LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

Tuesday 3 February 2004
(*Afternoon*)

Session 2

£5.00

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Tuesday 3 February 2004

LOCAL GOVERNMENT AND TRANSPORT COMMITTEE
4th 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:

Mr Andy Kerr (Minister for Finance and Public Services)
Sarah Morrell (Scottish Executive Finance and Central Services Department)
Tavish Scott (Deputy Minister for Finance and Public Services)

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 3 February 2004

(*Afternoon*)

[THE CONVENER *opened the meeting at 14:03*]

Item in Private

The Convener (Bristow Muldoon): Welcome to today's meeting of the Local Government and Transport Committee. The deputy convener, Andrew Welsh, has indicated that he may be slightly late for today's meeting because of other commitments. Every other member of the committee is present.

Do members agree to take item 3 on our agenda, which is consideration of our draft report to the lead committee on the Antisocial Behaviour etc (Scotland) Bill, in private?

Members *indicated agreement.*

Local Governance (Scotland) Bill: Stage 1

14:04

The Convener: Item 2 on our agenda is consideration of the Local Governance (Scotland) Bill. I welcome to this afternoon's meeting the Minister for Finance and Public Services, Andy Kerr; the Deputy Minister for Finance and Public Services, Tavish Scott; and Sarah Morrell and Murray Sinclair, who are officials at the Scottish Executive.

Before I invite the minister to make some introductory remarks, I advise members that the Finance Committee has produced its report on the financial memorandum to the Local Governance (Scotland) Bill. The report was e-mailed to members today; if anyone has not received a copy, I am sure that the clerks will be able to supply them with one. I also advise members that we intend to start drafting our stage 1 report on the bill at next week's committee meeting. We will have a number of weeks to complete the report, because it is expected that the stage 1 debate on the bill will take place on either 31 March or 1 April.

I indicate to members and to the ministers that, once we reach the question-and-answer session, I intend to deal separately with each of the issues associated with the bill, so that questioning does not bounce backwards and forwards. We should perhaps start by asking about the general principles of the bill, before moving into specific areas, so that there is a structure to the questions that we put to the ministerial team. I invite Andy Kerr to make some introductory remarks to the committee on the Local Governance (Scotland) Bill.

The Minister for Finance and Public Services (Mr Andy Kerr): Tavish Scott and I are grateful for having the opportunity to give evidence to the committee on the Local Governance (Scotland) Bill. I hope to keep my opening remarks fairly brief, but we would like to make a few points to the committee before responding to questions.

We have tried as far as possible to follow the committee's previous discussions. Clearly, members have heard the views of a wide range of organisations and individuals. Some have opposed the bill, some have supported it, some have offered constructive comments and, I would argue, some have offered fairly bogus arguments about it. Others have claimed that the bill is a waste of the Parliament's time, that it will do nothing to improve services or—to use a famous phrase—that it is a missed opportunity.

We need to step back a little and examine the bigger picture of how local government has developed. We cannot ignore what happened in local government before the bill was introduced and we cannot ignore what is happening now. There have been policies and legislation designed to drive up standards and to improve the quality, accessibility and relevance of services to local government service users. We are doing that by agreeing national standards, devolving decision making, improving conditions and working practices and seeking best value in our services.

The Local Government in Scotland Act 2003, which dealt with best value and community planning, is a clear example of that approach. Some said that that legislation, too, was a waste of the Parliament's time, but it is now making a real difference to service delivery in our communities—from one-stop shops in Fife to integrated further education, child care and employment services in Dumfries. Best value is helping to drive up quality around Scotland. Clearly, the act was far from a waste of time and is helping councillors to deliver better services. It is said that the Local Governance (Scotland) Bill is a technical bill about structure and process. Nonetheless, modernising structures and processes is an essential part of renewing local democracy.

Understandably, much of the evidence has related to the Executive's firm commitment to introduce the single transferable vote system for the next round of local government elections. The committee has heard a range of views on the matter from professors, practitioners, pressure groups and politicians. Some have taken a fairly broad view of what the bill seeks to achieve. Others have sought to highlight every challenge that the move to a new electoral system will pose and to reopen the debate about a majority system versus a proportional system. We must remember that there was a great deal of consultation on the subject prior to the partnership agreement. A significant majority of respondents to the white paper "Renewing Local Democracy: The Next Steps" favoured STV. Changing the electoral system will be challenging, but we believe that the challenges that the bill presents can be overcome successfully.

Those are the challenges that we will presumably discuss today. One of them is the number of members per ward. We have sought to strike a balance between proportionality and the size of wards. Clearly, the suggestion that wards could be the size of Switzerland is nonsense, as a cursory look at a map would show. Another challenge is the working arrangements within wards. A degree of common sense and a mature outlook should allow councillors to overcome some of the difficulties and to work for the common good of the communities that they seek

to represent. A third challenge is the length of the count. An STV count is more complex than a first-past-the-post count and will take longer, but that is not a reason for not introducing a new system. We need to trust the professionalism of the returning officers and their staff, who will do their best to deliver results as quickly as possible.

We have heard that voters will be confused by the new system, which will result in a greater number of spoiled ballot papers. We acknowledge—and always have acknowledged—that there will be a need to educate voters about the new system. However, we must stop prejudging the ability of the voters to understand the system and to express their preferences in whatever way they choose.

The committee has also focused on the balance between primary and secondary legislation—in particular, the criteria that the Local Government Boundary Commission for Scotland will use when drawing up new wards. As part of the bill process, we are interested to hear the committee's views on what those criteria might be.

To achieve our partnership agreement commitment, we will examine all the committee's views. We want to get the bill right and to respond to concerns when we can. The STV working group is already considering some practical issues that the bill raises, many of which were mentioned in evidence. The group is tackling some of those issues head on and will recommend how to overcome them. As members are well aware, the group has just presented an interim report of its findings.

Other issues in the bill concern councillors' allowances and widening access. Those measures have attracted consensus in many parts. There is little doubt about the need to modernise the allowances system for councillors and to provide for pension arrangements, which I and others strongly believe are long overdue. However, it is essential that the new arrangements are devised by an independent committee, which the bill will establish. After that, ministers and the Parliament can consider robust proposals for new arrangements.

The bill is another step forward in our modernising agenda, although we recognise that it is not popular with every councillor in Scotland and it creates challenges for us all.

The Convener: I request that members ask questions on the bill's general principles and on the voting system. We will go into more detail later.

Dr Sylvia Jackson (Stirling) (Lab): I will ask about two issues that the chair of a rural community council has raised with me. He said that he read and reread the explanation of the

STV system but could not understand it. After asking the chair of another community council to explain the system, he still concluded that it was cumbersome, slow and confusing. How do you react to that? How would you convince him that he should go for the system? As he represents a rural ward, the chair of the community council is also worried that, to have a ward of three or four members, the ward area will have to be large. He thinks that the ward-member link will be missed.

Mr Kerr: When people try—as we have done—to set out how the process will work, that will involve complications and making mathematical calculations. However, it is easy to explain the principle of proportionality in the system, if not the technicalities. People might struggle over the technical detail, but we can explain that expressing their preferences under the system will allow the system to work for them by better reflecting how they want their views to be represented.

The issue is about using the system. We need to spend much time explaining the system to people. However, once they have used it, they will have some understanding. Before the system was introduced in other countries, people had a similar view about how it would work. We have considered the systems throughout the world, which have been adapted to suit local circumstances and work well. Likewise, we think that our system is adapted to suit Scottish circumstances.

Having three or four members per ward is a key aspect of the bill. The five McIntosh principles of proportionality, the councillor-ward link, a fair chance for independents, geographical diversity and a close fit with communities are critical in our thoughts. We must decide how we will balance those issues. We are fully confident that having three or four members per ward reflects the crucial aspects of the member-ward link and proportionality. With three or four members per ward, the system is sustainable.

Urban representatives and councillors from urban areas have talked to me not only about the geographical size of wards but about the potentially huge electorate size. A balance has to be struck on both aspects. We reckon that having three or four members per ward is just about right to obtain proportionality and maintain the member-ward link.

The Convener: Other members want to talk about the number of councillors per ward, but I would prefer to keep that issue for a little later. I ask members to hold their questions until we go into the matter in detail.

Dr Jackson: Do you want me to ask about e-counting now or later?

The Convener: Later.

14:15

David Mundell (South of Scotland) (Con): Andy Kerr puts a good gloss on the issue, but in reviewing our evidence I found only one person who was positive about STV: the Liberal Democrat leader of East Dunbartonshire Council. I want to consider the evidence of the two professors, Professor Curtice and Professor Miller. In essence, Professor Miller said that we should do something as major as changing the voting system only if we have a good reason for doing so. Professor Curtice's general analysis was that the proposals would not make a significant change to the outcome in many councils. What is your good reason for changing the system?

Mr Kerr: My good reasons for changing the system go back to work that has been carried out in previous years. The McIntosh and Kerley reports have been widely consulted on and widely discussed and a great deal of consensus has emerged about them. There is an historical pattern. Another aspect is the consultation in 2002, during which Peter Peacock and I visited every council in Scotland to discuss the proposals. The vast majority of the responses that we received were in favour of some form of proportionality and, of those, the vast majority were in favour of STV.

Councillors have said that when they chap on doors or have surgeries, people do not say that they want STV for local council elections. I fully accept that. However, that does not make the proposals right or wrong. When we raise the issue for discussion, people express a view on it. I fully accept that the issue is not on the tip of the tongue of people in communities, in the post office queue or in the pub. In the consultation that the Executive carried out on the McIntosh and Kerley reports, a clear and absolute majority of the responses were in favour of some form of change. I think that the figure was 960 out of 1,020-odd, but I can send the details to the committee later. The root of the proposals is that it was clear from the consultation that there was a desire for change.

David Mundell: There have been a number of discussions about voting systems. Indeed, your United Kingdom leader, Mr Blair, instigated one that was headed up by Roy Jenkins. Bill Miller said that STV is "excessively complicated" and "incontestably opaque" and that it therefore should be rejected as a voting system.

Mr Kerr: It is unfortunate that you have picked your witnesses selectively. We might also mention that Professor Farrell, Bob Benson of the Disability Rights Commission, Rona Fitzgerald of the Equal Opportunities Commission and, arguably, Jeremy Beecham of the Local Government Association were positive about what the system will deliver for their interest groups and about the system overall.

You asked where the proposals come from; my answer is that they come from the detailed work of the McIntosh and Kerley expert committees, a huge consultation, visits to every local authority in Scotland and a response that was massively in favour of some form of change.

Michael McMahon (Hamilton North and Bellshill) (Lab): Minister, you have referred to the breadth of—mostly academic—support for the principles of the bill. David Mundell referred to the evidence from the Liberal Democrat leader of East Dunbartonshire Council, who, although he challenged many of the bill's details, especially on STV, supported the bill, because it is a political fix. Do you accept that the bill is a political fix and do you believe that a political fix is a good principle on which to base a bill?

Mr Kerr: Let us be clear: I used academics in defence because Mr Mundell used academics in attack and I thought that it was appropriate to balance the situation. I did not intend to use academics in defence because the Executive has a clear underpinning principle. I return to my earlier comment that the proposals come from the McIntosh and Kerley reports. Those reports were not fixes; they were an attempt to engage with people in local government and beyond—covering consumer interests and wider interests in civic Scotland—on the subject of electoral systems. There was a coalition around the idea that the electoral system for local government should change.

As the proposals are part of our partnership agreement, they are part of what the Executive seeks to achieve. I do not call that a fix; I call that working with the arrangement that we have in the Scottish Parliament, which does not use a first-past-the-post system. By virtue of that fact, discussions are carried out and partnership agreements are sought. There is an historical underpinning, in the McIntosh and Kerley reports and in the 2002 consultation, and there is a partnership agreement between two political parties, which seeks to deliver the proposals. The term "fix" is beyond the pale with regard to how we have come to our conclusions.

The Deputy Minister for Finance and Public Services (Tavish Scott): The McIntosh commission was set up by the Government of the day and the Kerley group was set up by the Scottish Executive to move forward the principle of a proportional system of elections to local government. Everything that flows from that is based on the principles that came out of McIntosh and Kerley, which Andy Kerr described in his previous answers.

I thought that Mr Mundell quoted Professor Curtice selectively, but that is Mr Mundell's wont in life. Professor Curtice also said:

"The main characteristic of the proposed system is that voters will vote for candidates, not for parties."—[*Official Report, Local Government and Transport Committee*, 2 December 2003; c 305.]

Therefore, the committee's evidence has clearly illustrated other principles.

Michael McMahon: On the evidence that we have received, very few local authorities support the bill. Of the two that do, one criticised the bill's content and accepted it only on the basis that it is a political fix. That is not a great endorsement of the bill by those whom it will affect, which plays heavily with the committee. If we do not have the confidence of the local authorities in bringing about a transformation in local government, surely we should take that into consideration when deciding whether to support the general principles of the bill.

Mr Kerr: Local authorities have selectively picked out many of the barriers to the introduction of the proposed system and used them to undermine the principles of the bill. We will probably discuss the detail of that in due course.

I go back to the wide consultation that we carried out throughout Scotland on whether we should have first past the post, STV or another form of electoral system. The consultation response in 2002 was massively in favour of change. An element of the consultation was a postcard campaign but, even so, there was still a huge majority in favour of the change. It is the job of the Executive to represent not only the views of local government, but the wider community interest. The committee has taken evidence from the Equal Opportunities Commission and the Disability Rights Commission. There is support in the wider community for the proposals.

I fully appreciate the points that have been made by local authorities. I have visited many councils in an attempt to deal with some of the more spurious arguments that have been made about the introduction of the proposed system and to persuade them to accept our arguments.

Paul Martin (Glasgow Springburn) (Lab): Tavish Scott referred to the McIntosh report in his exchange with David Mundell, but that report also recommends that independents should have a fair chance. Do you agree that independents would be disadvantaged by the STV system?

Tavish Scott: No, I do not agree on that point. In a system where the voter can rank candidates 1, 2, 3, 4 or 1, 2, 3—and let us recognise that independents generally are elected in the more rural parts of Scotland, where the evidence shows there may be more connection between the character, if I may put it that way, and the voter— there is every likelihood that independents will continue to be elected in large numbers. Indeed, I

come from a part of the world where we have an independent council and I do not see any barrier to there being an independent council in my constituency after the next local government election, if that is what the people choose, because the system is based on the voter having choice.

Paul Martin: I appreciate that at the moment independent members are advantaged in some way with much smaller constituencies, but, with multimember wards, which might have an electorate of up to 24,000, it might be more difficult for a local single-issue independent candidate to be elected. Am I correct in saying that? Are independents more advantaged by the first-past-the-post system or are you saying that they are more advantaged by STV? If you are, that would go against the evidence that we have received from independent councillors.

Tavish Scott: I suspect that some independent councillors will have come to a view about their present situation and may feel challenged by the proposals. That is entirely understandable. However, I do not accept that they will be disadvantaged by the introduction of STV. I believe that individuals who stand as independents have a strong possibility of being elected in similar if not greater numbers, if that is what the electors want. Single-issue candidates have stood for the Scottish Parliament in large constituencies and they have gathered enough votes to be elected as constituency or list MSPs. The evidence therefore suggests the opposite to what you are saying.

Paul Martin: I want to ask about voters' understanding of the electoral system. We would all accept that, with the present first-past-the-post system, there is greater—

The Convener: May I ask you to keep that question for later, Paul?

Paul Martin: I just want to clarify this, for my own benefit. You want us to ask about the general principles and we have already been discussing STV. That is what I want to come to.

The Convener: Okay.

Paul Martin: Does the minister accept that voters will never completely understand the STV system?

Mr Kerr: I do not think that it is fair to say that. I am not sure that people need to have a first-class honours degree in the system. It is important that they understand broadly what we are trying to achieve, that they have confidence in the counting system, that they have a broad understanding of how it works and that they know what happens to the mark or number that they put on their ballot paper. Some people make mistakes on first-past-

the-post ballot papers. We will certainly try to reduce the possibility of mistakes and, when we come to questions on specifics, we may want to discuss innovative ideas for educating and helping voters in what could be a confusing situation—although we hope that it will not be.

Paul Martin: The electorate clearly understand the counting of the first-past-the-post system and the way in which a result is achieved. John Morrison, the leader of East Dunbartonshire Council, said in evidence to us that the STV system is easy to understand. However, unless the ministers can convince me otherwise, I feel that most people will never understand the counting method of the STV system as easily as they can understand the simple first-past-the-post system.

Mr Kerr: Voters will understand that they put the number 1 for their first choice and then number their other choices. We will explain to them that those choices will be redistributed to others and they will understand that. That kind of thing happens with everyday choices in life—our real choices, the other choices available and how they relate to one another. I do not accept that people will never understand the new system. I would ask whether people need to understand all the mathematical possibilities of the voting system. Perhaps not, but they will understand—when they vote 1, 2, 3 and 4—the relationship between those votes and how they will be redistributed.

Iain Smith (North East Fife) (LD): I am not sure that many people round this table fully understand the d'Hondt system that we use to elect members of this Parliament, but that does not stop us using it.

There is a danger that we will concentrate on the evidence that the committee has chosen to take on the bill, rather than on all the evidence that is available. Will the ministers go into a little more detail on the extent of the consultation on proportional representation, and STVPR in particular, over the past few years? How has that led to the bill?

14:30

Mr Kerr: Members have had a number of Scottish Parliament information centre documents and Tavish Scott and I have both referred to previous work in the area. As I said, either Peter Peacock or I stood in every council chamber the length and breadth of the country and explained the available options and choices. Doing that was a refreshing experience for both of us. It cannot be argued that we have not tried to access the views of organisations and people who have a wider interest in the issue or that those organisations and people do not understand the proposals.

Executive consultations are wide in their scope and we received substantial evidence in support of changing the system.

The issue is not just about the list of witnesses with whom you have discussed the matter or even the list of people whom we have consulted and whose responses we have taken on board—and there is a lot of paper to show that we have done that. It also comes down to the fact that my previous deputy, Peter Peacock, and I took the matter out into every council chamber. That is significant, because it shows that the Executive has been upfront about the choices that are available to local councils and communities.

Iain Smith: Do you also agree that people such as Councillor John Morrison who have expressed concern about some of the bill's details are not necessarily expressing concern about its general principles?

Mr Kerr: I am sure that we will be able to overcome some of the issues that were raised in evidence to the committee when we enter into substantial discussions about the detail of the bill.

For more than 20 years, local government has shown itself to be creative, innovative and responsive to change. Indeed, I would like to think that I have been part of that process. I think that this is another occasion to which local government will rise, respond and make the change.

Mr Bruce McFee (West of Scotland) (SNP): Convener—

The Convener: Bruce, do you want to ask a question on the general principles? If not, I want to move on to other areas of questioning.

Mr McFee: My question is not on general principles. I just want to move the discussion on a bit.

The Convener: We have taken a lot of evidence on the issue of ward sizes, particularly with regard to proportionality, geography and the size of the electorate. I encourage members to ask questions on that subject.

Mr McFee: Mr Kerr, you said that you wanted to remove barriers, but I feel that a couple of barriers have been put up in the past few minutes. Moreover, you also said that three or four-member wards are about right. However, that is one of the potential barriers that you are putting in the bill unnecessarily. Instead, you should be taking more account of the STV working group's comments and the Kerley recommendation that there should be three to five members per ward. In many cases, such an approach would ensure that there was more proportionality. Furthermore, we should be able to bring the number of members per ward down to two if geographical circumstances so dictate. After all, two-member wards are perhaps

the largest that one could reasonably expect in a number of areas in Argyll and Bute and the Highlands.

Do you accept that, if you are interested in achieving a close fit between council wards and natural communities, a three or four members per ward model will provide a limited number of patterns within a local authority area where the number of councillors has already been determined? Surely such a model would somewhat restrict the room for manoeuvre. I am encouraging you to reconsider a three to five-member model that can in exceptional circumstances have two-member wards, because that would provide a far better opportunity for local authority ward boundaries to fit populations.

Mr Kerr: We have to strike a difficult balance with regard to the ward-member link, proportionality and other McIntosh principles. To be fair, I must say that we received the STV working group recommendations only a week or so ago, and I want to take some time to consider its views on the matter. However, I am sure that it is not beyond the wit and wisdom of the Local Government Boundary Commission for Scotland and local government to deal adequately with the three or four-member ward model. Ministers have a duty to sit down and consider the working group's findings. I want to spend more time with the committee chairman and analyse the report more before I make any absolute pronouncements on the matter. I think that three to four members per ward is well grounded and that it can and will work. However, I acknowledge in particular the view that the STV working group expressed and I need to consider it carefully.

Tommy Sheridan (Glasgow) (SSP): On the same track, you have referred to the evidence that we have received so far. It is difficult to keep up with all the evidence because there is a large volume of it, but do you accept that every single piece of evidence that we have had on the working of STV from the academics has argued for a minimum of five members per ward, not three to four?

Mr Kerr: On my scan of the evidence to date, I accept that point.

Tommy Sheridan: Do you further accept that McIntosh and Kerley, to which you have referred, also refer to three to five members per ward? Do you accept that the STV working group that the Executive established refers to three to five members per ward?

Mr Kerr: Indeed.

Tommy Sheridan: Do you not think that a pattern is emerging that three to five members per ward is the consensus, rather than three to four?

Mr Kerr: I say in response that there are views in local government and elsewhere about the value or otherwise of the STV system and about the number of members per ward. Those who oppose the principle completely did not on the whole express views about whether there should be two, three, four or five members per ward. The Executive's task is to ensure that we reflect adequately what I argue are the two big twin demands around McIntosh—proportionality and the councillor-ward link. As I say, I think that three and four-member wards are sustainable. I worry about council wards in which there could conceivably be 30,000 people; an urban ward in Glasgow could have 30,000 people, which is difficult. If that is the maximum size it causes some concern. There are arguments about the matter. The job that Tavish Scott and I have is to sit back and listen to views. As I say, we want time to consider the response to the STV working group.

Tommy Sheridan: Professor Farrell, whom you referred to and who is certainly the British expert academic on the topic, states explicitly that a minimum of five members per ward is required for any level of proportionality. Do you concede, given the weight of evidence that the committee has received and the contents of the interim report from the working group that you established, that you have to be prepared to consider changing the bill for the first stage debate in order for it to reflect the responses that we have so far received to the consultation? Do you concede that that is at least a possibility?

Mr Kerr: On the first point, I will need to go back to the evidence. I did not pick up that Professor Farrell made the point that the absolute minimum should be five members per ward. I do not accept that point, because we have to balance proportionality with the member-ward link.

We talked earlier about listening to local government. The key concern that was reflected by councillors is not political: there is a genuine desire on their part not to lose connections and links with their communities. They want to be seen as local champions and local agents of change, and they want to represent their communities' interests. It is all well and good to say that there should be five members per ward or more, but we must try to balance the two competing demands of proportionality and the member-ward link, which is also a critical part of the local councillor's job.

Tommy Sheridan: The second part of the question was to ask you to concede, given the weight of the evidence, that you might be prepared to make changes that reflect the weight of evidence.

Mr Kerr: I have said that I consider three or four members per ward to be sustainable, but we need

to consider further what the STV working group said.

Tommy Sheridan: It is important to clarify the point, because it is important in relation to the evidence from East Dunbartonshire by Councillor Morrison, who has been much maligned. He is from a council in which the Lib Dems received 34 per cent of the vote, but 50 per cent of the seats. He benefits from the first-past-the-post system but is still prepared to recommend change. I am afraid that all the evidence that we have received against STV, including from Pat Watters—whose party got 48 per cent of the vote but 76 per cent of the seats—indicates clearly that there is a vested interest among some of those who have given evidence to retain a voting system that does not accurately reflect the wishes of the electorate. Do you agree?

Mr Kerr: No, I do not agree. Those who advocate the first-past-the-post system have made a clear case for it, which they have the right to do. That case includes the importance of the member-ward link, decision making in councils and making progress on manifesto commitments. It is dangerous to use the evidence selectively, as you have done. Councillors have expressed to me their desire to be excellent representatives of their communities, as many of them are. They want to be available in their local communities to deal with all the problems that councillors deal with, and they have a genuine desire to make sure that that link is not broken. We should give them some credit for that.

The matter is not about political self-interest but about how best to serve the community. Rational and valuable arguments are made on both sides of the debate and the Executive has to distil them into a means by which to benefit proportionality and ensure that the member-ward link is retained.

The Convener: You referred to the possibility that ward populations will be as high as 30,000 if we move to a five-member system. Are you aware of the evidence that was given by Jeremy Beecham on ward sizes? He said that councillors in Birmingham have ward sizes of up to 24,000 and have expressed concern about the size of their wards. Through the bill, there exists the potential for ward sizes in Edinburgh and Glasgow to be as high as 24,000. Do you think that that is a significant factor that the Executive should take into account in judging the correct overall balance?

Mr Kerr: That is a fair point, but I took heart from much of Jeremy Beecham's evidence, especially from what he had to say about the way in which local councillors take a mature approach. When councillors get down to work in their communities, they address questions about the best way to represent people and share

responsibilities in large wards to ensure that there is no duplication of bureaucratic effort, such as members taking up one another's cases, which can happen. I take your substantive point, but Jeremy Beecham's wider evidence suggests that even in big wards, councillors get down to business to deliver for their communities.

Dr Jackson: I have two questions. My first is about multimember wards and the STV working group, which has produced its interim report. The report seems to say that, in practice, informal arrangements are made between councillors on the ground, but we are not told how good they are. We asked the working group about research on that, but we did not get an answer—I think that it was trying to get information to give to the Executive. I wonder where the working group gained information from, other than from councils in Northern Ireland and the Republic of Ireland. If you know where else the information came from, perhaps you could elaborate on that. What seems to come out of the report is that it is important that broad principles be drawn up. How will you balance those broad principles with the need for flexibility that is reflected in the evidence that has been collected from Northern Ireland and the Republic of Ireland?

My second point is that when we collected evidence, there was great concern that the rules and criteria for local government boundary reviews should be in primary or secondary legislation. I would like to know the reasoning behind your belief that such rules should not be in primary or secondary legislation.

Mr Kerr: I ask Sarah Morrell to answer the first question on the working group.

Sarah Morrell (Scottish Executive Finance and Central Services Department): As Dr Jackson mentioned, the working group considered evidence, much of which was anecdotal, from the Republic of Ireland and Northern Ireland. It had access to a small piece of research by the Electoral Reform Society on how multimember wards operate in Ireland. It also had contact with some councils in England that have multimember wards. The working group found that there was a lot of anecdotal evidence and a lot of talk about how things operate, but that not much of it is written down. Its contact with academics such as Professor David Farrell suggested that there has not been much research on the subject. The working group therefore asked a researcher to do a desktop survey of the material that is available, and that exercise has nearly finished. The working group has not yet had the final report, but it is talking about commissioning further research on how multimember wards operate in practice because of the point that Dr Jackson raised about the shortage of information.

14:45

Tavish Scott: I think that Sylvia Jackson asked the Electoral Reform Society to provide some evidence on that matter. I was interested to read the other day a letter that was sent to all members in September about how multimember wards work in practice and the reflections of councillors of all political persuasions in England on that. The letter also covered whether the informal relationships work well and whether the councillor-ward link was stronger than in single-member wards. The very strong consensus across all political parties was that the link is stronger, partly because of the informal arrangements. The research paper "What councillors think"—I presume that it has been sent to the committee—indicates that there is broad support for how multimember wards work in practice. I suppose that that to some extent answers the question.

Dr Jackson: How will you balance broad principles with flexibility? Much of what makes the system work in practice is in informal arrangements, which might depend on political parties.

Mr Kerr: You are talking about the relationship that will exist between councillors in a multimember ward. I was concerned about that, but I took heart from what Jeremy Beecham said to the committee. He said:

"the fact that there are three members to a ward has not led to difficulties in respect of pressures on individual councillors. In fact, the contrary is true to some degree. … it has been helpful to have been able to share responsibilities in representing what can be quite a sizeable electorate."

He goes on to say that such sharing of responsibilities happens in wards in which there are different political parties. Indeed, he talks about one in which there were three different parties and the situation worked fairly effectively. He gave quite a stream of evidence on that point.

Once councillors get down to it, they will sort the working arrangements out. The reason why people become councillors is so that they can serve their communities; councillors will work to the best way of doing that and I strongly believe that, as Jeremy Beecham's evidence suggests, they will manage to do so.

Dr Jackson: I will ask another question, because—

Mr Kerr: I still have another question on which to come back to you.

Dr Jackson: Jeremy Beecham also said that he was not sure that he would like an STV system similar to the one that we envisage. He also said that the working relationships might be different from those in England, so he also gave contrary advice to that which you quoted.

Mr Kerr: I take your point about the principle of what Jeremy Beecham said, but he said:

"one ward in Newcastle had councillors from three different political parties. I do not believe that that occasioned any special difficulty on the ground."—[*Official Report, Local Government and Transport Committee*, 6 January 2004; c 487.]

He also said many other things that suggest, as I think is the case, that councillors are hard working and level-headed people who will find the best ways to work in multimember wards. They will not want to burden their authorities with investigations of the same issues—for example, that a swing park is subject to vandalism and needs to be repaired—happening three or four times; they will approach such issues in a normal commonsense way and they will split their resources and work effectively for their communities. I have worked with councillors for 20-odd years and I think that they will get their heads round the system.

Dr Jackson: There was a second question.

Mr Kerr: There was a substantial question on what is and is not in the bill. I will try to deal globally with that issue in order to address Sylvia Jackson's point.

The bill is about choices. We want to ensure that there will be—through the primary legislation—enough scrutiny of what we seek to do at a strategic level with the changes. That approach is evidenced by the legislation that the Executive has introduced to date. However, as many members accept, not every detail goes into primary legislation. I was interested to read that the Northern Irish legislation on the matter is seven lines long, but that is not the way that we seek to go in Scotland.

The debate is about what we include and what we leave out of the bill. Secondary legislation has a role to play in many aspects of the system for which we have opted, including the aspects that Sylvia Jackson mentioned and issues such as remuneration. To include those in the bill would be difficult and unwieldy in future if matters change. Secondary legislation is still accountable and is a significant aspect of Parliament's work.

It is clear that Sylvia Jackson has a view on the matter, but I do not see that the issue is difficult in terms of scrutiny and accountability. We tried to get as much as possible in the bill—indeed, some people have argued that there is too much detail in it. We have clearly pointed out that we are going to use secondary legislation.

David Mundell: I am glad that Andy Kerr places such weight on Sir Jeremy Beecham, because Sir Jeremy told us that he did not know of anybody who would support the particular form of PR that we are considering here in Scotland.

What are your views on there being different sized wards in the same council area? If you support that proposal, what is your view of the evidence that we have heard that the system would be open to gerrymandering because different levels of political support could produce different results depending on the number of councillors that were elected?

Mr Kerr: I hesitate to say it, but for a Tory to accuse anybody of gerrymandering is quite something; however, that is another matter altogether. I take David Mundell's point to mean that he does not want to have that opportunity. Clearly, we do not want the potential for that to happen, either.

I am completely aware of Jeremy Beecham's view. I have to say that he provided some explicit references as to how the English system works locally and how it can work effectively locally. It is not worth throwing the baby out with the bath water. It is clear that we need to continue our discussions with the STV working group and, indeed, the discussion about the work that the boundary commission will do in relation to different ward sizes.

I expect the boundary commission's perspective on the matter to be that it wants to ensure that the current ward sizes are reflected in the new arrangement. Again, that is not rocket science. There is enough scrutiny of the system in Scotland, including of the work of the boundary commission and of ministers, to ensure that gerrymandering does not happen.

It could be argued that we live in a goldfish bowl in respect of the work that we do in the Scottish Parliament. I am sure that I and others will be made accountable for the decisions that are taken. Indeed, the boundary commission would also be accountable if ever gerrymandering was the outcome. We want a sensible solution to the problem of boundaries. There always exists the potential for gerrymandering, but I am absolutely confident that it would not happen, given the way in which the Executive seeks to approach the matter and, indeed, given the way in which the boundary commission seeks to approach it.

David Mundell: Perhaps you will give the committee a clear view on whether there should be different-sized wards in the same local authority area. I am thinking of there being a three-member ward and a four-member ward in the same area. I think that you would accept that, for example, four three-member wards might produce a different result from three four-member wards.

Mr Kerr: My view is that we should try to get the best possible fit for the community. That might lead to three three-member wards and one four-member ward or to all wards being four-member

wards or all being three-member wards. We have to be absolutely aware of the circumstances and reasoning behind all this, the initial key aspects of which are to reflect the needs of communities and to retain the member-ward link. David Mundell is asking me to look into the future. I cannot say that gerrymandering will not happen, but the mechanisms of and the focus and attention that is being paid to the subject should ensure that it will not.

The Convener: I will press the minister a little bit further. I am not so concerned about gerrymandering. Have you considered the possibility of different outcomes depending on the number of councillors per ward, in terms of the proportionality of the result? David Mundell's question was not necessarily about deliberately gerrymandered results but about whether there could be accidental effects on the result if—as been suggested—rural areas predominantly had small numbers of councillors per ward and urban areas predominantly had the larger numbers.

The difference in the proportionality of results would be increased if ward sizes were increased to between two and five, as some people suggest they should be. That could result in rural areas with a very small number of electors per councillor having a higher hurdle to jump in terms of the proportion of votes that an individual or party would require in order to be elected. By comparison, urban areas with very large electorates per councillor would have a lower hurdle to jump in terms of the proportion of votes a councillor requires to be elected.

Mr Kerr: I think that changes to ward boundaries could potentially affect political outcomes. If we were to draw a line around a bungalow in Paisley we could affect the outcome of an election. The boundary commission's remit is to reflect community ties and to ensure that there are appropriate numbers of members in areas. That is how we want things to be done. People correctly talk about large rural wards, but there are also large urban wards, as I said in my opening remarks.

I have reached no fixed conclusion. I want, as part of the process, the committee and others to come to me to offer views. I do not think that it is helpful to have huge numbers of electors in one multimember ward, so we must strike a balance in terms of proportionality and the member-ward link, which is a subset of the argument about the size of individual wards. I have no instant solution, but I have faith that, collectively, we and the agencies with which we work will get it right.

Michael McMahon: I return to the question of what should be in primary, as opposed to secondary, legislation. Before the committee makes a recommendation on the bill, it is important that we at least try to decide whether it is a good idea to buy a pig in a poke.

Concerns have been expressed about the approach that will underpin the boundary review, which will affect our consideration of the bill. We do not know in advance whether the boundary commission will start with a clean slate or whether it will build new multimember wards on the basis of existing wards. The principle that the commission must match multimember wards with existing communities and ensure that there is a fit—as the minister said—between wards and communities will be more difficult to adhere to if the commission operates on the basis that it will bring together existing electoral wards rather than start with a clean slate. The bill does not tell us what the commission will do, but it is important that we know before we make a decision.

Mr Kerr: With due respect, I am not sure whether we would want the primary legislation to indicate whether there will be a clean-slate approach or a build-up from previously existing wards. That is my view, although I accept that yours might be different.

We set up the STV working group to advise ministers and we need to take more time to consider the information that is in the group's interim report. I have not reached a view on whether or not to support the group's recommendation—I appreciate that that does not help you.

Michael McMahon: I understand that it is important that the Executive knows about the group's deliberations, but would it not be a good idea to let Parliament know too, before asking it to give ministers the power to make that decision?

Mr Kerr: I am not sure whether I followed the question correctly. I understand that the working group's interim report is publicly available. Is that what you meant?

Michael McMahon: But you have not made a decision. Surely Parliament should know whether it could make a decision on the matter, rather than give the Executive that power.

Mr Kerr: Whatever decision we make will come back before Parliament in some shape or form. It would be worrying if I told the committee, "We have had this report for a week and I have signed off X, Y and Z but not A, B and C." To be honest, the report was quite surprising in many ways. I do not know whether you share that view of its content—you had an interesting exchange of views with David Green on the matter. I am not trying to be difficult; we need to consider the matter, but members can rest assured that the conclusion that Executive ministers come to, whatever it is, will come before Parliament. I would argue that ward changes could happen through

secondary legislation. I will respond publicly to the report as soon as we have had an opportunity more carefully to consider its conclusions.

Michael McMahon: Will the committee know your recommendations before it has to make a decision about the bill?

Mr Kerr: I am just not sure about that, Michael, but I will consider the point closely.

Paul Martin: I have two questions. First, the committee has heard evidence from academics, a number of whom referred to the question of three and five-member wards. I remember that Professor Farrell referred to the system in New South Wales, where there are 21-member wards, but can we use the analogies of systems in other countries? We compare the proposed system with the ones in, for example, Northern Ireland or the Republic of Ireland, which are very different. For instance, the statutory responsibilities of local government in Ireland are very different from what is proposed in the bill. New South Wales is also quite a different environment. Can we clear this point? Although it is interesting to have such comparators, they are not always like for like.

15:00

Mr Kerr: I do not have a difficulty with that. Certain principles of electoral systems are established throughout the world, but it is for individual countries to come to their own conclusions about implementation and how the systems work on the ground.

Paul Martin: So, we should devise our system on the basis of our own experiences rather than pin its fundamentals on commentary from other countries.

Mr Kerr: It would be strange if we did not look beyond our own shores, but your substantive point is correct. As I said earlier, we need a solution to meet Scotland's needs.

Paul Martin: Can we come back to the point about independent members? I do not think that we quite dealt with that. The minister raised the example of Shetland, where a large number of the candidates are independent. I am concerned about the transfer opportunities for independent members. I appreciate that this is a technical matter, on which Sarah Morrell can perhaps comment. For example, one independent member standing for election in a five-member ward would be seriously disadvantaged as compared with an independent candidate in Shetland, where there might be five independent council candidates.

Mr Kerr: I think that you are saying that one independent member in a sea of party-political candidates might have a higher hurdle to leap.

Paul Martin: Absolutely.

Mr Kerr: That view would probably receive some support because that is an actuality of the system. However, that is not to say that it is impossible for an independent candidate to be elected, as single-issue candidates have been successful in the elections to the Scottish Parliament.

Paul Martin: Yes. First-past-the-post candidates have been elected to the Scottish Parliament.

Mr Kerr: Single-issue first-past-the-post candidates.

Paul Martin: Yes, although John Swinburne is a party candidate. However, in local government elections, those candidates would be disadvantaged in five-member wards in which there were four parties and one independent candidate.

Tavish Scott: I am not wholly convinced by that argument. That situation exists not just in Shetland, but in the Highland region and other large areas of Scotland where—as Mr Martin will accept—many independent candidates are elected. Members of political parties are also elected in those localities.

Unless I am missing the technical point, I do not think that an independent candidate standing in a four-member ward against three party candidates—for example, in Inverness, where there would also be candidates from political parties—would be discriminated against by the system. They would have every opportunity to cross the threshold and be elected in the ranking system that would exist. Of course, we will not know that until we see the system in operation, but I see no fundamental hurdle that would prevent an independent candidate from being elected in a slate of political candidates.

Paul Martin: I do not think that that answers the question. Perhaps Sarah Morrell could comment on it. There is an issue about independent candidates not enjoying the same transfer opportunities that party candidates enjoy. Maybe I am getting it wrong, but I would appreciate some technical advice on that.

Mr Kerr: It is all down to local circumstances. A save-the-local-school candidate could run amok in the system and get over the threshold without any difficulty. Are we talking about a standard independent candidate? I am trying to understand your question. Substantially, I do not agree with your view, but I am trying to explain why I think that the system could work.

Paul Martin: It is the transfer of party votes.

Mr Kerr: But votes can be transferred to independents. Many Labour Party members voted

for the Scottish Green Party in the additional member system for the Scottish Parliament elections. They used one vote for Labour and then they voted Green, or for other parties that are represented at this table.

Tommy Sheridan: Is that what you did with your vote?

Mr Kerr: You can rest assured that I did not, but that is another matter entirely. It is not beyond the wit and wisdom of the electorate to decide to use their first vote for their party, their second vote for an independent and their third vote for their party again. I do not see it as a big issue.

The Convener: I want to take two more questions on that point before we move on to other issues.

Tommy Sheridan: Does the minister agree that if an independent standing in an election in, for instance, a multimember ward of five, were to secure 25 per cent of the vote, they would not need any transfers to secure election? However, if that same independent stands for a first-past-the-post seat and secures 25 per cent of the vote, it is unlikely that they will be elected.

Mr Kerr: That is a fair comment.

The Convener: Did Iain Smith have a question?

Iain Smith: The minister has covered it.

The Convener: Before we move to part 2 of the bill, I give members the opportunity to ask any other questions about the evidence that we have received on whether having three different elections on the same day would lead to voter confusion, on whether the elections should be decoupled, on e-voting, and on other issues regarding the voting system.

Mr McFee: On the section relating to decoupling, there has been a lot of comment about the prospect of voter confusion. Holding three elections on the same day, using three separate systems, increases the possibility of confusion; indeed, the effect of any education or information system is diluted.

I want to leave that issue hanging with the minister and move on to the evidence from returning officers and other senior officials. Grave concern has been expressed about whether they will be able to conduct the counts for the parliamentary elections and the council elections if they are held on the same day. The concern is that the count could easily continue until the Monday following the elections and that there is an insufficient number of staff—particularly senior staff—to cover the procedure.

Given the possibility of increased confusion, the dilution of information because there are different types of elections with different systems on the

same day, and the practical problems, do you consider that there is now a greater case for decoupling the local government and Scottish Parliament elections? The local government elections could perhaps take place halfway through the Scottish Parliament session, or at least some distance from the parliamentary elections.

Mr Kerr: I say from the outset, so that members know where I am coming from, that I am minded to retain the current system. I will go on to explain why, but I am genuinely open to views about the matter.

First, the difficulties and barriers that have been presented, which I have read about—to be fair, I may not have read about all of them—are not insurmountable. We have the capacity and the resources to overcome those difficulties, and a discussion should take place with returning officers about our ability to do that. There are interesting points relating to when we expect the count to take place and when we expect the result to be announced. We seem to have a fixed mindset about that issue, and I am not sure whether what is perceived to be the case is necessarily the case.

I take the point that we will need to be innovative in promoting the systems, educating voters and increasing voter awareness. AMS has worked reasonably well. Although people still have a degree of confusion over who the individual MSPs are, they have a substantial grasp of the list system. I do not think, therefore, that it is a great leap from that to say that they will understand the STV system as well. It is down to us, as MSPs, and others to ensure that that education, promotion and voter awareness take place.

We need to be innovative in how we carry out elections—with regard to, for example, the information that we give out, help desks and the advice that we provide in polling stations—and we need to be much more supportive in election processes. It is a challenge that presents us with an opportunity to be good at the process of elections. The Electoral Commission has produced some interesting data on that—Tavish Scott may wish to comment on those data. I worry about voter fatigue and turnout. On the suggestion that there should be a gap of two years between council elections and elections to the Scottish Parliament, I would say that, on top of those elections, there are European Parliament elections and Westminster elections. I genuinely worry about that issue. Perhaps I should not, but I do.

The system that we have at the moment works. It provides value for money and is electorally viable in operational terms. I think that we can make the leap into the new system without decoupling. However, some interesting evidence

is emerging about what day the election should be held on, what we can expect from the count, and how the count will operate. Like committee members, I am currently considering that evidence and, although I am minded to retain the current system, I am open to other views.

Mr McFee: I hear what you say about turnout. As recent opinion polls suggest that MSPs enjoy a lower public standing than councillors, there is perhaps a danger that the parliamentary election might pull down the turnout for the local government elections.

Do you agree that the increased possibility that confusion will arise if three different systems are used on the same day and the practical difficulties of doing so—I would love to hear what your innovative solutions to those are—add weight to the case for decoupling the elections?

Mr Kerr: On innovative solutions, I am sure that we will have adventurous proposals on voter education and on the role that the ballot station will have in the conduct of ballots that use different voting systems. People might vote at one ballot station for the first-past-the-post election and go to another station to vote for the list and another to vote using the STV system for the local council election. In that way, we could provide clear and concise advice to individuals about how to vote. It is not rocket science to demonstrate to people how to carry out the new process. Although you are right to have concerns about such matters, the matters that you have raised are not insurmountable.

Mr McFee: I have one question to finish off. A couple of members round the table have at various times suggested that the proposals should be piloted in one or two authorities. In your view, would a pilot scheme be feasible, realistic or desirable?

Mr Kerr: I cannot think who might have suggested that.

Under current legislation, we do not have the powers to do that. We are able to pilot how votes are conducted, but we are not able to pilot the actual voting system. Such powers do not exist at the moment and I do not think that we would want them. There is not enough evidence to suggest that we need to have pilot projects.

David Mundell: I will return to the issue of spoiled ballot papers, but first I want to ask about the basis on which you have chosen the system of transferring ballots under part 1 of the bill. In your earlier evidence, you gave your usual answer that if people put down their first, second, third and fourth preferences, their vote will be transferred. However, in the system that you have chosen, people's votes are not transferred in the same way. Some people's votes are transferred several times; other people's votes will not be transferred at all. How can that be a system in which everybody's vote counts equally? Why have you chosen to go down that route?

Mr Kerr: We chose that route after looking at international examples. We also chose it because the way in which the voting system works provides the best outcome in terms of who gets elected and who does not. The system that we have adopted seeks to achieve that outcome; hence it employs the measures that are detailed elsewhere. Those are the two substantial reasons for that choice.

David Mundell: Do you accept that, under the system that you have chosen, everybody's vote is not equal?

Mr Kerr: I am not sure that I would accept that. It all depends on the circumstances of the vote. I am not sure that any system would provide that sort of clear and concise way of doing things.

David Mundell: There are alternatives. For example, all votes could be transferred.

Mr Kerr: What we have tried to ensure is that the overall system is proportional and that the right people end up getting elected; hence the mechanism that we have chosen to employ.

David Mundell: How do you justify the fact that if I vote for somebody who then comes second and whose votes are just below the quota, my second choice votes are never redistributed, whereas somebody else's votes may be redistributed in such a way that their choice is taken over the quota and is elected and their votes are then redistributed again?

15:15

Mr Kerr: We go back to the original point, which is that overall the proposed system gives a better outcome in terms of who should and should not get elected in that process.

David Mundell: I find that a rather odd answer. Surely if we are introducing a proportional system in which everybody's vote counts, we should ensure that everybody's vote is dealt with in exactly the same way.

Mr Kerr: I said in my opening response to you that we want to see the right outcome once the process has been completed. The STV system is the best route to get the best outcome. I cannot answer any better than that. We have examined the systems that are available, and the STV system is the one that best delivers the outcome that the voter intended.

David Mundell: Is the level of spoiled ballots acceptable? We have heard evidence that if we do what is done in Northern Ireland, and run elections on the same day where some ballots require an X

and some require 1, 2 and 3, the number of spoiled ballots will be greatly increased. Indeed, if what happened in the Belfast City Council elections in 2001 had happened here, we would have had 62,388 spoiled ballots in the Scottish Parliament election.

Mr Kerr: You cannot transfer the reasons for spoiled ballots between electoral systems. I am not sure that you can argue that the reason for spoiled ballots was a lack of understanding of the system. That is not a fair comparison to make.

In a previous exchange with Tavish Scott—either in committee or at question time—you talked about turnout, and the turnout in Ireland was significantly greater than ours. What do we attribute to the system and what do we attribute to the locality? We will do our utmost to ensure that the number of spoiled ballot papers is as low as possible in any election. It is our job to carry out voter education, based on advice from the Electoral Commission and other experts in the field, to ensure that what you suggest does not happen, although I cannot guarantee it. Just as Paul Martin correctly argued that we cannot take one model from elsewhere and apply it here, your argument cannot be applied. The issue depends on circumstances, and Ireland is a very different place from Scotland.

David Mundell: I hope that you will undertake to read the evidence, not just from me, because I might be biased from observing the Northern Ireland elections, but from all the professionals who went there, who gave evidence that the overwhelming number of spoiled ballots was due to people putting more than one X on their paper and not to people writing, "You're all useless," which is a more common experience in Scotland.

The Convener: Are you talking from personal experience, David?

Mr Kerr: I will not make that cheap political point. The fact that we have been out there to see what happens should inspire us and make us creative and innovative enough to ensure that we reduce that possibility. My understanding of some of the returning officers' evidence is that we know we will not make similar mistakes in Scotland. I hope that that applies equally to the point about spoiled ballots. I return to my earlier comment: we are big enough and ugly enough to sort out the situation, and I am confident that we can deal with the issue of spoiled ballot papers as well. I am not saying that we can guarantee that, but it is our absolute desire.

Dr Jackson: Where are you in progressing e-counting and e-voting, which could help to address the difficulties that have been outlined to do with having elections for different bodies on the same day and to do with the count? Could you reflect on the experience in the Republic of Ireland, which was that with e-counting one has to be careful that the poor candidate is not told very swiftly that they have not succeeded? There could be a less brutal way of doing that.

Mr Kerr: I take your point about the brutality of it all. It is a clinical process. However, those matters are outwith the scope of the bill. We have a partnership agreement that says that we will seek to reform the electoral system and investigate postal and electronic voting. We need to do more work on that. We are coping with the bill and we will then move on to some of those areas.

I think that there is scope for e-counting and that we must consider it carefully, but e-voting is a completely different matter. There is a mechanistic e-counting philosophy with which we can deal, but moving to e-voting would be a substantial step that is perhaps beyond us at the moment. Nonetheless, I am open to views from returning officers and the committee about the matter. E-voting is not proposed by the bill, but we certainly want to investigate and resource work on e-counting, as I think that it would reduce concerns about elections.

Iain Smith: This year's Republic of Ireland county elections will involve e-voting. Will the Scottish Executive seek to have observers there to see how e-voting works?

I think that New Zealand is considering e-counting. I am not suggesting that the Scottish Executive should traipse off to New Zealand, but will it find ways in which we can observe how e-counting operates? I presume that the key issue is the design of ballot papers and how they can be made readable.

Mr Kerr: No doubt the officials will go to New Zealand and Tavish Scott might get to go to Ireland, but I will end up in Hamilton having discussions with returning officers.

What you say is fair. We are on the look-out. Even if we were not having this debate about electoral systems, there would still be a sustainable argument for e-counting. The current system is fairly bizarre and is like bank-note counting in banks. We are still doing things in a traditional manner and there is scope to make the arguments that have been made. We will consider the international examples that have been mentioned.

Paul Martin: I want to ask about turnout. Is it a concern that the STV system will encourage parties to reduce the number of candidates that they field in each multimember ward? Will that have an impact on turnout? If parties reduce the number of candidates that they field in each multimember ward, I expect that that will have an impact on turnout.

Mr Kerr: The committee has found that parties make political and strategic decisions about the number of candidates that they field, which is up to them, but I must ensure that the system is fair and open. What you have described might happen and international comparisons suggest that it will, but that does not necessarily reduce the political ferocity of the debate or campaigning. It is up to local parties to decide at a local level what they want to do.

Paul Martin: I would like to clarify something. Parties will be encouraged to act by how results come out and, in three-member wards or other multimember wards, they will, in effect, be encouraged to put up fewer members than they otherwise would. Is the fact that parties would be encouraged not to field candidates not bad for democracy?

Mr Kerr: The key issue is that people feel that their vote counts. Whether two Labour members and one SNP member or whoever can be voted for, it is important that people have a political choice. In some areas, there have not been full fields of candidates from the political parties because those parties could not get enough candidates. I do not have a big hang-up about the matter. Democracy would not be greatly eroded if parties fielded fewer candidates. As long as there is a choice on the ballot paper for the voter, that is fair.

David Mundell: I want to clarify how you will deal with issues in the finance—

The Convener: We will deal with such issues once we have finished with the voting system.

Given that changing the voting system is a major constitutional issue and that the Government at Westminster, for example, promised that there would be a referendum on any proposed change in the electoral system, has the Executive considered a referendum for the change in the voting system that the bill proposes?

Mr Kerr: Yes, we have, but we opted not to go down that route because we did not think that such an approach was merited.

The Convener: Has there been any significant support for that approach in representations to the Executive?

Mr Kerr: Not that I am aware of, and Sarah Morrell says no, so I shall take her word for that. I should also say that, although it is arguably quite a difficult legislative process that we have to go through, local councils have powers available locally, and referenda have taken place in the past.

The Convener: My final question is not directly related to the bill, but it is on an issue that my colleague Alasdair Morrison wrote to me about—

whether turnout could be enhanced in elections by a move to some form of compulsory voting. I know that you will be aware of that issue and I know that it is outwith your own powers and the powers of the Scottish Parliament to move in that direction, but has the Executive given any consideration to the issue or had any discussions with the UK Government on it? Do you have any views on the matter?

Mr Kerr: I can honestly say that I have not even discussed it with Tavish Scott. I know that the proposal is out there and that it got some quite interesting media attention on the pros and cons, but we have not discussed it at Cabinet or ministerial level. I would need to come back to the committee on that point.

The Convener: Do members have issues to raise with regard to part 2 of the bill? I realise that we have gone over part 1 quite extensively, so I am prepared to take any questions on part 2—on age qualification and qualification to stand as a councillor, and on important issues of remuneration and the proposed severance scheme.

Tommy Sheridan: Could you comment on the basis for the one-off payment system for those councillors who decide to stand down after serving a period of time in office? Do you think that it is fair that only those who decided not to compete in an election would qualify, while those who decided after 20-odd years of service to fight again, but who found themselves lower down the lists and lost, would not qualify—even though in a first-past-the-post system, rather than a new and more proportional system, they might have won? Do you not think that there is a lack of fairness there?

Mr Kerr: There is a fundamental question about what the system is designed to do. I think that it is designed to recognise the contribution that elected members have made over many years and it is a disgrace that that is not reflected at the moment in any shape or form, other than perhaps by a night out and a clock from colleagues. It is a substantial step forward that we are now in a position to set out more sustainable ways of resourcing our local councillors. Let us recognise that.

The other aspect of the question is that we are in a different set of circumstances. We are having a shift change in the election of our councils. We are trying to reward that contribution, but we are not rewarding candidates when they lose an election. That would be wrong-headed. When new councillors are elected, there will be a pension system in operation, and the remuneration group is working on pay and pension issues at the moment.

A one-off payment is proposed, because we will be going into a completely new environment after

the next local council elections. We have taken the view that some councillors may say, "This is not for me. I don't want to be involved in the new system. I want to get out." Let us reward and recognise that. People getting beaten at the polls is another issue, but people make clear choices. As has been said elsewhere, the new set of circumstances will change the number of disabled candidates and women councillors who will be able to stand, so it will change the shape of local government. We are also trying to allow that to happen.

There are different aspects to the proposal with regard to motivation, but it is justifiable to say, "We recognise your contribution. Thank you very much for making that contribution to your community." We are not saying, "You got beat. Here's a pay-off." That is not what the proposal is about. Similar systems have been put in place in Wales and in Ireland—although if you look closely at those models you will see that there are interesting things going on there.

15:30

Tommy Sheridan: With respect, I hope that you will accept that we have a system of, as you say, rewarding defeat—if an MP or MSP is beaten, they get a reward. It is called a resettlement allowance, but most members of the public would see it as a reward. I agree 100 per cent with the principle that you espoused—that we should recognise the contribution, sometimes long term, of members in local areas. However, you are saying that that principle is important only if members agree to stand down. If a member agrees to fight, the principle goes out the window because they will not qualify, even though their contribution has not changed.

The Convention of Scottish Local Authorities and other organisations gave evidence on the issue. Along with the other proposals that we have raised issues about today, I hope that you will consider refocusing this proposal, which is unfair.

Mr Kerr: We must await the outcome of the councillors' remuneration progress group. I say that as an absolute. However, I do not share your view that councillors are the same as MSPs and MPs. COSLA's survey found that only 26 per cent of councillors considered themselves to be full time. I have scanned the local councillors in my area of East Kilbride: 50 per cent of them work, 25 per cent are retired and the others have not had formal employment in the past. It is a different point to say that allowances should be made for full-time elected politicians who find themselves out of a job. Your argument is based on the point that MSPs and councillors are the same, but I do not think that they are.

Tommy Sheridan: My argument is not based on the point that MSPs and councillors are the same; I mentioned that because you mentioned rewarding defeat. My argument is that a councillor with 20 years' service who decides to stand down is the same as a councillor with 20 years' service who decides to fight an election. I am comparing two councillors: one who decides not to contest the next election and another who decides to try. Your proposal treats them differently, which is wrong.

Mr Kerr: I tried to address that point in my previous answer. We return to the point, on which you will no doubt come back to me, about recognising the contribution made rather than recognising that people chose to stand at an election and were defeated. When people are elected, they will enter a new system of remuneration and pension arrangements that will support them during their time as a councillor. That substantial change justifies the one-off opportunity that we are providing. People will take their choice; I have no difficulty with the choice that we are giving to elected members.

Tommy Sheridan: I am sorry, but if a councillor stands and gets beaten, they will not get the new opportunities that you are talking about—they will get nothing.

Mr Kerr: Correct.

Tommy Sheridan: That is my point. The scheme that you are providing will reward not standing. If that is what it is, let us call it that—it is an inducement not to stand. I do not think that it is a fair inducement, but that is what it is. You cannot justify the proposal by saying that people who are elected will get the benefits—which are long overdue and which we all agree should be introduced—because the people who lose the election will be penalised.

Mr Kerr: You may phrase the matter differently, but I am saying that we seek to recognise the contribution made and to allow people to decide well before the election whether they want to work in the new working environment. If they decide that they want to do so, it will be up to the electorate whether they enter that system. The proposal makes that differentiation, but it also allows those who do not want to go into the new environment to decide that at the right moment.

Mr McFee: I want to pursue the point. You said clearly that the scheme will recognise councillors' contribution to public life, which I endorse whole-heartedly. However, Tommy Sheridan is right that the scheme will apply only to people who decide to stand down before the election. What part of people's contribution to public life will be devalued by them seeking re-election?

Mr Kerr: I am not saying that their contribution will be devalued. As part of the substantial change that will come about in local government as a result of our desire to increase different contributions to local government through the widening access opportunities, we are saying to local elected members, "Here is an opportunity for you. We will recognise the contribution that you have made." In other parts of Britain, such as Wales, although the system worked slightly differently, people made local democratic choices. I do not see why local democratic choices should not be made in Scotland. People will either decide to throw their hat in the ring and go for the new system or they will decide not to stand before the election.

Bruce McFee phrased the question differently, but my response is the same: we will reward the contributions that have been made. However, if someone takes a chance and stands in an election, that is their decision.

Mr McFee: We all recognise the chance that people would take. If you are not devaluing the contribution, you are simply refusing to recognise it. There is a good argument for having a redundancy scheme, but my problem with the proposed scheme is that the Executive runs the risk of being accused of simply having a voluntary redundancy scheme for Labour councillors in order to address internal Labour Party issues. Labour has a number of candidates who simply will not be elected under the proposed new voting system. Therefore, the redundancy scheme is simply a political fix rather than a genuine attempt to recognise properly contributions to public life.

Mr Kerr: I presume that no Scottish National Party members will take any interest whatever in the redundancy scheme.

Mr McFee: Is that your answer?

Mr Kerr: You made a political point and I am making a political point in return. You said that the redundancy scheme would be for Labour members only, but that is not the case. The scheme will be for all members of councils.

Mr McFee: Is not the redundancy scheme designed, predominantly, to address an internal Labour Party issue in Scottish local government? That is why councillors must stand down before the elections to qualify for the scheme.

Mr Kerr: If Mr McFee wants to lodge an amendment to the bill to propose that only Labour members should qualify for the redundancy scheme, that is up to him. The scheme will be for all members rather than just for Labour members.

Mr McFee: I will take that as a yes, given the evasiveness of your answer.

Mr Kerr: All members of councils will be able to avail themselves of the scheme.

Dr Jackson: I will change the subject slightly. The widening access to council membership progress group has taken up my idea of secondment, which would allow prospective councillors—from the business sector, or the education sector or wherever—to get the feel of the job and decide whether they liked it enough to want to do it. What are the minister's views on the secondment idea?

Mr Kerr: It would be a creative opportunity. I have told people in the business community and the private sector in general that I am surprised and disappointed that they no longer encourage employees to participate actively in local democratic structures. Such participation would be a bonus for their employers' businesses. We must work with the business community to ensure that such contributions are recognised and regarded as a valuable additional resource within a business or a company. Public sector employers have taken a much more public service view of the matter. Anything that the widening access group can come up with will be worth discussing.

The part of the bill on membership of local authorities is one of the bill's most important aspects, but it has not had the publicity or the discussion that it deserves. The findings of the COSLA and Scottish local government information unit survey of elected members were disappointing, because there had been no substantial change in the types of people who are councillors. Apart from the fact that they have all got two or three years older, everything has stayed the same—elected members tend to be 50-year-old or 60-year-old males, professional, middle class, in employment, blah, blah, blah. We need to change that aspect of local government.

That is not to give less recognition to, or somehow insult, those who are in the system, who work extremely hard for their communities. Elected members, in the Parliament and elsewhere, all strive to represent their communities more effectively. We do that in the Executive by our employment processes. The widening access group will come up with interesting conclusions, of which secondment could be one. It is important that we allow business people to engage more effectively with local government by getting involved in public service. It is also important that we provide support to parents, including single parents, and disabled members of the community and allow them to feel more involved in local government. We should do, and can do, a range of different things and the widening access group will give us the opportunity to do that.

David Mundell: You will accept Rowena Arshad's evidence to the committee that none of her group's valuable work is predicated on a change in the electoral system.

Mr Kerr: No, but I believe that the proposed change to the electoral system will be a big bang, because there will be an explosion in the number of people who will believe that local government is for them and that access to it has become easier for them. Combining widening access with all the other things that we will do in terms of remuneration and pensions will make the bill a package. The proposals on the electoral system, remuneration, pension payments and special responsibility allowances, added to the widening of access, will create a coherent strategy for real change within our council chambers.

David Mundell: But all those other things could be done without changing the voting system in the way that you propose.

Mr Kerr: Likewise, we could have the part of the bill that proposes changing the voting system without having the other two parts. However, when a bill is about local governance, we should try to draw it in the broadest terms that we can. That is what we are doing.

David Mundell: Indeed, but there is a suggestion that there is a linkage between the parts when, in fact, there is not.

Mr Kerr: I do not know whether you are saying that I suggested there was a linkage. I am saying that the bill provides us with an opportunity to make substantial change in the way in which we elect our councils, in the way in which councillors are treated in terms of pay, pensions and superannuation, and in the councillors whom we elect. The bill is a package.

The Convener: I want to ask about increasing the representation of groups that are not strongly represented on councils, especially women, ethnic minorities and people with disabilities. There is no provision in the bill that requires parties in the future to select a balanced ticket of men and women, for example. Did the Executive consider making that a requirement in the bill or is it the Executive's view that that is a matter for individual political parties? Would the minister encourage political parties to take the opportunity that this change in the system will afford to make their candidates more broadly representative?

Mr Kerr: We do not have the powers to bring about such a change, but I am strongly of the view that, at all levels of the democratic process, parties need to encourage a broader range of candidates. There have been positive changes of late, but that work needs to continue.

It is interesting that we do not present local government very well. We do not present ourselves well as elected politicians. People have a view of local councillors; they think that their job is to sit on committees and to do things that, arguably, are not very attractive. I argue that the life of a local councillor involves fighting for communities, dealing with and solving problems, engaging with people and making big decisions about the future of communities. We do not present the job very well. If we want to widen access and opportunity, we must arrange more secondments and persuade the private sector to be more supportive.

Not everyone wants to be a mad person who spends all their time at the council, from 8 in the morning until late at night. Some people want to be back benchers and to play a role for their community, without going any further. Other people want to be conveners and leaders. We do not present a menu of opportunity in a proper manner. I hope that the work that we are doing on widening access will start to show that local government can be important, that it can be fun and that to be a councillor one does not need to be a full-time crazy person like most of us, who work from dawn until dusk on political activity. There is a way of being a councillor that balances work and life with family and friends. We need to present the job better. We look to the widening access to council membership progress group to devise innovative solutions.

The Convener: Do members have questions about areas of the bill that we have not yet covered?

Michael McMahon: I have a question about funding. Paragraph 11 of the Finance Committee's report on the financial memorandum to the bill refers to Executive guidance on the drafting of financial memoranda, which

"states that Financial Memoranda should be supported by an outline of the Executive's current intention, the financial implications of these intentions and the effect of varying the major assumption."

Earlier, I mentioned that in a couple of areas the bill is almost like buying a pig in a poke. Does that not apply here, too?

Mr Kerr: The standing orders of the Parliament say that we must provide best estimates of what we consider the financial implications of the bill to be. Let us remember that. I am involved in producing many financial memoranda. We want to work with the Finance Committee to improve those memoranda and to make them more effective, but sometimes things are hard to cost. When we introduced the legislation on concessionary travel, we were working on the basis of consultants' reports and with local government to make a best estimate of what demand would be. If members have read the papers of late, they will know that there is a big demand for the scheme, which suggests that we did not get the numbers right. That presents the Minister for Finance and Public Services, in particular, with some issues. We try to make all financial memoranda as accurate as

possible and to present the best possible estimate. That is what we have done on this occasion.

We have estimated the cost of raising voter awareness—some have argued that we have not costed that highly enough—the cost of the committee that will work on remuneration, which is easier to estimate, and the cost of the boundary review. However, if I were to set an amount for remuneration, what would I be saying to the councillors' remuneration progress group? If I said that remuneration will cost £X million, £X thousand or £X hundred thousand, the group would work out how many councillors there were and divide my estimate by that number to produce a figure. If I were to say anything more specific about remuneration, I would be either misleading the committee or having too much influence on the work of the councillors' remuneration progress group. I return to the point that we try to identify as many costs as possible.

I read with interest the exchange about the cost of an STV election. Figures started emanating from contributions, in particular from the Society of Local Authority Chief Executives and Senior Managers. Much more work requires to be done around that. Pat Watters said that he did not know the cost and that more work needed to be done. Our job, through the process of developing the bill, is to get further, better and more accurate advice on financing. However, until the working groups report back, that is difficult for us. The areas that we could cost—promotional campaigns on changing the electoral system, the remuneration committee, voter awareness and boundary review—have been costed. The other areas are more difficult to predict.

15:45

Michael McMahon: If some of those costs—for example, remuneration for the boundary commission and the impact of the decisions that the working groups are coming up with—had been made known to us before we considered the bill, the Finance Committee would not have been able to say, as it has done, that the financial memorandum

"fell short of the expected standard."

Mr Kerr: The Finance Committee's report came out at about half past 1 or 2 o'clock, and I tried my best to get through it. I will respond to the committee on that point.

I am not sure that, if we knew the costs of democracy that are associated with local government, Westminster or the Scottish Parliament, we would vote in favour of any of them. There are principles that underpin the work that we are doing, and the costs are the costs of democracy. We should be vociferous about getting

value for money, but I do not support the argument that, even though democracy is at stake, we should not change the system because doing so is expensive.

David Mundell: You talked about the innovative way in which you will ensure that people are not confused at the polling station and said that you will do that by having more people on duty there— that is what I drew from what you said. Will you fund the costs of having those additional people at the polling stations, so that local authorities do not incur additional costs?

Mr Kerr: That depends on what the election is for. In the past, local authorities have funded their own elections. If the local government elections were held on a different day—as I have said, I am not signed up to that idea—local authorities would have to meet the cost. In the elections of 1999 and 2003, local government elections piggy-backed on the two Scottish Parliament elections. The contribution that is made by the UK Parliament has substantially reduced the cost of elections to local government. I am still mulling those things over, with regard to cost, but if the two elections were held on the same day, I would expect the cost to be met as we currently conduct our business.

David Mundell: You said that you foresaw a system that involved a lot more people as a way of combating the difficulties that might arise with voter confusion. The cost of that will be significantly higher.

Mr Kerr: I question whether the cost would be significantly higher, but that would be one way of ensuring that people understood the system and felt comfortable with it so that, when they got to the polling booths, they would do the right thing with the ballot papers.

David Mundell: So, although you will issue guidance to local authorities on how such things should be done, you are not undertaking to pick up the tab for them.

Mr Kerr: I am happy to discuss the matter with local government.

The Convener: Do you agree that there are potential opportunities for reducing the costs of elections, such as e-counting and postal voting— which would not require polling stations to be manned all day—as well as the move away from the practice of overnight counting that has been suggested by some people?

Mr Kerr: That is right. There are many traditions that we need to reconsider. I talked earlier about how the banks do their counting and how we do our counting. Overnight counting and the impact of payments is another matter. Local authorities have not come to me and said, "Here is some money

back because we held the 1999 and 2003 elections on the same day as the Scottish Parliament elections, saving £X million." I will have a robust discussion with local government about the potential costs of the new system and how we can fund it more effectively. I take your point that the opportunity will arise, in the future, to have a much better system of counting votes, which may be cheaper in the long run.

Iain Smith: I do not expect the Executive to produce a figure before the remuneration committee has been set up, but there is a question about who would meet the additional costs—if there are any—of a new remuneration scheme. Given the fact that the remuneration committee will make recommendations to ministers and that ministers will implement those recommendations, do you think that the Scottish Executive will meet those costs, or do you expect the costs to be met from existing local authority budgets?

Mr Kerr: I expect the costs to be met from existing local authority budgets.

The Convener: As there are no further questions, I thank Andy Kerr and Tavish Scott for their time. It has been a good session. I also thank the two officials, Sarah Morrell and Murray Sinclair, for their attendance. I am sure that the minister is not a full-time crazy person, but crazy only part of the time. Thank you very much for your evidence.

15:51

Meeting continued in private until 16:12.

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