LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

Tuesday 13 January 2004
(*Afternoon*)

Session 2

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LOCAL GOVERNMENT AND TRANSPORT COMMITTEE
2nd Meeting 2004, 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:

John Marjoribanks (Local Government Boundary Commission for Scotland)
William Pollock (Association of Electoral Administrators)
Bob Smith (Local Government Boundary Commission for Scotland)
Brian Wilson (Local Government Boundary Commission for Scotland)

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 13 January 2004

(*Afternoon*)

[THE CONVENER *opened the meeting at 14:02*]

Item in Private

The Convener (Bristow Muldoon): I welcome committee members and the public and press to the second meeting in 2004 of the Local Government and Transport Committee. Before we greet our first witness, we will deal with agenda item 1, which is to consider whether to take item 3 in private. Item 3 is on arrangements for our stage 1 consideration of the Prostitution Tolerance Zones (Scotland) Bill. Do members agree to take item 3 in private?

Tommy Sheridan (Glasgow) (SSP): I hoped that you would elaborate a wee bit, convener, on why we should take item 3 in private. From previous discussions, I can understand why we should take in private consideration of a final report. However, why should we take in private our consideration of how we proceed with stage 1 of the bill?

The Convener: I recommend to the committee that we take item 3 in private because the stage 1 consideration includes deciding which witnesses to call. We might have a debate on that and we might also indicate to the clerks the particular lines of questioning that we want to explore. I believe that it is best practice to have that sort of discussion in private so that, when we take evidence from witnesses, the lines of questioning are fresher than they would have been if they had been flagged up in advance in the *Official Report*. Furthermore, if we debate whether to call a particular witness and decide against doing so, our decision could be regarded as a discourtesy to that individual, which is not the intention. Therefore, for those reasons, I prefer to consider item 3 in private.

Tommy Sheridan: I register my opposition to taking item 3 in private.

The Convener: Are other members content to take item 3 in private?

Members *indicated agreement*.

Local Governance (Scotland) Bill: Stage 1

14:04

The Convener: Agenda item 2 is further consideration of the Local Governance (Scotland) Bill at stage 1. I welcome to the meeting William Pollock, who is the chair of the Scottish branch of the Association of Electoral Administrators. Before we move to questions, I invite Mr Pollock to make an introductory statement.

William Pollock (Association of Electoral Administrators): I will make a brief statement. First, my colleague Frank Sibbald apologises for his absence. He went home from work unwell yesterday and has decided not to share the flu with us today, so I am afraid that it is just me on my own.

I thank the committee for inviting the Association of Electoral Administrators to give evidence. We welcome the opportunity to contribute. After we received the invitation to attend the meeting, we briefly consulted all Scottish branch members. Following that, I presented a written submission to the committee on behalf of the association.

Our association comprises local government and valuation joint board officials, who run elections and carry out electoral registration. We are practitioners and are, understandably, non-political and independent. I place on the record my thanks to the Parliament staff, particularly the clerk and assistant clerk to the Local Government and Transport Committee, for their help in preparing us to attend the meeting.

The Convener: Thank you.

Dr Sylvia Jackson (Stirling) (Lab): I wonder whether Mr Pollock would explain what is meant in section 8 of the written submission, which states:

"It is felt that the Bill opens up the possibility of the opportunity for political interference in the boundary review process."

William Pollock: We discussed that issue at a branch meeting when we were considering our written response to consultation on the bill. Some members expressed concern that the bill's provisions could allow greater political interference in the deciding of electoral boundaries. Our members felt that it was more desirable to retain the arrangements that the Local Government Boundary Commission for Scotland has operated under since the Local Government (Scotland) Act 1973. Members will hear evidence shortly from the boundary commission, which will no doubt talk more knowledgeably on that matter than I can.

Dr Jackson: Can you make it crystal clear to us what you regard as the main changes that make you believe that there will be political interference?

William Pollock: Our members expressed the view that the bill could allow, for example, local councillors to introduce an aspect of what is often referred to as gerrymandering, which would mean that boundaries could be manipulated for a perceived political end.

The Convener: On that issue, is it not already the case that, in boundary reviews, local authorities—which are composed of local councillors—often produce initial drafts or proposals that the Local Government Boundary Commission for Scotland examines and either accepts or amends? Therefore, local councils and councillors can already submit their suggestions to the boundary commission.

William Pollock: Yes, that provision exists as part of the consultation that the boundary commission normally undertakes. I do not believe that the commission is obliged to do so, but it has done so since 1973. I am sure that my colleagues from the commission will confirm that. Obviously, anything that politicians produce may have some element of political influence within it. However, the existing provision is only for consultation; the commission, not local authorities, ultimately makes the decisions.

Iain Smith (North East Fife) (LD): On the same point—again, for clarification—is your concern that the bill proposes that the guidance for the boundary commission on drawing up boundaries will come from secondary legislation instead of being in the bill itself?

William Pollock: Some of our members were concerned about that. They felt that the existing arrangements work reasonably well. They did not see any need to change how local government boundaries are decided.

Dr Jackson: Again, I want to clarify something. As I understand it, the current guidance is contained in the 1973 act but any new guidance will be in secondary legislation. Is that the issue?

William Pollock: Yes. There was concern about how, under the bill as it stands, the law would be applied and would operate.

Tommy Sheridan: Evidence from the Scottish Parliament information centre is that the only country that operates STV and in which boundaries are not specified in primary legislation is the Republic of Ireland. Does the Association of Electoral Administrators argue that, if the bill does not state clearly the boundary rules and regulations, it will be a faulty or weaker piece of legislation? How strongly do you argue that those must be stated on the face of the bill?

William Pollock: The association's view is that, if boundaries are not specified in primary legislation, as is the case at present, the legislation could be open to misinterpretation at some future point.

Mr Bruce McFee (West of Scotland) (SNP): Can you elaborate on the concern that you express in section 8 on page 6 of your submission about the bill? You refer to schemes that may come before Parliament, with or without amendments.

William Pollock: The submission states:

"Statutory rules embedded in the legislation are there to create public confidence in the impartiality of the process."

I am not sure what you would like me to clarify.

Mr McFee: That is part of what I was asking about. Is the association's concern that any secondary legislation or changes following a review would not necessarily be subject to the scrutiny to which they should be subject?

William Pollock: A general view that was expressed was that there should be public scrutiny of the process of fixing boundaries for local government wards and that that should be transparent.

Dr Jackson: I am pursuing this issue only because it was discussed this morning by the Subordinate Legislation Committee. Legal advice to the committee indicated that

"the Bill does provide for affirmative procedure to ensure that the substance of the rules will be subject to parliamentary scrutiny and approval."

The recommendations to which you refer would come before the Parliament for scrutiny.

William Pollock: Yes. The last paragraph of section 8 of our submission states that, under the bill as it stands, Scottish ministers can introduce to Parliament

"any recommendations arising from a review"

or can choose not to do so. Ultimately, it is for ministers to decide on the recommendations that the boundary commission makes. The association's view is that it would prefer arrangements to remain the same as they are at present. I am sorry that I cannot elaborate on the point in detail, but that is the substance of the discussions that our members had at a meeting.

David Mundell (South of Scotland) (Con): As a former member of the Subordinate Legislation Committee, I would like to pursue that last point. The Parliament would be able to say only yes or no to recommendations arising from a review. Given that the legislation would be contentious, it would be straightforward to suggest that by voting against the rules a member was voting the whole process down.

Your paper was clear, particularly on the issue of voter confusion arising from the combination of elections. On that point, how could we educate the electorate about the single transferable vote system at the same time as running the European Parliament election, the United Kingdom general election and the Scottish Parliament election? In those elections, people are asked to put a cross on a piece of paper, but, in parallel, we would have to run an education process about voting using the numbers 1, 2, 3, 4 and so on.

14:15

William Pollock: Obviously, our association has discussed voter education and takes the issue seriously. We have been fortunate in that, in recent years, we have had the Electoral Commission to undertake publicity campaigns, which were previously co-ordinated through the Scottish Executive or the Scotland Office. Our association's view is that we should never underestimate voters' intelligence and ability. We often think that nobody will understand a system. People may not understand exactly how the end result is accomplished under the new system, but they will understand how to vote, if that is explained clearly and simply and in the nicest possible way.

Our association is concerned that, until now, ballot papers have always been marked with a cross, whereas the new system will mean marking preferences using numbers 1, 2, 3 and so on. However, that does not mean that people cannot be trained in how the system works and be made aware that it is possible to mark the ballot paper more than once. In community council elections—although they are not statutory elections—people can mark several crosses on one ballot paper. For example, if six community councillors are being elected from a candidature of more than six, people can put six crosses on their ballot paper, if they so choose. Therefore, marking a ballot paper more than once is not entirely unfamiliar to people, although marking them with a number is unfamiliar.

By 2007, we will have had another general election for Westminster and this year's European Parliament election will be history. I presume that, in the spring of 2007, some kind of publicity campaign will be undertaken to inform and educate people and to ensure that they know how the voting system is different and how they are to cast their vote—I do not mean which candidates they are to vote for, but how the voting operates. It is not too difficult for people to understand a new voting system. We have had two new systems in the past five years and people have responded to them.

David Mundell: That answer seems slightly contrary to the tone of your paper.

William Pollock: Some of our members expressed misgivings about the issue. Our association is not terribly agreeable, in the sense that each of us has their own views. Basically, we think that people can be educated about the new system, although perhaps I did not express that well.

Mr McFee: My question follows on from that and is about the comments that you made on combining elections on the same day, which is covered in section 4 on page 2 of your submission. You have said that the potential for voter confusion is perhaps less of a concern than may have been stated elsewhere. However, as your submission points out, holding the local authority elections on the same day as the Scottish Parliament election means, in effect, that three different systems of voting will be used on the same day. Will you give a little more detail about the scale of the concern that organising three types of election on the same day may prove to be extremely problematic? How widespread is that concern in your organisation?

William Pollock: There is substantial concern about combining on the same day an election using STV with the Scottish Parliament election. A minority of the members in our branch have expressed concern about the existing arrangements, under which we have, in effect, three types of election on one day. However, overall, the majority have been able to work with the arrangements that we had in 1999 and again last year.

From a practitioner's point of view, there is concern that it will take a long time to get the results out for the local government election. There is a finite staff resource to accomplish that. I will not consider electronic voting at the moment but focus on the situation with a manual count. Between polling day and the final result, there could easily be four days. That is without counting during the night as we do at present for the Scottish Parliament result, which is available the following morning.

Tommy Sheridan: William, I may be confused and I apologise if I am. When you replied to David Mundell, I thought that, although the section on combined elections in your paper is very clear, you were saying that it does not reflect the views of your membership as a whole. I ask you to confirm the point that Bruce McFee asked about. The last sentence of section 4.1 on combined elections says:

"This gives members considerable cause for concern, as electors' votes would be rejected owing to a lack of understanding of each voting process."

That makes it clear that you feel that, if STV is to be introduced, elections should be decoupled. In the summary at the end, you reaffirm that point.

Do you stick by that? Is that what your association is saying?

William Pollock: That is the view of the members. However, the members also take the view that, if we are told to run combined elections, we will do so. We will do our best, just as we did in 1999. We will ask for the resources and would hope to accomplish our work within a time scale that was acceptable to the candidates, the political parties and other people involved. If it were left to us in the association, our view would be that we should decouple the elections, as I believe the expression is. We would prefer them to be separated rather than to run on the same day with two separate counts going on for several days afterwards. That is the view of the majority of members.

The Convener: I note in section 4.9 that you support the introduction of the electronic counting of votes. A substantial part of the association's concerns over holding two elections on the same day is to do with the practical implications of the length of the count. If there were a robust electronic system for counting the votes, to what degree would that reduce your members' concerns over holding two elections on the same day?

William Pollock: It would considerably reduce the concerns of a number of members. A lot of issues arise to do with electronic counting, but its use would reduce concerns. The problem at present is the physical slog of getting through four days of counting, with the same returning officer always in charge.

The Convener: A few members want to come in. I will call Sylvia Jackson and—

Tommy Sheridan: I had not quite finished, Bristow.

The Convener: I am sorry.

Tommy Sheridan: I think, William, that you are in danger of contradicting your evidence. Bristow Muldoon asked whether the means of counting might improve the situation. Your written evidence says that the problem lies in the voters' use of the system. However, obviously, that is not affected by the means of counting. You say that the problem lies in somebody using a cross and then being asked to use a score.

The Convener: Before Mr Pollock answers, I point out that sections 4.3 to 4.8 of the association's written submission are on the counting system.

Tommy Sheridan: Yes. I know where you are coming from, Bristow, on the speed of the counting of election results, but I am interested in the association's first point about combined elections, which is that the problem lies in the

number of systems, not in the way in which results are counted. The association then goes on to talk about the way in which results are counted, but I am considerably confused. We all know, William, that whatever is decided the association will do its best to implement that system. However, we need to find out what best practice is. Is your "considerable cause for concern" really considerable cause for concern? If it is considerable cause for concern, we have to be concerned.

William Pollock: The cause for concern was raised because our branch encompasses members from Northern Ireland—the number of people there is insufficient to form a branch of their own, so they come to our meetings four times a year, wherever we hold them in Scotland. The Northern Ireland branch members—if I can call them that—indicated that, in the combined elections in Northern Ireland, in which one ballot paper was to be marked with a cross and the other with number preferences, a considerably greater number of papers were rejected because they were incorrectly marked. On that basis, the association has taken the view that some voter confusion could arise. As we started off by saying, that might be resolved by some form of education campaign for the electorate. Our view is that, if one paper is to be marked with a cross and another with numbers, someone could easily mark their paper wrongly. At the moment, if they put the cross on the wrong paper, it is still a cross and it is liable to be counted.

Dr Jackson: Did you ask the members from Northern Ireland or anybody else who was involved in that election whether they felt that the education programme for the election could have been better? Could lessons have been learned that would have ensured that the papers were not spoiled in the way that they were?

William Pollock: That question was not asked, so I cannot answer it just now, but I am sure that we can ask it when we next meet the Northern Ireland members.

Mr McFee: Is it your view that the education process is made more difficult by the fact that three different systems would be in use on the same day? Is your concern about the difficulty of educating people about the new system when we are running different systems at the same elections? Are you saying that potential voter confusion, as well as the straightforward administrative problems that using three systems on the same day will create, is an argument for decoupling the elections?

William Pollock: We are concerned that there would be voter confusion, but it is impossible to say whether education would resolve that unless we do it. Any answer that I gave would be

speculative. We think that, if we were to operate an education programme along much the same lines as those that operated in previous elections, there would still be an element of voter confusion, because we would be introducing a substantially different type of voting system from the ones to which the majority of people in Scotland are used. We foresee a problem with that.

Michael McMahon (Hamilton North and Bellshill) (Lab): The Scottish Executive does not think that the introduction of STV will have great resource implications, but according to your written submission you do not agree with that. Will you elaborate on your concerns? You have mentioned resources a couple of times. Do you believe that the introduction of the new system will have significant resource implications?

William Pollock: Yes. Notwithstanding the introduction of electronic voting, which would obviously have substantial cost implications, under the proposed voting system the count alone would take much longer—we have not discussed polling day, but perhaps you will ask about that later. The count has to be staffed and people have to be paid to do that, so it will take more money to deliver. That is the situation in Northern Ireland, where there is a two-day count. In Scotland, the count usually lasts between three and four hours for a local government election, but we are now talking about a count that could last 24 hours. That has to be financed and resourced. Those are all issues of concern to us as practitioners, because, without the means to deliver the goods, we will not be able to deliver them. We disagree with what the Scottish Executive has said.

Michael McMahon: On the figure that you just gave, there could be as much as an eightfold increase in cost. If staff are paid by the hour and would normally average around three hours to complete the count, there would be an eightfold increase in cost if the count were to last 24 hours. Is that right?

William Pollock: Along with a number of colleagues from the association, I was present at the counts that were held in Northern Ireland at the end of November. They started at 9 o'clock in the morning and kept going until about 9 o'clock at night. One of the counts that we attended did not finish until 9 o'clock the following night; the other one had finished by three o'clock the following afternoon. Both had started again at 9 o'clock on the second morning. In the worst-case scenario, the count under the proposed system could last 24 hours. Although it might last less than that, we have to consider that currently counts for the local government elections, which begin at 10 am on a Friday morning or at some other point on a Friday following the Scottish Parliament count, are usually accomplished in about four hours. I know

that there will be some councils where it is not possible to finish the count within that time scale, but my experience is that it generally takes three or four hours to do a count for a local authority area. Under the system proposed in the bill, it would take 16, 20 or up to 24 hours to finish the count if the same number of people were involved.

Michael McMahon: Given that the size of the local authorities in Scotland is greater than the average size of local authorities in Northern Ireland, could the count take even longer?

14:30

William Pollock: It could. I would express some caution about relying too much on what happened in Northern Ireland in November, because that was just the Assembly election. We also have to count wards. How many wards we will have in each area is a subject for another discussion and, because each ward is in effect a separate count, someone will have to be trained to co-ordinate those counts. Whether the counts all take place in, say, a large sports hall or in various places throughout the local authority area will depend on the wishes of the returning officer and on past practice in the area. Until we know how many wards we will have, we will not know how long the count will take. However, it will take much longer to conduct a manual count under a single transferable vote system.

Michael McMahon: In terms of resources, are the implications only to do with the cost of staff to do the count or are there further implications?

William Pollock: There are further implications. If there is a combined poll, it will take longer for people to cast their vote. To put it at its simplest, you can put a cross on a ballot paper in no time at all and be out of the polling station a minute later, but it will take longer to vote if people are marking down their numbered preferences. So that we do not have queues building up—there is no tradition of queueing to vote in Scotland, as there is in other countries—we would expect the throughput of voters to continue to be three or four minutes. That means that we would have either to reduce the number of people allocated to each polling station or to increase the number of staff, which we have done at previous combined elections.

Michael McMahon: This might be entirely hypothetical, but it just occurred to me while you were speaking. Do you have any experience of people deciding not to wait in a queue to vote? Could that have an impact on the number of people who might vote?

William Pollock: I am not aware that queues have been an issue at recent elections. The throughput of voters is fairly fast. Sometimes, people have to wait while someone checks their

name on the register but, by the time they are in the polling station, they have every intention of completing the voting process.

We would not want people to feel that the voting process was taking much longer than it does at present: we do not want people to have to wait in a queue for five minutes or so before they are even issued with a ballot paper.

Iain Smith: Your paper referred to electronic counting. Were you talking about counting the votes electronically or using an electronic voting system?

William Pollock: We were talking about electronic counting. I know that some comments have been made about electronic voting, but we were not dealing with that. We came from the position of not knowing how other countries operate, and our paper reiterates what our members said. I have since found out that New Zealand is about to develop a fairly good electronic counting system for its elections this year—you might know more about that than I do— and I think that we might be able to acquire that by 2007.

Iain Smith: I am not going to suggest that the committee make a visit to New Zealand.

In section 4.9, you say that there is

"no suitable computer programme for STV counts".

Is counting the problem? I would have thought that to count votes electronically would be fairly straightforward. Appropriate software is available—I have used such software in an STV count. I presume that the problem relates to the input of data. The data must be entered into the system accurately so that the count can be calculated correctly.

William Pollock: Yes, that was one of the issues. Our members' other concern is that the physical process of electronic counting of votes— in which you put a bundle of papers through a machine—has not been terribly well received. Some members have concerns about the way in which that process has operated elsewhere. We are a national association and some of our London members were less than enthusiastic following what happened in 2000 with their mayoral and Greater London Assembly elections, which may have coloured the views of some members of the Scottish branch.

Iain Smith: We will not mention Florida.

The Convener: I presume that one of the advantages of a paper system followed by electronic counting is that it is still possible to have the vote verified manually if the outcome is challenged, because there is still the paper record. That may offer greater protection and address

people's concerns about a fully electronic system in which there is no record of how people have cast their votes, other than what is inside the computer.

William Pollock: Yes.

Dr Jackson: I also have a question on electronic counting. I hope that I am not getting confused. When we visited the Republic of Ireland, people there outlined some of the difficulties with electronic counting, which they are addressing. One of the problems was politicians and others not being able to see on the tables the paper count that is normally observed. The second issue was that the decision that someone was not elected was final and quick, which seems to be a bit cruel. They are working on ways to get over that. Are you aware of some of those issues, and of how they are progressing?

William Pollock: Yes. I visited Northern Ireland with colleagues and I was aware that the redistribution of votes is not done under the scrutiny of the agents, none of whom raised any objections. Obviously, that is how they have been used to scrutinising the process in Northern Ireland. Comments were made informally to us by colleagues who thought that that would not necessarily be acceptable to party workers in Scotland, who are used to looking at the table and seeing votes being put into different bundles, with which I am sure you are all familiar. They can see if one of the count staff has made an error, and they can say, "No, that should be in that bundle there." They can challenge something that has happened.

For want of a better description, a post office style system was used. The votes went into different baskets; that was done at a distance behind the counting agents, so it was not possible for them to scrutinise whether votes were going into the right baskets. Some of us have misgivings about that. We are worried not that we would not do it properly, but that there would be no transparency for party agents to see what was happening. I do not know how other countries have got round that issue. That is my only experience of an STV count.

Dr Jackson: Have you contacted people in the Republic of Ireland to find out about the difficulties?

William Pollock: No.

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

I welcome to the committee our second panel, who are John Marjoribanks, the chairman, Brian Wilson, the deputy chairman, and Bob Smith, the secretary, of the Local Government Boundary

Commission for Scotland. I invite Mr Marjoribanks to make some introductory remarks.

John Marjoribanks (Local Government Boundary Commission for Scotland): Thank you for your welcome—we are delighted to be here. I will make a few brief introductory remarks about the commission.

We were set up as a result of the 1969 Wheatley commission report, which concluded that the then mechanisms for the review of electoral and administrative arrangements were unsatisfactory and contentious. The Local Government (Scotland) Act 1973 established the Local Government Boundary Commission for Scotland, which has operated as a standing advisory body for the 30 years since then. The commission proposes, within the given policy context, changes that appear to be desirable in the interests of effective and convenient local government. Its function is to implement policy, not to influence it.

In the reviews that it has undertaken, the commission has operated under the set of rules that has existed since the commission was established, which has provided a sound basis for our work. The commission believes that the practicalities of introducing wards for single transferable vote proportional representation mean that we would benefit from having clear, consistent and durable rules that could be applied equitably throughout Scotland. The geographic and demographic diversity of the present structure of local authorities suggests the need for a set of rules that would allow similar flexibility to that which has existed in the past. We welcome questions on any aspect of our activities.

Dr Jackson: How could the bill be improved to produce clear, consistent and durable rules?

John Marjoribanks: The commission's deputy chairman will address that.

Brian Wilson (Local Government Boundary Commission for Scotland): The rules will reflect the Executive's policy, so it would not be proper for the commission to comment on the detail. However, I reiterate that experience has shown that clear, consistent and durable rules—if applied equitably throughout Scotland, as they are under the present system—benefit all those who participate in a process.

The commission has shown that, even within the framework of the existing rules, it can, where possible and practicable, change proposals to reflect geographic diversity. It has not adopted a rule of thumb or standard approach. It has achieved some flexibility in different parts of the country.

Our submission refers to the Highland Council area, where the statistics show that the variation

from the parity figure is from 29 per cent over to 30 per cent under. The commission can use, and has used, the rules under public scrutiny to achieve such flexibility.

The commission hopes that whatever replaces the existing rules will allow for the same flexibility. It is worth emphasising that the existing rules are clear, consistent and known to all participants. The commission applies the rules visibly throughout the country.

The Convener: In the first boundary review for any STV elections, would you wish to start from base principles or would it be more practical and sensible to use current electoral wards as building blocks for the new multimember wards?

John Marjoribanks: The key point is that we would not seek to influence the decision on that, because it is a policy matter. As for the practical implications, the commission is perfectly capable of implementing the necessary re-warding under either regime. If we adopted the building-block philosophy and just bolted together existing wards, the chance of creating community splits would be greater than it would be if we started from scratch.

Under the existing ward boundaries, some anomalies exist that could benefit from adjustment to allow for the needs of community ties. If we simply bolted together wards, we would run the risk of exacerbating those anomalies, whereas if we started from scratch, we would have the chance to get rid of them. As the size of wards is bound to increase, the opportunity could be used to create wards that comply greatly with perceived community ties and are therefore better able to stand the test of time.

As a commission, we do not like change for change's sake and we know that, from the electorate's point of view, it is preferable to have a stable and durable ward system. We seek to achieve that and the bill provides an opportunity to do it.

The technology that is available to the commission has improved so dramatically over the past decade that we are now capable of carrying out a review from scratch more quickly than if we used the bolting-together option because the likelihood of rejection would be reduced if we were building wards from scratch on that basis. Therefore, the overall process is likely to be faster than it would be if we used the bolting-together procedure.

The Convener: If you proceeded with either option, are you confident that you would be able to keep to the time scales to have STV elections by 2007?

John Marjoribanks: We are confident. I would like the deputy chairman to comment on that,

because he has been looking particularly at the question of whether we can achieve the envisaged time scale.

14:45

Brian Wilson: We are confident and we believe that the timetable can be achieved as the parameters of the timetable are currently understood. The new arrangements can be put in place for the elections in 2007. The chairman referred to the advances that have been made recently. Those advances are highlighted in the submission that is before members, particularly the range of databases and the currency of those databases as they are available to the commission, the development of in-house technology and the training of staff. Members can see in the submission the comparison between the number of "man years" in previous reviews and their steady reduction. The chairman was correct to say that that figure could be reduced significantly again because of the facility that the commission now has through the development of technological resources and the availability of databases.

Iain Smith: As legislators, we need to ensure that you can achieve the time scales under the statutory rules. Can you give us an indicative timetable, not for a start in summer 2005, but for a normal boundary review process that would start today? How long would you need for each stage of the process before you reached a final conclusion?

John Marjoribanks: We could give you a detailed idea of how long it would take us to do the work, but we cannot tell you precisely, because factors outwith our control can influence the process. You alluded to the starting point, which is a key element. We cannot start until all the parameters that determine what we do have been put in place, which will influence the overall timetable. The other factor is the degree to which there is a necessity for repeated public consultation. In other words, the review process is not entirely within our control, although the better the job we do, the less likely will be the need to go back over things. I ask the secretary to comment on the detailed timing of our activities.

Bob Smith (Local Government Boundary Commission for Scotland): Given the work that we have done so far, we have assumed that the rules would not change drastically and that there would still be flexibility within them for us to operate.

We have considered whether we could undertake the work by starting from scratch and designing wards from what we consider to be a community focus. On the basis of the work that we have done, our secretariat thinks that, from the day that the flag goes up and we say "Go", the commission will have wards for all council areas in Scotland within 10 weeks. We would then publish information on those wards; what would happen next would depend on that publication.

The intention is, however, to complete the review and to submit reports by August 2006. The most recent review was done in two years and involved 1,200 wards. This time, depending on the number of councillors per ward, we are talking about a review that will result in 250 to 400 wards. We have also increased the resource that we would put into the review, so we are confident that we can complete the business by August 2006.

Iain Smith: I accept that things could change depending on the number of objections you might receive, but what are the statutory deadlines? Once you publish the draft wards, what is the statutory time in which people can comment?

Bob Smith: There is no statutory time. As the legislation currently stands, the commission must consult. In the past, that has varied from a month to six or eight weeks, depending on the area. However, unless there were good reasons not to, we have followed the parliamentary Boundary Commission for Scotland practice, so a month was the period that was adopted. As I understand it, colleagues in the Scottish Executive expect the first consultation period, at least, to take 12 weeks. We are quite happy with that arrangement. I am not so sure that you could stand 12 weeks for secondary rounds when you might be considering smaller issues that are associated with certain wards, but 12 weeks is necessary for consideration of the commission's initial proposals.

John Marjoribanks: I have a supplementary point on something that was alluded to by one of the previous witnesses about whether the initiation of the process of determining the wards should come from the commission or from councils. Our experience during the previous review was that some councils produced their proposals rapidly; others took a great deal of time. The longest time that any one council took was a year from the date that the proposals were required to the date when they were forthcoming.

Delays can occur and can have a seriously detrimental effect on our ability to make progress. That is one of the reasons why we believe that, with the technology that is available to us, it would be advantageous to the time scale if the commission initiated proposals in consultation with people on the ground. Teams of commissioners would travel throughout Scotland, speak to local people and develop proposals so that the first cut of proposals could come within the envisaged time scale.

The Convener: The previous witness said that there were concerns that there might be an opportunity for political interference if proposals are drawn up by councils or councillors. Do you share those concerns? Have you experienced significant problems like that in the past? Some councils have also expressed concerns about how the future systems will work; they believe that they have a greater understanding of where natural community links exist.

John Marjoribanks: I am aware that many councils think that; I am also aware that perceptions can be different from reality. Under existing legislation, the commission is charged with completing the process and, in the past, it has been our decision to ask councils to make their submissions. We are not required by legislation to do that, so no change in the legislation is required.

Whether any attempts at political bias occur, the reality is that it might be suspected that they have occurred, but if the commission initiates the process, there is an implicit guarantee that there is no possible political influence. The commissioners are, above all else, completely non-political. That is why they are there.

Although councillors and council officials have close knowledge of their local areas, there is nothing to stop the commission from developing a sound database on the same issues. For example, during the past few months since the change to the legislation that gave us the right to get the updated electoral registers, we have also been seeking information on all sorts of other community issues, such as primary and secondary school catchment areas and fire service delivery areas. We have been collecting anything that we can think of that is relevant to community ties and to service delivery to communities. That means that we are developing a sound database.

In addition to that, the teams that we would send out would spend a significant amount of time talking to people in communities and on councils, and to council officials, in order to establish ties and ensure that we were not misled by political ties masquerading as community ties. Community ties are important. We are aware that wards that we set up should, if at all possible, not cross sensible community boundaries. I do not think that initiation by the commission would undermine that in any way. I take the contrary view that it would strengthen the attention that would be paid to community issues.

David Mundell: Bristow Muldoon asked one of the questions that I wanted to ask, but will you reaffirm that you make the decision about the methodology and the working relationship with the local authorities during the process?

John Marjoribanks: Yes. It was decided in previous reviews that, in order to facilitate the process, it would be sensible to go to the councils for the first cut. That decision was made partly because the level of technology that was available to us then was not as advanced as it is now. We now have access to computer-based geographical information systems—GIS—technology and the electronic database. Bob Smith might want to add something to that, as he was involved in the most recent review.

Bob Smith: The other point about community issues is that, as we increase the size of wards, the number of community issues decreases quite significantly, particularly in rural areas. It is much more difficult to identify perceived communities in large urban areas such as Glasgow or Edinburgh than it is in rural areas, which we can define by using GIS technology to look at the geography—including road, settlement and river patterns—in order to come up with sensible community focus.

David Mundell: To return to a previous point, you mentioned starting from scratch in relation to wards. Would that involve going as far as dissolving the existing polling districts?

Bob Smith: We would like to use electronic address gazetteers—that is the ideal—but the technology is not sufficiently developed to allow us to use them accurately. We can use postcode geography to do a first cut. Although we do not necessarily fix wards on the basis of postcode boundaries, that approach, along with geographical information, or information about the community council or civil parish or about secondary or primary school catchment areas, at least enables us quickly to estimate the number of electors in an area with reasonable accuracy—probably 97 to 98 per cent accuracy. We can very quickly establish and draw sensible boundaries between communities or decide on a focus community—for example, a slightly larger town and the smaller towns that surround it and feed it.

David Mundell: Do you anticipate that the guidance would clearly indicate how many councillors must be in each ward for each local authority, so that you would not determine the number of councillors per ward or whether there should be a fixed number per ward?

Bob Smith: If we go down the road of having a fixed number, we almost certainly will not achieve good community focus. In wards of three or four councillors, if it is determined that the number must increase to, for example, four or five, we will not achieve as good a result on community focus as we would if there were more flexibility.

David Mundell: Under the current arrangements, I understand that there is an indicative number of electors for each ward in each local authority area, depending on whether the authority is classed as, for example, urban,

rural or city. That guidance is quite clear. There is no clear guidance, however, in a situation in which the Local Government Boundary Commission for Scotland decides whether there are to be three or four or even one or two members per ward.

Bob Smith: Yes, but the Kerley review referred to the need for some measure of the electorate to be in the equation. If no such measure is used, there could be wards with 200 electors and wards with 20,000, which would make no sense.

David Mundell: Do you anticipate that the guidance would cover that?

Bob Smith: I imagine that the guidance would say that there must be some equity in the relationship between the number of councillors and the number of electors.

John Marjoribanks: The greater the degree to which either the legislation or the guidance constrains the commission's capacity to make decisions about the number of members per ward, the harder it will be to come up with a solution that meets the needs of community ties and pays due deference to the requirements of electoral parity in a local government area.

For example, Scottish Borders Council has 34 councillors. If it is decided that the council must be entirely composed of three or four-member wards, there are only three possible solutions that arrive at 34 councillors. However, if it is decided that there could be three, four or five-member wards, there are 14 possible solutions. There is a huge increase in the number of possible solutions if the discretion on the number of members per ward is widened.

We have no desire to influence policy on that matter, and indeed no capability to do so. However, from a practical point of view, the greater the discretion that we are allowed in carrying out the exercise, the more likely we will be able to come up with a sound structure that will stand the test of time.

15:00

David Mundell: Do you accept that, as we have heard, the number of members in a ward affects proportionality and therefore the outcome? We have also heard evidence that one of the ways in which people have attempted to gerrymander the outcome of past elections in Ireland is through the size of the wards in specific locations.

John Marjoribanks: That is precisely the point that I was getting at. We are aware that other people who have given evidence to the committee have made a direct connection between the number of members and the proportionality of the end result, but we have no policy views on that. If the direction is incorporated in the act, we will

follow it exactly. If it is left to our discretion, we will apply it in the interests of effective and convenient local government, with no regard whatever—in fact, with active disregard—for any political implications that may accrue from various ward sizes. We will act on a non-political basis, taking into consideration the effectiveness and convenience of the local government that would result.

David Mundell: Your sister or mother organisation—I do not know how you describe it— the Boundary Commission for Scotland recently completed the Westminster boundary proposals. In that context, there is guidance that wards should not be split between Westminster parliamentary constituencies. How do you envisage factoring into the exercise the new constituencies that you create, subject to their being approved?

John Marjoribanks: The first thing that I should say is that the Boundary Commission for Scotland and the Local Government Boundary Commission for Scotland are completely separate bodies. We share a secretariat for administrative convenience, but we do not discuss each other's business and we have no legal connection in any form. We are not a parent, a child, a sister or a brother.

Of course, we are aware of the work that the Boundary Commission for Scotland has done recently. The legislation that governs what we do does not require us to stick to parliamentary constituencies in any way in the development of boundaries for wards—indeed, if we had to do that, the issue would be complicated. There would be circularity if the two organisations had to have regard to each other; we would always be waiting for the other lot to update boundaries before we could do so. We approach the issue as a completely separate exercise with an objective that is quite distinct from Westminster representation.

Bob Smith: We should also remember that there is no requirement on the parliamentary boundary commission not to split wards. It chose to operate in that way in its current review.

John Marjoribanks: That is not a formal statement but an off-the-cuff statement, or an observation from the sidelines—Bob Smith is here as secretary of the Local Government Boundary Commission for Scotland.

The Convener: I fully accept your organisation's non-political nature, but, to return to David Mundell's question, do you accept that having different ward sizes in the same local government area would have implications for the outcome of the election? For example, Highland has some rural wards that are geographically large, so there could be two-member wards in rural areas and

four-member or five-member wards in urban areas. Do you recognise that that could produce a disproportionate result?

John Marjoribanks: We recognise that the possibility of a disproportionate result exists under any system. Any activity by the Local Government Boundary Commission for Scotland would attempt to reduce the possibility of that as far as possible so that there was a level playing field for all parties. We must be aware of political issues. That is what I meant when I said that we are actively non-political. We seek, wherever possible, to create as level a playing field as we can, consistent with providing boundaries that will stand the test of time.

Brian Wilson: To add to that, the issues about the future review to which you refer, convener, applied at the previous review, particularly in Highland, but also in other places. The secretary may be able to expand on how previous members of the commission dealt with the issues at the time. Those issues were very real because even single-member wards in Highland are significantly larger than those elsewhere in the country.

Bob Smith: Prior to the previous review, the wards for the first elections to the unitary authorities were designed by a group at the centre—a division in the Scottish Office—by bolting together existing electoral wards. In Highland, we had the anomaly that some of the wards in Inverness almost had a sufficient electorate for two members, whereas wards in some of the rural areas had a sufficient electorate for only a third of a member. There were other disparities—for example, the rural areas had 11 more representatives on the council than they would have been entitled to if the size of the electorate had been used as the basis for determining the wards.

After the wards were redesigned in the third review, there were still wards with large divergences from parity in Sutherland and Ross-shire in the north and west, but the electoral parity among the wards in and around Inverness was much tighter. At that time, the rural areas still had a net gain of about two wards. The commission acted flexibly, when it was possible to do so.

Dr Jackson: Your paper states that, after the local government reorganisation in 1994, the

"Wards for the first elections to the new authorities were determined by means of Ministerial Direction",

which led to the difficulties that you faced. I return to my previous question, to which I did not really receive an answer. I want to know whether the rules and the directions on the number of councillors per ward should be introduced through secondary legislation or whether they should be in the bill. You seem to be saying that there is a need

for flexibility, which secondary legislation obviously provides. However, as David Mundell pointed out, secondary legislation provides less room for discussion, although there is some parliamentary scrutiny of statutory instruments that are considered under the affirmative procedure.

Brian Wilson: I am sorry if I did not convey a proper picture in my response. The flexibility to which I referred is the flexibility that the commission has demonstrated that it can use within the framework of the rules. I was addressing the point that others may have made about inflexibility on the part of the commission and the point that we simply apply a standard approach throughout the country or in council areas. I hope that, in conjunction with our paper, I have made it clear that we feel that that is not the case and that the commission can demonstrate considerable flexibility.

My point about the status of the rules was that, as the rules will reflect policy, it is not for the commission to comment on what they should contain or on their format. However, I made the point that experience shows that, if the rules are consistent, robust, clear and available to everyone, the commission can operate them flexibly. You referred to the subordinate legislation arrangements and you will read into my comment what is necessary as to how the Parliament deals with the making of the rules. However, whether the rules should be in the bill—as I think you are going to say—or whether they should be dealt with in another way is not really a matter for the commission. The practical point is that, until the rules are known, the commission will not be able to begin its work.

Dr Jackson: That leads to my second question. If the rules and the number of councillors per ward are to be decided by secondary legislation, how will your timetable be amended? I know that you gave only an outline of your timetable to Iain Smith. Do you see any difficulties if those two crucial issues are to be decided through secondary legislation?

Bob Smith: On the first point, if there is a delay and secondary legislation introduces rules that come into effect in January or February 2005, the time scale will collapse dramatically. In fact, we increased resources partly to deal with that possibility. I really cannot comment on what the impact would be if someone dictated the number of councillors in each ward of each council area, because we have no way of going through that issue.

In order to assess the problems that we would face if we had to carry out that kind of work, the secretariat conducted a series of exercises in which it bolted together all the wards in Scotland in combinations of three, in combinations of four, in

combinations of three and four and in combinations of three, four and five. We can carry out that work very quickly. However, the real delay for us would arise if secondary legislation that should have come into force in September did not do so until February or whenever next year.

Mr McFee: I have only a couple of questions, as many of my points have already been raised. You said that you were not in favour of change for change's sake. However, by 2007, we might find ourselves with wards that had simply been bolted together and we might need to undertake some sort of review for the 2011 elections. Would that be best practice?

John Marjoribanks: That would be a repeat of the situation that arose after the Local Government etc (Scotland) Act 1994 was passed, when we were called on to review the wards that had been promulgated by the legislation. That third review, which also resulted in changes, came fairly soon after the legislation was enacted.

Such an approach inevitably creates costs. After all, change is a costly process, because it involves public consultation. It also creates a certain amount of disaffection, because no one likes suddenly finding themselves in a new or different ward or area. In terms of effectiveness and convenience, it would be better practice to allow the commission to introduce changes that could be sustained over at least two elections than to have to have a review now and another before the 2007 elections.

Mr McFee: I want to have another stab at Sylvia Jackson's question, from perhaps a different angle. I acknowledge your comment that it is not your job to interfere in policy. However, would stating the rules in the bill adhere to the principle that they should be clear, consistent and durable?

John Marjoribanks: Not necessarily, because secondary legislation can be just as binding as primary legislation. I suppose that the major issue for our operation will be when the starting flag goes up on the process. If the rules are in the primary legislation, we will know what they are a lot sooner than we would otherwise.

Mr McFee: So the major issue for you is timing.

John Marjoribanks: Yes. That will have a major impact on us.

Paul Martin (Glasgow Springburn) (Lab): Earlier, it was suggested that multimember wards would create less division in communities than single-member wards, because there would be fewer appeals. However, that might work the other way. After all, some communities might not want to be joined with other electoral wards.

Bob Smith: That is one argument. However, if wards become larger, fewer boundaries will divide communities, which means that there will be fewer arguments about which side of a line a community wants to be on. Moreover, if we have large wards and decide to move a smallish community from one side of a boundary to the other, the overall impact on the number of electors will reduce. For example, when we were working in the Western Isles to a parity figure of 750, we did not have to receive too many requests from electors who wanted to go over a particular boundary for people to start questioning whether built-in disparities and imbalances in the system were filtering through into the wards that we were designing. If wards are to be three, four or five times larger, moving little pockets of electorate at the outer edges of those wards will have much less of an impact than was the case under the third review.

Paul Martin: But you accept that the reverse can happen and that communities can say that they do not want to be joined to other communities in an electoral ward.

Bob Smith: That is right. At the end of the day, however, there is never one solution. The answer is always grey.

15:15

Paul Martin: Will the requirement to form multimember wards with three or four—or whatever number we end up with—members create challenges for the retention of city boundaries? The single-member ward makes it much easier to ensure that authority boundaries are taken into account.

Bob Smith: We do not look at authority boundaries when we look at electoral wards. We look within the authority boundaries so that they do not change.

Paul Martin: I appreciate that, but is it not much more difficult to match multimember wards within a city boundary than it would be to match single-member wards?

Bob Smith: That depends on how one goes about defining the perceptions of community within a city, which is difficult to do. Our intention—and the way in which the game has developed in the secretariat—is for three teams to be in place probably early in the next financial year. The three teams will be out and about. One thing that we want to do with them is to go to local authority officials and ask them to define the perceptions of community within their authority—they are the people who have the local knowledge and we should go out and ask them those questions.

Let us consider Edinburgh: Joppa, Portobello, Leith, Trinity, Granton, Muirhouse and Silverknowes all have perceived boundaries. There is nothing wrong with the commission's

case-work teams going out and establishing views on where the boundaries are before they carry out the business of looking at electoral arrangements and the creation of wards. That is one of the reasons for collecting all those other geographies. There is no point in creating new boundaries if existing boundaries for other purposes can be used for electoral purposes.

John Marjoribanks: I would like to add a comment, which harks back to what I said earlier. I will use the example of Scottish Borders Council, although it could be any other council. If the commission does not have the discretion to vary the sizes of ward—in other words, if we are constrained and told to base our work on three-member wards—we will inevitably find it more difficult to achieve the objective of community ties and reasonable parity. If we are given the discretion to have different numbers of members per ward, our task of fitting the requisite number of wards to create the requisite number of councillors within the overall authority boundary is made easier and we will be more likely to comply with perceptions of community ties than we would if we were too tightly constrained.

As I said about Scottish Borders Council, if there are to be just three or four members per ward, there will be only three possible solutions. If there are to be three, four or five members, there will be 14 possible solutions, which will mean that much more attention can be paid to community ties. The same thing would apply in a city.

Paul Martin: In relation to your job, is the single-member ward a simpler and more effective way of creating the boundary? Is the multimember ward more complicated in delivering the required model?

Bob Smith: The big difference for us now is the availability of GIS and the right of access to the electoral register, which the commission did not have until December 2002. Before that, we had to go almost cap in hand to electoral registration officers and ask them to count electors for us. Whereas then we had no right to get the data, we now get them electronically. We have a database for the whole of Scotland.

Paul Martin: I appreciate that, but community issues are still involved.

Bob Smith: That is right, but GIS is about levels of data. One of the levels of data that we have is based on settlement patterns. We can project those data on to a map background and go right down to the level of addresses. We can identify the individual houses and streets and other buildings such as power stations—even garden sheds have individual geographic markers on them. We can count electors right to the address, which is something that we could not do in the

past. As I said, we used to be dependent on electoral registration officers, to whom we would give a paper map that might not have been up to date. We used to have to say to them, "There is a boundary. Tell us how many electors are in it." We then had to accept that count. We did not know whether it was right; we had to accept what the electoral registration officers gave us. We can now do the count ourselves and know that we have got the figures exactly right.

John Marjoribanks: That boils down to the fact that technically it is just as easy for us to create a one-member ward as a two-member ward, a three-member ward or whatever. There is no technical hardship in creating one or the other.

Paul Martin: But if you are constrained by the need to have parity in the number of electors, you will have difficulties.

Bob Smith: If all the wards have to have three members, for example, there will not be as good a community fit as there would be if we could have three-member, four-member, five-member or two-member wards. With that flexibility, we could examine the geography and the settlement patterns, consider things such as community council boundaries and other boundaries and ask whether, as the communities are currently sitting within the community council boundary, there was likely to be an objection if those communities were put together in one electoral ward. If the communities are living happily in a community council area, the chances are that they will live happily together in the same ward. We can therefore avoid making splits, whereas in the past we were not able to consider the boundaries and make those sorts of decisions.

Paul Martin: I have one final question, which is not related to any of my previous questions. Have you received a significant amount of correspondence requesting that you amend the existing boundaries?

John Marjoribanks: We get occasional requests for minor adjustments but, because we carry out a statutory review periodically, our normal practice is to defer making those adjustments until the next statutory review, unless there is a very important reason for doing so.

Paul Martin: Would I be correct in saying that you do not receive a significant amount of correspondence requesting that you change the existing boundaries?

John Marjoribanks: Perhaps the secretary could tell us about the amount of correspondence. As far as I am aware, it is not significant.

Bob Smith: There is no significant amount of correspondence now, but there tends to be when there is new build at the edges of authority areas. Stepps in Glasgow is becoming an issue; on the map, the Glasgow boundary runs through some of the houses that have been built. Those issues will have to be addressed—we have probably had five such requests in the past year.

Tommy Sheridan: Are you saying that, regardless of whether you are asked to create wards of three, four, five, six or however many members, that will not in and of itself create a difficulty for you? You will do as you are instructed. Therefore, if someone was to say that it would be dead difficult to establish boundaries for a five-member ward, would you reject that statement?

John Marjoribanks: There is no practical difficulty in creating such a ward. As I say, the greater the discretion given to the commission in determining those matters, the greater the facility we have to come up with a good plan. There is no practical difficulty.

Dr Jackson: I am pleased that you will look at the school catchment areas, because that is one of the criteria that we used in determining the national park boundary and in keeping the community of Killin involved.

Your submission states that the Kerley working group produced examples of possible outcomes of constructing wards of three, four or five members, but that you have not been able to get that material. Would that material be useful to you? Is there a problem?

Bob Smith: The secretariat has not given the commission the material. We were asked to do the work for Kerley; the secretariat did the work, handed it over to Kerley and deleted it from the computer system. We do not want work that was done for a different purpose for a different body to influence commissioners.

John Marjoribanks: That emphasises the role of the commission. We are confident in the expertise developed within our secretariat, but as commissioners we do not want to get right into the process until the rules have been laid out—we need to follow the rules as they are at the time.

The Convener: That brings us to the end of the questions for the panel. I thank John Marjoribanks, Brian Wilson and Bob Smith for their evidence.

15:24

Meeting continued in private until 15:33.

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