the sake of the last two criteria, we believe that, if the Parliament is fixed in its intent to replace single-member wards, even in exceptional cases such as those of Tiree and Coll, the bill ought to give the Local Government Boundary Commission the opportunity to create two-member wards to minimise the practical difficulties and the need to stray from those natural communities.

Similar issues arise in sparsely populated areas. Although the barriers to effective representation are less substantial there, they are still significant. We have illustrated in paragraphs 21 and 22 of our submission the potential scale of one ward that might emerge from a boundary review. I am sure that other council areas will contain similar or worse examples, particularly in Highland. I draw to members' attention the demands that territories of such a size will place on part-time councillors. Parliament will need to judge whether such wards are sustainable—Professor Curtice referred to that. We believe that there is a case for a more flexible approach to the size of wards and the number of members to be elected in each.

I turn now to practical issues. Argyll and Bute Council is concerned about the length of time that is required to count the ballots in STV elections and about the impact of the continued combination of parliamentary and local elections on the same day. One of our delegation, Mr Stewart, has just returned from a visit to observe counting at the Northern Ireland Assembly elections. The counting process there was considerably longer than we have come to expect it to be in Scotland. Some 18 hours of counting, spread over two days, were required to elect six members of the Assembly for the North Down constituency. For that reason, we ask the Parliament to consider holding elections under STV earlier in the week. Last week's elections in Northern Ireland were held on the Wednesday. That would be necessary if we are to ensure careful counting in Scottish Parliament and local government elections, while avoiding straying into Saturday, when the recruitment of count staff will be more difficult, particularly given the fact that May elections are often followed by a bank holiday weekend.

It was alarming to note that, in Northern Ireland, where elections have been held under STV for 30

years, three in 10 spoiled papers in North Down were spoiled because voters had mistakenly entered multiple Xs on their ballots. It seems likely that, in a combined election, when voters are asked to cast one X for a constituency MSP, one X in a list vote and then a 1, 2 and a 3 for their local council vote, we would experience a significant number of spoiled papers. It is probable that those papers would fall disproportionately in the local election ballot.

The Executive and the Parliament have always recognised that the arguments in favour of and against the combination of parliamentary and local elections are finely balanced. In our view, the adoption of STV weighs in favour of decoupling the two elections. We believe that the Parliament should reconsider the matter.

I will not go on further. I look forward to answering any questions, with the assistance of my colleagues. STV is a solution to a problem that does not exist in Argyll in Bute. We do not have a pattern of universal party competitions in elections to our council, and it is impossible to say whether proportionality of votes to seats is a real concern for our voters. However, I can say that, in May 2003, 24 of the 36 councillors were elected with an absolute majority of the votes that were cast in the ward. The issues that I have spoken about are of concern, and we are entitled to expect the Executive to give them the same consideration that the committee clearly intends to give them.

Iain Smith: You have given examples of geographical areas where there might be problems under STV. You mentioned the islands of Islay, Jura, Colonsay, Tiree, Coll, Mull, as well as the Lorn area. How were those areas represented on Strathclyde Regional Council?

Nigel Stewart (Argyll and Bute Council): I was not involved, but as I recollect it, Lorn, Mull, Tiree and Coll were part of a ward that contained mainland and island areas. The other Atlantic islands of Islay, Jura and Colonsay were also combined with part of the mainland. As well as the Strathclyde wards, there were also district council wards, which were at pretty much the same level as the unitary councils that we have now.

Iain Smith: My point is that those areas did not have single representation on Strathclyde Regional Council. Under that system, some councillors had to cover vast geographical areas on their own, whereas under STV, multimember wards would cover those vast areas, so a councillor would not cover a whole area on their own. The size of the wards was not seen as a problem in Strathclyde Regional Council, but is now being seen as a problem under STV. I am not sure that that works.

Councillor Scoullar: Would people not have had some form of representation through the district council? The district council would also have been in place at the time and people would have been represented on it.

Iain Smith: They would have had such representation for district council services, but they would not have had that for the range of services that were the responsibility of the regional council, such as education, roads, water and sewerage. I am not clear why you suggest that the system would not work under STV; the chances are that most communities would end up with a councillor who represented or came from their area. It could happen that they would not, but in most cases they would, and those areas did not have such representation under the regional council system.

Alasdair Bovaird (Argyll and Bute Council): All those issues are a matter of degree. The question is how close people wish their representatives to be and relates to the scale and complexity of the issues that councillors address. We are not suggesting that the parliamentary constituencies should be constructed in such a way as to allow single representation for those islands, but given that people have come to expect that they will have locally available representatives in the wards, it is not unreasonable that they should continue to have them in the cases that we are talking about. Otherwise, there would, in effect, be a reduction in the representation available to islanders on the island of Tiree, for example.

Iain Smith: Only if that was the way that they voted.

Alasdair Bovaird: Sorry, we must take into account the number of people on the island and refer to the notion of the effective threshold—Professor Miller has left. The fact is that if Tiree was put into a three or four-member ward, the islanders of Tiree would account for a proportion that would be beneath the effective threshold for being able to elect someone to represent their interests on the council.

Dr Jackson: You will remember that John Curtice mentioned competition. I think that you were in the committee room when he said that he did not see it as a big problem. From what we were told when we talked to councillors just outside Dublin, it seemed to be quite a big problem there. We would like to hear more about that issue.

Secondly, you are obviously concerned about the Local Government Boundary Commission and the review of ward boundaries. From what we are saying, you will have picked up that we are worried about the matter not being included in the bill and, instead, being dealt with in secondary

legislation—I am certainly worried about that. The matter will not receive the same scrutiny that it would if it were in the bill. What are your views on that?

Councillor Scoullar: We have grave concerns about how the boundary commission will be directed, because currently none of us knows. We hope that the boundary commission will have a degree of discretion, as is currently the case, so that if it realises that representation will not be fair for people in the smaller Atlantic islands, it will be able to take action as it sees fit. Our hope is that it will do so.

I agree with the point about competition.

Mr Welsh: On practical matters, Argyll and Bute Council covers a vast geographical area and has one of the longest coastlines in the known universe. Will you clarify how many counting centres you now have? Are all election votes gathered centrally for the count?

Nigel Stewart: We have one count centre, in Lochgilphead, which we use for elections to the Westminster Parliament, the Scottish Parliament, local government and the European Parliament. At each election, we have a sizeable logistical challenge in gathering in the ballot boxes and papers and bringing them to the count centre, which we do by dint of a variety of modes of transport.

Mr Welsh: So you have a geographical problem in getting the ballot papers together. Could your counting system cope with two different elections and three different systems? How long would the counting last—Friday, Saturday and Sunday, for example—and at what cost? How would you cope with the practicalities?

18:00

Nigel Stewart: You ask a number of questions. The Executive wishes to continue to hold the Scottish Parliament and local government elections on the same day. At the first Scottish Parliament election, we conducted the count overnight for the first time ever in the history of Argyll and Bute—previously, the count was done the next day. We did so by conquering the logistical challenges and by making sure that we had the systems and the staff to get through the count. In the election in May this year, we completed both the constituency and the list counts by about 6 o'clock in the morning. After that, we moved on to the local government count with a fresh team of counters, but with a wilting team of four staff who are needed to control and run the count. We started that at about 12 o'clock and finished by about 4 o'clock.

I estimate that it will not be possible to sustain that level of commitment over one night and the two following days. I am as certain as I can be that an STV count that commenced on Friday would run on well into Saturday. That is another reason why we said in our submission that we should look at moving the day of the election, as well as at the possibility of decoupling the two elections. As Councillor Scoullar said, in Ulster the election was on the Wednesday, which enabled the counting to happen over the two succeeding days without worries about recruitment, for example.

Councillor Scoullar: We have one of the few counts that depend on the vagaries of the weather. Mr Stewart did not refer to it, but he has ballot papers coming in from all over the place by helicopter and the lighter machines cannot fly in bad weather, so we always keep our fingers crossed. The count could be delayed even longer if we had bad weather.

Mr Welsh: There would be substantial costs in time and money. You mention the demands that territories of that size place on part-time councillors. Do you think that STV would lead to more full-time councillors?

Alasdair Bovaird: A large number of part-time councillors are already challenged in their ability to be effective as councillors and to maintain any kind of other life—whether in their employment or in their family life. We see that not only among councillors who are in leadership positions, but among councillors who need to cover large distances and travel times. Our point is that the assertion that being a councillor is a part-time role is not without controversy, as members know. The new arrangements would place further strain on councillors' ability to work part time.

Councillor Scoullar: To add some arithmetic to that explanation, the Lorn three-member ward would extend to 620 square miles.

Mr Welsh: My wife is from Dunoon, so I have a good idea of what you are talking about.

Mr McFee: I want to return to the issue that Iain Smith raised about what used to happen in regional council days. I have 15 years' experience in local government—eight at district level and eight at unitary authority level. Before anybody says that that adds up to 16, I should add that there was a year of overlap in the middle. Maths has been an important subject this afternoon. My experience in a mainland authority was that the district councillor often picked up the work of the regional councillor; he or she was the first port of call. I suspect that that is what happened in some of your communities. Your submission seems to advocate that Tiree and Coll are an exceptional case and should be a two-member ward for 676 voters. Will you expand on that?

Nigel Stewart: The council was simply using that as an illustration. As the map in our submission shows, we are talking about the Atlantic islands from Tiree through Coll, Mull, Colonsay, Jura and into Islay. We were simply using Tiree and Coll as an example. The boundary commission acknowledged that those Atlantic islands are an anomaly and an exception to the normal rule.

The member to voter ratio in Argyll and Bute is 1:2,000. If Tiree and Coll were combined with Mull in a multimember ward, that would still not make the ward big enough to justify three or four members. If all the Atlantic islands were combined into one ward, that would amount to approximately 6,000 electors. Using the 1:2,000 ratio, that would mean a three-member ward.

However, if the islands were combined into one ward, the people on Tiree and Coll, who currently have their own representative, would never be able to influence the outcome of the election. If every man and woman on Tiree voted for a Tiree man or woman, that person would never reach the quota just through the Tiree or Coll votes. The other side of that is that the people who represent Mull, for example, whose electoral strength lies in that island, might be less inclined to pay attention to issues that are important to the people of Tiree and Coll.

I have done one or two little calculations and reckon that a combined ward such as the one that I have just described would end up with either two members from Mull and one from Islay, Jura and Colonsay, or vice versa.

Councillor Scoullar is proposing that the Atlantic islands should have the opportunity to maintain the councillor-ward link, as that addresses the issues of natural communities and geography. The logistical and transport challenges for the islands could be conquered if there were two two-member wards. In that case, the quota for Islay, Colonsay and Jura would be calculated in such a way that there would be no change from the current situation. There would be two councillors representing those three islands and two councillors representing Tiree, Coll and Mull.

Mr McFee: That is very much what Kerley said. In exceptional circumstances, there could be two members. However, in the circumstances that you describe, is there not a better case for a single-member ward? Would you propose that if you thought that it was possible under the alternative vote method?

Councillor Scoullar: Absolutely.

Mr McFee: The ward-member link can be broken, because it is difficult to maintain that link in some areas, even if there are two members.

Councillor Scoullar: At the moment, the Tiree and Coll ward has 676 voters, which is much less than the ideal 2,000 that was sought. However, as I said, the boundary commission recognised that there was a special case to answer.

Mr McFee: To have a local councillor.

Councillor Scoullar: Absolutely.

David Mundell: Could your position be summed up as being the same as that of Professor Miller, who said at the end of his evidence that all the upheaval would not be worth it in terms of what it delivered for the operation of the council and its members?

Councillor Scoullar: I found myself very much in agreement with a lot of what Professor Miller said. You are quite right: if three councillors are chasing across a ward that covers 620 square miles in order to respond to a local need, the cost to the council will be greatly increased.

David Mundell: I was interested in what Mr Stewart had to say. He brought a practical eye to the issue of holding the council and Scottish Parliament elections on the same day. Thinking back to my visit to the Belfast count centre, I do not think that anyone—certainly not the Scottish returning officers to whom I have spoken—could conceive that it would be possible to hold the Scottish Parliament elections and the local government elections on the same day and be able to deliver the results on the time scale that we currently expect without accumulating enormous costs, particularly the first time.

Nigel Stewart: That raises a number of issues, including concern for the voters and the effective administration of polling in a system in which we would have three ballot papers, as we do at present.

I was struck by the information from North Down that 30 per cent of the spoiled papers, of which there were 481, were due to people marking multiple crosses on the ballot paper. I worked that out as being about 1.5 per cent of the total, which is slightly lower than the figure that has been mentioned. In my view, any level of spoiled papers that are attributable to a lack of understanding—I am not talking about papers on which people have written that they wish to vote for none of the above or for Bob the Builder—is too high. We want to minimise that situation. One way of doing that is not to hand out three ballot papers at a time and expect voters to mark various numbers of crosses, but to hand out two ballot papers and ask the voter to mark a cross on each one before giving them the third ballot paper. That would help to reduce the incidence of spoiled papers, but it would slow down the administration of the poll.

I agree that it is simply not possible to expect people to keep working in an alert manner while delivering an overnight Scottish Parliament count and then immediately launching into a local government count using STV, which might go on for two or three days.

Paul Martin: Many challenges face the island and rural communities. Has electoral reform ever been a theme of concern in those communities?

Councillor Scoullar: No one has expressed a view to me one way or the other. I suppose that many of the Liberal Democrats in my community would be supportive of electoral reform, but the issue has never been raised with me and I have never raised it with my constituents. There has been no discussion of it at all.

Paul Martin: Has the council formed an overall view on the matter?

Councillor Scoullar: Yes.

Paul Martin: Which is?

Councillor Scoullar: We would prefer the current system to remain. However, if we have to live with STV, we would prefer it if the boundary commission had a degree of discretion. As Mr Stewart said, we also have grave concerns about the council's counting capability.

Paul Martin: So it would be fair for me to amplify your concern that the island communities would say, "Let's deal with some of the other priorities that we have in local government, rather than being concerned about delivering electoral reform." Would that be a fair view? Would people say, "Let's get on with the real challenges that face us"?

Councillor Scoullar: Yes. I think that, in terms of priorities, they would see things in the way that you have expressed them.

18:15

Tommy Sheridan: Is road equivalent tariff for travel between the islands an issue that is raised in your community? Is that something that is discussed at council or raised by your constituents?

Councillor Scoullar: The issue is often raised. If I remember rightly, the subject was raised by the Conservative Government many years ago, but it then got lost somewhere. The islanders would certainly welcome road equivalent tariff far in front of electoral reform.

Tommy Sheridan: So would you ask the Executive to bring forward proposals for road equivalent tariff?

The Convener: Tommy, I think that we are drifting quite a bit from the substance of the meeting.

Tommy Sheridan: I want to address the question of what is an issue in communities. Paul Martin is rightly asking whether local authority voting change is an issue and I am asking whether road equivalent tariff is an issue. One of those issues is being raised and the other is not.

Michael McMahon: We are discussing voting, Tommy. I think that the council will now make representations to the Executive to introduce road equivalent tariff.

The Convener: Those are all the questions that we have for the panel. I thank Councillor Scoullar, Mr Bovaird and Mr Stewart for their evidence and for travelling such a distance today. I hope that our overrunning will not have caused you too many travel difficulties on the way back.

I welcome to the committee Councillor John Morrison, the leader of East Dunbartonshire Council. Again, I apologise for the delay, Councillor Morrison. As soon as you have poured yourself a glass of water, I shall give you the opportunity to make some introductory remarks to the committee.

Councillor John Morrison (East Dunbartonshire Council): In preparing my opening remarks, I was going to say, "Good afternoon," but I shall say, "Good evening," at this point.

At its meeting on 26 June 2003—the first meeting after the May elections—East Dunbartonshire Council passed a motion welcoming the commitment in the Scottish Executive's partnership agreement, drawn up in May 2003, to introduce proportional representation by single transferable vote for the local government elections in 2007. The council took the view that electoral reform for local authority elections was extremely important in modernising local government in Scotland and it believes firmly that reform will improve the representation of the public's views in any future electoral process.

The council welcomes the publication of the consultation paper and the bill. The council is in favour of proportional representation by STV for the next local council elections. We believe fundamentally that there is a need for change, as the first-past-the-post system is largely discredited in delivering the kind of proportional result that is required. One of the benefits that the ladies and gentlemen on this committee have is that some of you are list members elected through a proportional system, which delivers a greater cross-party ability to consider legislation in committees of the Parliament. In local government, we are looking to introduce a further

degree of proportionality, to give councils the same advantage as the committee has.

We believe that the first-past-the-post system penalises parties whose support is spread thinly across several constituencies. The SNP members of the committee might be interested to note that there have been no SNP councillors in East Dunbartonshire since 1980, despite the fact that the SNP scores between 15 and 18 per cent of the vote—Mr Welsh looks as if he has had a sudden onset of apoplexy. Although the first-past-the-post system might be a boon to the rest of the parties that are elected, the figure shows the extent of disproportionality in East Dunbartonshire.

In my view, the aims of any new electoral system should be not only to deliver reasonable proportionality, but to maintain some form of ward-member link. I believe that STV maintains direct ward-member links but also gives the electorate the ability to choose between candidates. One of the difficulties with the additional member system, which councillors and MSPs who represent wards and constituencies alike find, is that the anomalies in the system can cause friction and difficulties between list and constituency or ward members. The STV system would get rid of that anomaly.

We believe in the enhancement of participation. The electorate should be given the right to choose their representative instead of having their representative foisted on them by the party. Mention was made of Roy Jenkins, which, given that I am an old Social Democratic Party hand, made my eyes mist over. The old SDP example was that, in the Labour Party of the 1980s, someone would have been able to choose between Roy Hattersley and Tony Benn. Given that new Labour characterises both men as dangerous communists, that would probably not be the case nowadays.

We are in favour of multimember wards. Three-member and four-member wards would be the trade-off between proportionality and the ward-member link. We are talking about effective governance and how to ensure that councils reflect more properly the votes that are cast in elections. The winner's bonus was referred to earlier. In a number of council areas, such as South Lanarkshire and Glasgow, the winner's bonus is exaggerated to such an extent that it is almost a winner-takes-all bonus. In those areas, nearly 90 per cent of the seats are won on a figure of around 40 to 45 per cent of the vote.

Our council is in favour of a convergence of electoral systems. However, we believe that, instead of foisting the additional member system on local government, the way forward is for STV to be introduced for elections to the Scottish Parliament. STV gives a fair and accurate reflection of the way in which votes are cast.

Voters have the right to have a representative of their choice. Elected candidates would have won broad support across the electorate and people would be able to choose their favourite candidate from their favourite party. More important, perhaps, as almost all votes count towards the final result, the fear of the wasted vote is substantially diminished. We believe that that will encourage voter turnout. I am happy to answer questions.

Paul Martin: In point 8 on the final page of your submission, you say:

"The system can be easily understood by the electorate, and only requires a single ballot paper".

Can you describe in detail the single transferable vote system?

Councillor Morrison: It is as easy as one, two, three. In essence, what someone has to do is to rank—

Paul Martin: I am thinking of the calculation. Can you explain the detail of the calculation?

Councillor Morrison: There is a difference between the calculation of the ward quota and the transfer value of the votes. With respect, the electorate do not usually head into the election count after they have cast their ballot.

Paul Martin: But they understand the first-past-the-post system.

Councillor Morrison: Yes, but that system sometimes delivers erratic results. If we are to move towards a different system, we should ask the electorate to take the view that they are entitled to enhance their ability to choose between candidates and parties—they will like that—by simply ranking the candidates in order of preference. In Australia, the Republic of Ireland and Northern Ireland, people more or less understand and have got used to such an approach. Although I appreciate that there will need to be some form of educative process before the next local government elections, I do not think that it will take long.

Paul Martin: I want to separate those two points. I accept that we can educate the electorate about the preference voting system. However, you must accept that the first-past-the-post system is simple: we understand that the candidate who receives more votes than any other candidate will be elected. Do you accept that—as has happened in Ireland—the electorate will never understand that part of the preference voting system process? Surely that contradicts what you say in your paper.

Councillor Morrison: In essence, there is a political and an electoral process. I tend to leave the electoral process to the chief executive of the council, who will be charged with getting it right.

As someone who once stood in an STV election at the University of Glasgow student representative council elections where the system was not right and we had to have a recount, I do not particularly understand the process. However, what counts ultimately is the result and who elects the councillor. We have to separate the process from the politics and I am interested in the politics rather than in the process.

Paul Martin: My second question is similar to the one that I asked Len Scoullar from Argyll and Bute Council. I am aware that in East Dunbartonshire you are faced with many local issues and challenges such as, for example, Stobhill hospital. Where would you place the introduction of STV in your list of priorities? Is it more important to deliver STV than to deal with other local issues?

Councillor Morrison: All I can say is that the Liberal Democrat manifesto contained a commitment to introduce STV and we won more seats and votes than anyone else. Perhaps the electorate understood the issue to that extent.

Paul Martin: Those who favour STV repeatedly point out that the current system gives parties the opportunity to have large majorities—we need only remember the Glasgow case in that respect. However, because of the first-past-the-post system, East Dunbartonshire Council now has nine Labour members, three Conservative members and 12 Liberal Democrat members. Given that you have achieved such a balanced result under that system, why do you in East Dunbartonshire think that it is so bad?

Councillor Morrison: I am sure that Mr Welsh will also want to know why there are no SNP councillors in East Dunbartonshire despite the fact that the SNP has nearly 20 per cent of the vote. Only three parties are represented on the council and a party—the SNP—that received nearly 20 per cent of the vote has been utterly excluded. That might be good for me, the Labour Party and the Conservatives, but it is not good for the SNP or ultimately for democracy.

Paul Martin: Are you absolutely confident that the SNP would be represented in a three-member or four-member ward system?

Councillor Morrison: The calculation under an STV system was carried out on the 1999 election result, which—with 11 Labour members, 10 Liberal Democrat members and three Tory members—was closer than the 2003 result. Under an STV system, the four parties would have received eight seats apiece, with the SNP—*[Interruption.]* Sorry, I meant that the four parties would have had six seats apiece. Maths is not my strong point—I am a lawyer. In any case, the result is that the four parties would have received an equal number of seats.

Paul Martin: I do not want to labour the point but, as I have said, you have already achieved a balance on your council. Are you saying that under an STV system you would have a balanced result with four parties instead of three?

Councillor Morrison: I am saying that the SNP's democratic mandate to get at least some people elected as councillors is being frustrated in East Dunbartonshire. I should point out that Fiona McLeod was elected as a list SNP MSP in 1999 and used Strathkelvin and Bearsden as her main base. In a sense, a large proportion of voters in East Dunbartonshire have had their will frustrated in local government elections. That is all right for me, as the leader of East Dunbartonshire Council, because at the moment I am on top with 12 seats. However, the SNP has been under-represented on the council for the past 23 years. Ultimately, the issue is not about what is of benefit for me; it is a matter of principle. If we allow the SNP to win some seats, the Liberal Democrats will lose some seats and will probably lose outright control of the council. However, as Iain Smith said earlier, for the Liberal Democrats the issue is absolutely a matter of principle.

Dr Jackson: Can you do some crystal ball gazing and consider the three-member or four-member wards that may exist in the future? How do you think that the change might affect elections and strategies in your area?

18:30

Councillor Morrison: We are contemplating three-member or four-member wards. If there are four-member wards, the split within Bearsden and Milngavie will be difficult, as there are nine wards there at the moment. Three-member wards would suit Bearsden and Milngavie better. Four-member wards would have to be squeezed in.

In the situation that you describe, we would campaign on our record. Existing local councillors would look first to their own patch and would then spread out their campaign slightly. As leader of the council, I have a higher profile than other councillors. Someone in my position would probably spread out their campaign further—to use a Northern Ireland example, they would do a David Trimble to secure preference votes.

However, there is nothing new under the sun. The electoral process is about maximising advantage for one's party and minimising advantage for other parties. Under STV, we will have to find new and innovative ways of doing that. That has been done in Northern Ireland and in the Republic of Ireland and I am sure that it will be done in Scotland.

Dr Jackson: You are imagining a multimember ward in your area. What is the political complexion of the ward at the moment? Who represents it?

Councillor Morrison: At the moment, all nine wards in Bearsden and Milngavie are held by the Liberal Democrats. If there were multimember wards, the Liberal Democrats would not win all nine seats. For a change, there would be plurality of representation. The Tories might win back some seats.

Dr Jackson: Let us assume that there is a three-member ward. At the moment, the ward is represented by three Lib Dem councillors. We expect that, in an election held under STV, another party would come through. In that future election, what would you do about the three people who are councillors at the moment? How many candidates do you plan to put up? How will you debate the issue internally?

Iain Smith: Sylvia Jackson is giving away party tactics.

Councillor Morrison: If the member wants to write our development plan for the next four years, she is welcome to do so. The truth is that we have not yet thought about the issue in depth. I do not think that any political party has done that. We will try to do the best that we can to win the most seats that we can. At the end of the day, that is what it comes down to.

Dr Jackson: Are the three existing councillors all of a comparable age to you? Might some of them be thinking of retiring?

Councillor Morrison: One of the other councillors is younger than me and one is older.

Mr Welsh: I have a question about practical matters. What do you consider to be the financial implications of the bill for East Dunbartonshire Council? I refer to administrative costs, staff training costs and costs associated with voter education and raising voter awareness. Have you received any estimates of those costs?

Councillor Morrison: We have not yet received any such estimates. Returning officers will have to calculate what the change will involve. However, the cost of running elections is part of the cost of democracy. All councils will have to fund that.

Mr Welsh: Under the new system, the count may take longer. Would it cause your council problems if the count continued to Friday and perhaps Saturday? What happens under the present system?

Councillor Morrison: At present, the situation is very much as suggested by the official from Argyll and Bute Council. The first-past-the-post count begins after 10 o'clock on the Thursday evening. When that count is finished, the result is announced. The list votes are then counted and sent to an Edinburgh counting centre before the results are formally announced. After the list votes are counted, everyone goes home. They come back the next day for the local government count.

I sympathise with officials when they say that it would be difficult to run two elections in tandem. Members will have to consider how to decouple them. If two elections are to be run together, members should also consider converging the electoral systems for the elections in 2011.

Mr McFee: We do not have the power to change the electoral system for this Parliament; unfortunately, that power lies somewhere else.

You said that you did not think that any of the parties had worked out the different possible scenarios. I rather suspect that they have—which would explain some of the questions that are being asked. Anyone who is still watching this at 6.35 pm will find the spat among the allies interesting.

Would you concede that there is a case for holding local government elections on a different day, so that local government issues get the airing that they deserve? In many cases, those issues do not get an airing. I do not know whether you were here earlier when I raised the question of Widdecombe and proportionality on council committees. Why should proportionality end the day after elections? Should there be a section in the bill to require each local authority to reflect the political balance of the authority in the composition of its committees? That does not happen at the moment. There are unbelievable situations in some local authorities, where the governing party—although not the largest party in terms of votes received—has an absolute majority and then stacks committees overwhelmingly in its favour. Would it help local democracy if something along the lines of the Widdecombe provisions were inserted into the bill, to ensure that proportionality exists after the election?

Councillor Morrison: Proportionality is important. We have proportionality in our committees because we believe in that concept. Each of our committees contains 12 of our 24 councillors, and the split in each committee is six, four, two. We have therefore maintained proportionality in the committees, although we retain the casting vote.

If a party has an overall majority in a council, it has the right to have an overall majority in that council's committees. There should be a degree of proportionality, but whether that should be left to the council to decide, or whether legislation should enforce it, is really an open question.

I am sorry, but I have forgotten your first question.

Mr McFee: Is there a case for holding local government elections on a different day?

Councillor Morrison: I used to believe that. There are strong arguments on both sides. To

increase voter participation, there is an argument for holding the two elections on the same day. The Americans tend to hold all their elections on the first Tuesday in November, which people understand reasonably well. There would be some benefit in holding all the Scottish elections on the same day.

Michael McMahon: I concur with some of the points that you have made, Councillor Morrison. I agree that party politics come into the debate; some of your comments have clearly shown your loyalty to your party's position. I also concur with you that the status quo is not acceptable, but I say that as a Labour Party member, so I have a mind of my own on the issue. However, I am concerned that some of the evidence that we have heard indicates that the system that is being proposed might be worse than the current system. You have stated eight advantages that you believe that STV has over the current system, but some of the evidence that we have heard today and that we heard during our visit to Ireland is that those advantages are not as clear as some of the clichés that are trotted out might suggest.

I am most concerned by the suggestion that independents do not get the representation under STV that the McIntosh and Kerley criteria suggest that they should get. Why should we adopt a system that does not meet the criteria towards which we have all agreed that we should move? Is there no way to reform the electoral system, other than by introducing STV, that might more easily achieve the effective governance that you said that you wanted—and that I want, too?

Councillor Morrison: It is a question of whether we believe that one system is better than another. As both Professor Curtice and Professor Miller said, no electoral system is 100 per cent proportional, with the exception of the one in Israel, and we do not want to have a national list for the whole of Scotland if we are to retain the ward-member link.

We have to balance the ability of members properly and legitimately to represent their constituents. One of the problems with AMS, which is the system in operation for Scottish Parliament elections, is the difficulty of the list member's role vis-à-vis that of the constituency member. The benefit of the single transferable vote is that each councillor who is elected in a multimember ward is legitimately the councillor for that ward and can legitimately transact any piece of business or ask officials to take action on behalf of any constituent. The system emphasises the legitimacy of the ward-member link, while maximising the degree of proportionality to deliver some form of proportional representation. That is the nub of why we support STV rather than AMS.

Michael McMahon: You have defeated your own argument again, because any list member can legitimately take up any issue that a constituent raises with them. List members, as well as constituency members, are elected to represent their constituents and they do so. The Scottish Parliament has managed to develop protocols to overcome the practical difficulties. You are arguing that STV would be better than another system, but other systems can deliver the same results.

All the surveys and evidence taking that we have done indicate that local authorities, even those where there is no overall control and which have minority administrations with some approximation to proportionality, do not support STV. East Dunbartonshire Council is the only local authority in Scotland that supports STV and you have clearly said that you support the system because your party supports it.

Councillor Morrison: We like to be trail-blazers in East Dunbartonshire.

Michael McMahon: Well, if that is your answer, I will leave it at that.

The Convener: For accuracy, I should say that a second local authority supported STV, too.

David Mundell: I do not accept John Morrison's argument about the difference between AMS and STV. We took evidence in Northern Ireland and found that the experience there is that there is no agreement about who does what and members compete with one another in the same way as it is complained that regional and constituency members of the Scottish Parliament compete. Unless members have a clear job description, STV will never resolve the issue of who does what.

The system also creates, and is designed to create, a situation in which people of different political parties represent the same territory, which causes political conflicts. That criticism has also been levelled at AMS—unjustifiably, I think, because I believe that the electorate quite likes that situation. Those issues remain, whether AMS or STV is the system in operation; STV does not resolve them.

Councillor Morrison: But STV places the maximum advantage in the hands of the voter and constituent. As you said, there may be a number of councillors with different party affiliations. If someone has voted Liberal Democrat or Labour or Conservative or SNP, they may wish to see the party-affiliated councillor first. If they are able to do so in a multimember ward, that places the advantage solely and firmly in the hands of the constituent and the voter. It is that maximisation of voter preference in the election, and thereafter the maximisation of constituent preference for the individuals who live in the ward, that make STV a superior system to any other electoral system.

18:45

David Mundell: But that preference will not be maximised if there are three or four-member wards. Specifically, you mentioned the lack of an SNP presence in your council, but with a threshold of 15 per cent, unless the SNP vote is skewed into one area or another of the constituency, there will still be no SNP representatives. There will definitely be no representatives of Mr Sheridan's party within that system.

In addition, the much-vaunted claim that constituents will be able to choose between candidates will not be borne out, because within smaller wards parties inevitably will put up just one candidate to maximise their chance of getting one of the three seats, unless they are already the dominant party in the area. How will voter preference be maximised in such an area? If I am an SNP voter in Bearsden, I will probably get to choose just one SNP candidate, if any. They will probably not get elected, so I will still have to go to a Liberal Democrat or a Tory, which is probably not what I would want to do. What is achieved by all this upheaval and turmoil?

Councillor Morrison: There is a trade-off between the ward-member link and proportionality. Regardless of what you say, people who live in a ward will have greater choice than they have at the moment. While I as a single-ward councillor—and it is the same for any constituency MP or MSP—represent any constituent who comes before me, I know that some people who come to me have not voted for me, and that they may wish to go to someone for whom they voted. STV, for all its faults—and it is not a fault-free system—enhances the democratic process by allowing quite a few people, although not 100 per cent of them, to have the representative of their choice.

David Mundell: Could we improve the bill and maximise voter preference by increasing ward sizes to five members?

Councillor Morrison: As a mere councillor, I could not possibly comment. No doubt you will lodge an amendment at the appropriate point. The Scottish Executive proposes three or four-member wards. You have heard evidence about proportionality. The reason for proposing three and four-member wards is the trade-off between the ward-member link and proportionality. This is not an exact science, but that is an attempt to balance competing interests to ensure that the best democratic result is achieved.

David Mundell: But it does not deliver voter preference maximisation.

Councillor Morrison: Neither does first past the post, and neither does AMS entirely. No electoral system will do that. We are trying to get an optimal result that maximises the rights of the voter, and STV does that.

Iain Smith: I have two quick questions. First, do you happen to know the average electoral division size in East Dunbartonshire in the old Strathclyde Regional Council? Secondly, on Paul Martin's point about the system being easily understood by the electorate, could you explain to us how the d'Hondt system for calculating the additional members of the Scottish Parliament works?

The Convener: We do not need the d'Hondt system to be explained at this stage.

Councillor Morrison: I am an anorak in certain respects, but not with regard to the intricacies of the d'Hondt system. In fact, I only learned how to pronounce it last week.

As far as I understand it, we had two regional wards in the old Strathclyde Regional Council: the Milngavie/Kilmardinny ward and the Bearsden ward. In a sense, that could be the situation with multimember STV wards, which would probably not be too far away from the previous regional divisions, which people understood.

We are perhaps moving towards having larger multimember wards. In England, there are already three-member wards. Indeed, in Scotland before 1975, the old Glasgow Corporation had three-member wards, which had elections on an annual basis. I remember that because I always got a day off school on the first Thursday of May every year. Unfortunately, my daughter gets only intermittent days off because of elections, which is probably a bad thing.

Iain Smith: Did councillors on the old Strathclyde Regional Council complain about not having a ward-member link because of the size of their wards?

Councillor Morrison: No. In fact, the wards in Bearsden and Milngavie were represented by two very good councillors who—I should add—were both Liberal Democrats. People did not have a problem when they realised that they had to go to their regional councillor. They did not feel disfranchised by that. I think that they will not feel disfranchised by larger wards, as long as they understand who their councillor is and who they want to go to see.

Tommy Sheridan: I must apologise to the next set of witnesses, as I need to go soon—it is nothing that they will say and it is not personal. I will read their evidence.

When you were asked by David Mundell whether five-member wards would have been better than the proposed three or four-member wards, you said that it is not up to you. Given the principled support that you have given in defence of the single transferable vote, and given the fact that all the academic evidence, from the Kerley report through to the Farrell and McAllister report,

has said that multimember wards should be of at least five members, are we not trying to ride two different horses here? On the one hand, we are trying to renew democracy while, on the other hand, we are seeing a political fix under way, which is not good for the renewing democracy argument.

Councillor Morrison: Speaking as someone who is a ward councillor at the moment, I think that a three or four-member ward would deliver a geographical area of a size that would be manageable for the average councillor. At the end of the day, there is a trade-off. No result will be dead certain to deliver what we are looking for, but I think that three or four-member wards are a good stab at that. At this stage, I would be happy to see wards of that size.

The Convener: That brings us to the end of our questions, so I thank Councillor Morrison for his evidence. Again, I apologise for the delay before he was able to give his evidence.

At last, we have managed to get to today's final panel of witnesses. I welcome Councillor Pat Watters, Councillor Alex Macdonald and Paolo Vestri, who are from the Convention of Scottish Local Authorities. Paolo Vestri was probably clean-shaven when he arrived today. I give my sincere apologies for the delay. We were perhaps over-ambitious in the number of panels that we invited today. The questions have meant that we have overrun considerably. However, we are keen to hear COSLA's evidence on the bill. I invite Pat Watters to make some opening remarks.

Councillor Pat Watters (Convention of Scottish Local Authorities): If you do not mind, convener, I will make a short introduction and then bring in my colleague who has come from the Western Isles to give evidence. It is refreshing to be sitting here until this time—I now realise who the part-time politicians are. I assume that we are the back-shift.

COSLA is a cross-party organisation and we have discussed this issue on many occasions. A majority of councils are either in favour of retaining the present system or opposed to the changes that the Scottish Executive has proposed in the bill. However, a minority of councils would like some sort of proportional system, and at least one, perhaps two—I bow to the committee's knowledge—support STV. Other councils support different proportional systems. However, the vast majority of councils would like no change to the present system.

I am here to talk not about the present electoral system but about the proposed changes to it. We must go back to basics and talk about the guiding principles. The McIntosh principles were that any system should retain or improve the ward-member

link to protect natural communities, should not damage the tradition of independents in local government in Scotland, and should do nothing to endanger the election of smaller parties to local government. However, the proposed system would achieve none of those. There is no evidence whatever that the ward-member link would be improved. In fact, we have heard that the damage to the ward-member link is a trade-off to get some proportionality in the result. It would not be progress to trade off one of those guiding principles in the system of elections for local government.

I turn to some of the arguments for STV. STV would not bring about better-quality services, even though the point of local government is to provide services. There is no evidence that STV would increase turnout. We have heard evidence today that the system would have little or no impact on turnout. We have also heard about the number of spoiled papers in the system in Northern Ireland, which has operated for some time. There would be less active participation and fewer votes under the proposals. There would be a decrease in the number of votes that are counted to produce a result.

There is no evidence that the system will encourage a wider range of people to stand. From Highland Council's submission, we can see that the fear there is that because of the vast increase in the areas involved, the increase in the cost for an independent to stand for election as a councillor would dissuade people from doing so. Instead of enriching the choice for people in the Highlands, the bill would probably decrease it. Again, that would not be progress.

It is said that STV will make every vote count. Unless everybody who stands is elected, some people's vote will not count, which is no different from the present system. In a three-member ward, a person would need the support of 25 per cent of the electorate to be elected, but in a four-member ward, a person would need only 20 per cent of the votes. In the previous election, on average, 46 per cent of people voted for the councillors who were elected. I do not think that changing to a system in which fewer people would cast their vote to get somebody elected would improve democracy.

The STV system would weaken the important link that people in many areas of Scotland have with their councillor. Although the present system is not perfect, it has fewer flaws than the proposals have. If STV is so good, why is it used in so few areas? Why have more places changed back from it than are moving to it? I do not accept that STV will improve democracy.

19:00

Councillor Alex Macdonald (Convention of Scottish Local Authorities): I am the leader of the independent group at COSLA. All the independent councillors at COSLA are opposed to STV. You have already heard from an independent councillor from Argyll and Bute Council, so I do not propose to reiterate what he said.

The Kerley report says:

"Proportional systems, by their nature, are designed for situations where voting is mainly on party lines, being designed to deliver numbers of members for each party in proportion to the total number of votes cast for each. It follows that a proportional system would be irrelevant in an area that was contested solely by independents".

That really concerns us as independents. When I hear talk of four or five-member wards, I cringe. We have already heard about the difficulties, as expressed by Argyll and Bute Council, regarding areas such as Tiree. In the Western Isles, Barra, which currently has one councillor, would inevitably be linked with the Uists. I suggest that a single member from Barra would have little or no chance of being elected and I do not think that that does anything for democracy.

We have heard all day about the councillor-ward link and I cannot stress strongly enough how much councils cherish it. Independents are often elected because they are known in their area, rather than because of political persuasion. A shining example of that is Shetland, which we could say was a Liberal Democrat area, but where only one councillor was elected as a Liberal Democrat. That speaks volumes. If there were four or five-member wards, the councillor-ward link and the chance of an independent being recognised in a wider area would be much diminished.

Mr Morrison was asked about understanding the counting system. We had it explained to us at our local authority and people fell about laughing. The system whereby the first candidate drops out then a percentage is calculated for the next one was so complicated that no one at our local authority—and I include myself in that—understood it. What chance do we have of getting the system across to the electorate? I would say nil, because it is far too complicated. Members of the public would find it complicated and would be discouraged. That would result in a situation such as the one we had in the European elections in the Western Isles, where turnout was 19 per cent. In the local elections the turnout was 70 per cent, with a high of 84 per cent in one ward. That is what I would like to see encouraged.

A lot of what I was going to say has been covered, but I am prepared to answer any questions regarding decoupling. It has not been discussed officially at COSLA, but I am pretty

certain that most people would like to see it, because of the complications of the STV system.

Iain Smith: If STV is so complicated, why is it used by so many voluntary organisations, charities, churches, students associations and all sorts of other bodies that elect people on a non-political basis as individuals?

Councillor Macdonald: I am not convinced that the system of STV that is proposed is the one that is used extensively. I doubt whether many people understand the percentages involved. First, there is first past the post and then the candidate at the bottom is allocated a percentage. There are so many different trawls; there are about seven or eight processes.

Iain Smith: It depends on how many councillors are being elected to how many places and how many candidates exceed the quota for first-preference votes. Some tweaking may be needed to get the exact wording of the bill right, but the system is used in many elections. I stood in student elections in the 1970s in which it was used.

Councillor Macdonald: It may be very easy to operate STV when small numbers are involved, but if there are multiple wards and multiple candidates, the ballot paper may have 20 or more names on it. I suggest that that is extremely complicated.

Iain Smith: In other countries people seem to manage to deal with it.

Pat Watters makes a big issue of the councillor-ward link. Does he think that, in the days before unitary authorities, regional councillors did not have a member-ward link?

Councillor Watters: With regional councillors, it was extremely difficult to have a member-ward link. I speak as someone who was elected to Strathclyde Regional Council in 1982. As a regional councillor, I had the largest electoral ward in the UK, with an electorate of 24,500. As well as having an electorate of that size, I represented an area that stretched from the border of Kilmarnock and Loudoun up to what is now East Renfrewshire. I covered a large part of the new town of East Kilbride and every village outside the town.

Did I serve the ward well? I am sorry, but I did not. There were 11 high schools, 17 primary schools and 11 community councils in the ward. It was impossible for me to get round them. My service to my constituents was when I conducted a surgery. There were also voluntary organisations whose meetings I should have attended. Did I serve all those organisations regularly on a monthly basis, when they had their meetings? I could not. It was impossible, so I butterflyed—if

there were two community council meetings on the same night, I would spend half an hour at one and half an hour at the other. Was that satisfactory? As a councillor, I do not think that it was. I dipped into issues and dipped away—although I believe that I was a good councillor.

Iain Smith: I note what you are saying. I, too, was a regional councillor from 1982, but I do not think that I had a problem with my member-ward link.

Councillor Watters: Some of us have been dedicated and have remained councillors.

Iain Smith: I want to pursue this point. In England, there are currently multimember wards. Most English local authorities have three-member wards. Do those authorities have a problem with member-ward links because of that?

Councillor Watters: There is a real problem with multimember wards in England. I have many colleagues who serve those wards and I meet them regularly on national bodies. The most telling aspect of the English multimember ward system is the fact that councillors are elected on turnouts of as low as 7 per cent. If people are so switched off from elections because of the way in which they are organised and run, that does not move democracy forward one wee bit. It does not serve well the people whom councillors represent.

Iain Smith: It is interesting that you should turn voter turnout into an argument against multimember wards. Are turnouts not low because elections are annual? Do you think that there are too many elections to local authorities in England?

Councillor Watters: That is probably one of the reasons for the low turnout.

Iain Smith: The problem is not multimember wards per se, but the fact that councillors are elected in thirds.

Councillor Watters: There is a multiplicity of factors, one of which is the fact that there is an annual election. People are not sure who represents them. If the councillors are all from one party, it takes three years and three elections for the electorate to replace them. That does not best serve the people whom councillors are trying to represent. Together, those issues cause problems of voter apathy.

Iain Smith: I agree. That is why STV should be used for local elections in England and Wales, too.

Paul Martin: Can you confirm that the new unitary authorities took on all former local authority responsibilities? There is a significant difference between the responsibilities of Strathclyde Regional Council and those of the current local authorities. The new unitary authorities have all the responsibilities of a local council and are significantly different from regional councils.

What is the word on the street from your colleagues in COSLA? What do they believe to be the priorities? The Local Governance (Scotland) Bill is a major opportunity to improve local government, especially through electoral arrangements to increase voter turnout. In your submission, you refer to issues relating to councillor remuneration. Those are the issues on which we want to focus. However, we are also looking to change the system for electing councillors. Is it the feeling in COSLA that we should have dealt with those other issues first and then, at a later stage, examined the electoral system for all elected members in Scotland, rather than focusing on local councillors? What is the talk in council chambers?

Councillor Watters: If you are asking me what councillors' priorities are, I would say that they are to provide services to the people whom they are elected to represent. That means education, social work and improving transport links. Those are the things that are important, and those are the priorities. Looking into the electoral process is a diversion from concentrating on those issues, and we would see problems with getting the relationship back together again between councillors and those whom they represent. Some councillors want the change to take place, but the vast majority of them would prefer there to be no change to the present arrangements. If there is to be a change, they would not wish the change that is being proposed.

Paul Martin: Our estimates are that 22 councils oppose STV, nine are equivocal about it and one supports it. Would that be a fair analysis?

Councillor Watters: I think that two councils now support STV. One recently took a decision to do so—it is not a Liberal council. Those estimates are a fair reflection, however.

David Mundell: I return to a point that was made by Councillor Macdonald, which was dismissed to an extent by the witness from East Dunbartonshire Council. The transparency of the voting system is important to the voter, is it not? People should understand how the system operates so that it can be explained in layman's terms why certain people have been elected and why certain other people have not.

Councillor Macdonald: Absolutely. That is why people vote—if they do not know why they are voting, they will not bother. We get very good results in local elections under the current system, and I do not see any reason to depart from it.

David Mundell: Earlier—about six hours ago—we discussed the way in which some votes were allocated and some were not. Could things be done to improve the bill with regard to how the transfers would happen? Is it your view that STV is

simply the wrong way to go, and that that aspect of the proposals should be rejected?

Councillor Watters: I discussed the question of setting out the criteria that have to be met if we are to improve the system. I heard earlier that we are getting not very much for an awful lot. We are not improving the member-ward link; we are not protecting natural communities; we are not protecting independents; and we are certainly not assisting the smaller parties. If those are the criteria that we are laying down, but we do not meet any of them through the proposals or we have to water them down, what we are doing will fail. Therefore, I argue that the proposed system is flawed throughout and that it cannot be improved through tinkering with it.

David Mundell: That is helpful.

We have discussed the elections under the new system taking place at the same as the Scottish parliamentary elections, together with all the implications of that for counting and so on. There will be enormous resource implications for most local authorities if they are even to attempt to make the changes. We have also considered other matters, such as spoiled papers. If we decided to press ahead, the logistical challenge and the costs would be significant for individual local authorities.

Councillor Watters: The costs of running the proposed electoral system would be only the start of it. There would be a significant increase in costs and in problems—aside from getting the count done. It would probably be impossible to run an STV system at the same time as another proportional system with any degree of certainty of getting a justifiable result at the end of it—in other words, with the people doing the count not getting totally exhausted.

I do not think that the costs of making the changes are the main issue. In a rural or island community, if three councillors represented one remote island and a meeting was held there, who would shoulder the costs of getting those three councillors to the island? There might be only one or two ferries a week, and it would be important that all three councillors were there, because they would all have been elected.

19:15

If I were a member of a four-person ward and you came to me as a constituent and I took up your case, who would the officer write back to? Would they write back to you, or to me? What about the other three people who represent you? Would they also write back to them? The duplication and complication would be enormous, and the additional costs—not just for running the elections and counting the results, but for the on-

going effects of the change—would far outweigh any benefit that people might argue we would get. The people who would suffer as a result would be those who are dependent on services being delivered to them.

Elections are about people. They are not about the people who are elected; they are about the people who get the services. That is what is important—not the process, but the result.

David Mundell: We talked about multimember wards in England. As I understand it, there has never been a protocol established for who does what within those wards.

Councillor Watters: No, there has not, and nor should there be. We cannot have a multimember ward and say, “You represent only a bit of it.” If someone is elected by the whole of the ward, they represent the whole of the ward. At present, I do not question who comes to me. Whether they voted for me or for one of my opponents, or whether they voted at all, I am elected to represent the whole of my constituency.

The Convener: Paragraph 2.1 of COSLA’s response states that, if STV is introduced,

“These concerns raise the question of the desirability of the council and Scottish Parliament elections being held on the same day.”

Is there an overall view within COSLA on whether, if the changes were introduced, there should be a split? Even if there were no change in the electoral system, would COSLA prefer the elections to be split?

Councillor Watters: Alex Macdonald touched on that at the start. It is not a matter that we are discussing to reach a policy decision on, but if we asked council leaders whether, if STV came into force, we should split elections, their answer would probably be yes. That is an opinion based on discussions that I have had with colleagues; it is not a policy decision. I am sure that if I took the matter to our convention meeting next Friday, I would be able to give you an answer, and it would probably be the answer that I have given today.

The Convener: I hear clearly the view that COSLA would prefer the system not to change to STV. However, I note in paragraph 1.10 of COSLA’s evidence that, if such a change were to be made, COSLA would favour as small a multimember ward as possible—that is, a three-member ward. Is that a broad view across most COSLA members?

Councillor Watters: If we were going to have STV, we would like to see STV with as few members as possible. The broad view of people who support the present system is that, if there is a change, it should be to the alternative vote and not to STV.

Michael McMahon: I want to change tack a little. The STV part of the bill is vital, whether you support it or not, but there are other aspects of the bill—on remuneration packages—that I imagine are of equal concern to representatives of local authorities. We heard from the Scottish Executive that the current proposal is to ask the Scottish Parliament to give powers to ministers before we know what the remuneration progress group has decided on the issue. Does that cause COSLA concern?

Councillor Watters: It certainly does. I am on the remuneration progress group, and I have been to two meetings at which there were lively discussions on the subject. If we are going to the time and trouble of participating in the group, and if the Executive took the time and trouble to set it up, I hope that the Executive will give the group credibility by listening to what it says.

The Convener: I advise Michael McMahon that COSLA will appear before the committee again to address part 2 of the bill. We will be able to undertake detailed scrutiny on part 2 at that time. Before then, I hope that we will be able to find out a bit more about where the remuneration progress group is going. I do not mind you asking general questions on this aspect of the bill, Michael.

Michael McMahon: Thank you. I have one follow-on question. There was some discussion on this subject earlier and it would be useful to take a sounding from Councillor Watters. Under the proposals, if a sitting councillor decided not to stand, they would receive a package but, if a sitting councillor was voted out by the electorate, they would not receive it. What are the implications of that proposal? Why would anyone want to suggest that that is the way to remunerate councillors for their length of service?

Councillor Watters: Before I deal with the present, I would like to give an example. Recently, I went to a presentation, which was being made to a councillor whom I knew very well. When I came into local government in 1982, he had been a councillor for 28 years. He was beaten in the last election—he did not stand down—and he ended up with only a long-service award from the Labour Party. He gave 58 years’ service to local government and got no remuneration whatever. He was also penalised in his job by not getting any promotions. It is an absolute scandal that he got no remuneration.

Offering a compensatory package to people who stood down would not be a problem. It is not a problem in the case of MSPs, who are given what I think is called a resettlement allowance. I do not see a flood of people trying to get that allowance. Nor does it seem to cause a problem in the case of our MPs or MEPs.

Michael McMahon: Would it be a problem if a councillor who decided to stand down of their own volition received a package, as is proposed, but a councillor who was voted out by the electorate did not receive one?

Councillor Watters: I think that it would. As an elected representative at the local level, I think that I should not be treated any differently from other elected representatives.

Mr Welsh: This particular market day is wearing very late indeed, so I will be brief. We want to thank you for your patience and stamina.

I seek COSLA's view of the point that was made by the representatives from Argyll and Bute Council about whether three or four-member wards are capable of representing island and remote communities. If not, what amendments should be lodged to better represent the needs of such communities?

Councillor Macdonald: I would like to see either the status quo or an exception being made for islands and remote areas such as Caithness and Sutherland. If that was not achievable, I would go for the minimum. Mention has been made of two-member, three-member and five-member wards. I would start with one-member wards. If that was not achievable, I would go for two-member wards and so forth.

Mr Welsh: Multimember wards have an inbuilt problem. We have that problem in the Scottish Parliament with constituency and regional list MSPs. How can turf wars be avoided? Will it be necessary to have protocols on conduct between members in a multimember ward? If so, who should produce them?

Councillor Watters: Multimember wards would produce turf wars—not only between parties, but within parties. Protocols would not prevent that from happening; they have not prevented it from happening in the Parliament.

Mr Welsh: So, you think that even agreements that were generally imposed would not prevent turf wars.

Councillor Watters: No, they would not prevent them. If people stand for election because they want to win, they will keep trying to win elections. They will stand every time. At the moment, if people in my ward are unhappy about something, there is only one person to blame and that is me.

Like Iain Smith, I was a regional councillor. I had six district councillors in my ward and, unlike Bruce McFee, I carried most of the can for them. However, when they were not around, I could blame them for some of the things that happened. That sort of thing would not stop in multimember wards. There would be immense problems between elected members. If there are fights

between elected members, whether they are in the same party or different parties, the only people whom the members are not serving are the people whom they were elected to represent.

Mr Welsh: I can see that electors could be very good at playing one member off against another and then going to courts of further appeal. If it is not possible to stop turf wars, would there not be a benefit in having protocols in order to mitigate the problem and to enable proceedings to be more civilised?

Paolo Vestri (Convention of Scottish Local Authorities): The Executive's STV working group, which has been looking at the issue, has asked the officers to find examples of protocols that could be used as the basis for a Scottish protocol model. The officers have not found any models. It might be useful to note the fact that, in England and other countries where there are multimember wards, there are no examples of working protocols, which suggests that it is not feasible to develop or create a protocol.

A protocol is worth only what individuals put into it. If people are prepared to accept a protocol, it is possible that they would be prepared to accept a gentleman's agreement whereby a protocol would not be needed. Protocols are worth only the paper that they are written on. If there are no sanctions to stop people breaking a protocol, it is worthless.

Mr Welsh: Thank you for that clarification.

Iain Smith: Is it not possible that there are no protocols in multimember wards in STV constituencies and other areas because they are not needed, and that we are creating a problem that does not exist?

Paolo Vestri: The experience of the Scottish Parliament, whereby there is some form of protocol—which is ignored as much as it is adhered to—suggests that there are problems as a result of the complications of having multimember wards, at a regional level in the case of the Scottish Parliament.

David Mundell: I want to ask—

The Convener: I have a couple of other questions, but we will come back to you.

The witnesses heard evidence earlier that the bill as drafted does not set out the rules by which the boundary commission would be engaged to set up the proposed new wards. Would you welcome definition of the rules that the boundary commission would be expected to follow?

Secondly, I have heard local government representatives express concerns that, in the past, the boundary commission has often taken initial drafts from local government for setting up local wards. Some councillors have suggested that they

have a better understanding of community links than the boundary commission has on a national basis. Should guidelines for the boundary commission be included in the bill? What role should local government have in helping to draft the proposals?

Councillor Watters: I will deal with the second question—perhaps Paolo Vestri will answer the first question.

In the past, the boundary commission has been too ready to use the easy option, which involves numbers, rather than to identify communities. Such an approach might be tidier, but communities can easily be split up.

I will give an example from a ward that I represented. I represented a distinct community, but because the numbers fell short, three lots of high flats and some maisonettes were taken in from an entirely different community across the road. That community would not even link up through a community council, but the numbers were right. The approach was tidy and nice, but made no sense whatever to the community. Splitting up rural communities, for example, and linking communities that have no relationship with each other does not make sense. Councils should be consulted on such matters.

Paolo Vestri: In general, COSLA is concerned about the increase in legislative matters that are left to secondary legislation and not included in bills. Sylvia Jackson mentioned that issue earlier and COSLA shares her concerns. We want to see as much as possible included in the bill and as little as possible left to ministers' discretion in secondary legislation. That applies to issues that relate to the boundary commission's directions and to details about how STV will operate.

I will give some examples. We cannot see anything in the bill about how a by-election would be operated if a death or resignation meant that there was a vacancy to be filled. Obviously, various options could be followed. We see nothing in the bill about how candidates would be listed on ballot papers, but that could have a major impact on the election outcome. If names are listed alphabetically, candidates whose names begin with letters at the start of the alphabet will be likely to have an advantage over candidates whose names begin with letters at the end of the alphabet, as Vestri does.

Councillor Watters: More important, so does Watters.

Paolo Vestri: Some of those details must be included in the bill, which has big flaws because it does not reach that level of detail.

The Convener: Although his surname starts with the letter W, Pat Watters has been elected many times.

Councillor Watters: The lists of names involved were much smaller than those that would exist under STV.

19:30

The Convener: Absolutely.

Paolo Vestri referred to by-elections. When we asked the Executive officials about by-elections, we were given to understand that a by-election would be for one vacancy and would be an STV election. That could be described as an alternative vote system for that one election.

Paolo Vestri: Concern is felt about that because councillors who were elected under STV would have one franchise, which might be only 25 per cent of the vote plus one, whereas a councillor who was elected at a by-election would be elected on 50 per cent of the vote plus one, which would mean a different level of franchise and a different level of proportionality.

Councillor Watters: That councillor could be paid more.

The Convener: Some councillors, and possibly one or two MSPs, have floated the idea that before any change is made to the local government voting system, a test of people's opinion about it, such as a referendum, should be conducted. Has COSLA taken soundings from its members about that or have any COSLA members proposed that strongly?

Councillor Watters: No, but we have heard about a proposal for a referendum. It was interesting to read the Electoral Commission's report on how people feel about their elected members. At the top of the poll, with 68 or 69 per cent, were local councillors. If the people trust us, we ask our MSP colleagues, who had only 19 per cent in that poll, to trust us too.

David Mundell: I trust you, Pat, and I always argue that councillors are the most important cog in the electoral machine. I genuinely believe that.

On boundaries, I had not been aware that the option of bolting together existing wards was still on the table, but the Executive gave evidence earlier that it was. That would be one of the easiest fixes for introducing the system quickly. What is your view on that option, compared with a full drains-up process of starting again?

Councillor Watters: COSLA has not discussed that in any detail. If the electoral system is to be changed, starting from scratch might be an option. If electoral system changes are to be introduced, we should consider all our electoral systems. That would mean a longer-term and deeper examination that included consideration of anomalies and present boundaries. However, the

easiest method is to bolt together existing constituencies. If that is an option, it should be applied to Highland Council's area, where putting together three wards might create a constituency with the size of Switzerland. I do not know whether that makes sense. Where do we go from there?

David Mundell: Even in South Lanarkshire, in the south of Scotland, the Duneaton/Carmichael ward is bigger than 14 member states of the United Nations. Could that ward be joined on to two neighbouring wards?

I support joined-up thinking. In response to our questions about boundaries today, we heard that no cognisance would be taken of changes to the Westminster constituency boundaries in working out the new local government boundaries. That does not affect Councillor Macdonald, whose area will benefit from the retaining of the Western Isles constituency, but Westminster boundaries could cross the boundaries of new multimember wards, which would add to the complexity for everybody involved.

Councillor Watters: Complication is created for the electorate when there is continual change to how they elect their representatives, who their representatives are and how they access their representatives.

Paolo Vestri: David Mundell's first point was about how the boundary commission might redraw the boundaries. Much evidence about that has been given to the Executive's STV working group and the boundary commission has presented various options. Bolting on wards would be the easiest and possibly the quickest option, but that would not necessarily satisfy one major criterion that we all agree is important—the consideration of natural boundaries between wards.

Even existing wards have boundary problems that involve communities that are not in the right wards or are split between wards. Bolting on wards might resolve some of those problems, but it would also create more anomalies. To create very large wards, an area that is on the edge of an existing ward might be lumped in with another ward that is much further away, rather than moved into the area of a neighbouring ward with which it might have better community links.

The Convener: That brings us to the end of the session. I thank Councillor Pat Watters, Councillor Alex Macdonald and Paolo Vestri for attending the meeting. We greatly appreciate your forbearance about our overrunning.

Meeting closed at 19:35.

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

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, 375 High Street, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Monday 15 December 2003

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

PRICES AND SUBSCRIPTION RATES

DAILY EDITIONS

Single copies: £5

Meetings of the Parliament annual subscriptions: £350.00

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

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

Single copies: £3.75

Special issue price: £5

Annual subscriptions: £150.00

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at the Document Supply Centre.

Published in Edinburgh by The Stationery Office Limited and available from:

The Stationery Office Bookshop
71 Lothian Road
Edinburgh EH3 9AZ
0870 606 5566 Fax 0870 606 5588

The Stationery Office Bookshops at:
123 Kingsway, London WC2B 6PQ
Tel 020 7242 6393 Fax 020 7242 6394
68-69 Bull Street, Birmingham B4 6AD
Tel 0121 236 9696 Fax 0121 236 9699
33 Wine Street, Bristol BS1 2BQ
Tel 01179 264306 Fax 01179 294515
9-21 Princess Street, Manchester M60 8AS
Tel 0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
Tel 028 9023 8451 Fax 028 9023 5401
The Stationery Office Oriel Bookshop,
18-19 High Street, Cardiff CF1 2BZ
Tel 029 2039 5548 Fax 029 2038 4347

The Stationery Office Scottish Parliament Documentation
Helpline may be able to assist with additional information
on publications of or about the Scottish Parliament,
their availability and cost:

Telephone orders and inquiries
0870 606 5566

Fax orders
0870 606 5588

The Scottish Parliament Shop
George IV Bridge
EH99 1SP
Telephone orders 0131 348 5412

RNID Typetalk calls welcome on
18001 0131 348 5412
Textphone 0131 348 3415

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers