LOCAL GOVERNMENT AND TRANSPORT COMMITTEE

Tuesday 11 May 2004
(*Afternoon*)

Session 2

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CONTENTS

Tuesday 11 May 2004

LOCAL GOVERNMENT AND TRANSPORT COMMITTEE
13th 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 ALSO ATTENDED:

Bill Aitken (Glasgow) (Con)
Helen Eadie (Dunfermline East) (Lab)
Tavish Scott (Deputy Minister for Finance and Public Services)
Elaine Smith (Coatbridge and Chryston) (Lab)

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 11 May 2004

(*Afternoon*)

[THE CONVENER *opened the meeting at 14:07*]

Subordinate Legislation

Local Authorities Etc (Allowances) (Scotland) Amendment Regulations 2004 (SSI 2004/146)

The Convener (Bristow Muldoon): I welcome members to this meeting of the Local Government and Transport Committee. David Mundell has let us know that he is on his way but is running a little late. If Edinburgh introduces congestion charging, perhaps he will make it on time in future, but that remains to be seen.

The first item on our agenda is subordinate legislation. We have one instrument to consider: the Local Authorities Etc (Allowances) (Scotland) Amendment Regulations 2004 (SSI 2004/146). Given that the regulations relate to councillors' allowances, I should declare the fact, as I have done previously, that my wife is a local government councillor.

Mr Andrew Welsh (Angus) (SNP): I should make the same declaration, as my wife is a local government councillor, too.

The Convener: To date, no members have raised any points with regard to the regulations and no motions for annulment have been lodged. Do members agree that the committee has nothing to report with regard to the regulations?

Members *indicated agreement*.

Local Governance (Scotland) Bill: Stage 2

14:08

The Convener: The second item on the agenda is further consideration of stage 2 of the Local Governance (Scotland) Bill. I welcome to the committee the Deputy Minister for Finance and Public Services, Tavish Scott, and, from the Scottish Executive, Sarah Morrell and Jacqueline Pantony. Non-committee members are also present today to contribute to the debate and perhaps to move amendments: I welcome Helen Eadie MSP, Elaine Smith MSP and Bill Aitken MSP.

Before we come to the first amendment today, we have to take a decision on sections 13 to 16.

Sections 13 to 16 agreed to.

Section 17—Pay, pensions etc of councillors

The Convener: Amendment 51, in the name of David Mundell, is in a group on its own. I believe that Bill Aitken will move the amendment on behalf of David Mundell.

Bill Aitken (Glasgow) (Con): I am obliged, convener, and I apologise on behalf of David Mundell. He is en route and he will probably deal with the remainder of the amendments in his name that are before the committee today.

Our basic thinking in amendment 51 is largely in line with the Kerley report. The Scottish Conservative and Unionist Party firmly believes that those who give up their time and, not infrequently, their money to put considerable work into local government service should be properly remunerated and rewarded. However, there is obviously a cost implication and amendment 51 would ensure that that cost is dealt with in a suitable manner.

It is not yet clear how the operation of the legislation will evolve over time. We are seeking to ensure that the allowances and salaries are self-financing. Some local authorities might believe that they can operate with a much smaller number of councillors and elected officials than they do at present. Others might believe that, because of the geography and make-up of the area, they require a larger number of councillors. However, our aim should be to ensure that the council tax payers in individual local authority areas should not have imposed on them an unreasonable cost to pay for the manning of the local authority.

Under amendment 51, remuneration would be self-financing. The fewer the councillors, the lower

the amount that will be paid in salaries and the lower the amount that will be incurred in expenses. On the other hand, if councils choose to have much wider representation, that is a matter for them and I do not think that the committee, our group or the Executive would seek to impinge too firmly on their right to do so. However, a council will ultimately have to answer to its electorate for those costs and the electorate will not be satisfied unless the council is seen to be operating on a self-financing basis.

The total annual costs should also be related to inflation, as is the case at the moment in respect of most salary and remuneration packages.

I move amendment 51.

Iain Smith (North East Fife) (LD): It is commendable that Bill Aitken has been so honest to the committee in telling us that the purpose of amendment 51 is to reintroduce by the back door the proposal to cut the number of councillors. I do not think that it is acceptable or right to tie the hands of the Scottish local authorities remuneration committee even before it has met by determining what the appropriate levels of remuneration should be. Clearly, the affordability of a package will be one of the considerations of the remuneration committee but, as I said, it is totally unacceptable to tie one hand behind the committee's back before it has met. To seek to provide higher allowances for some councillors by cutting the overall number of councillors is not an acceptable way forward. I have long held the view that Scotland has too few local authority representatives and I do not believe that it would help local government in Scotland to cut the number further.

Mr Welsh: As drafted, the bill takes into account the activities carried out by councillors in the discharge of their duties and it provides flexibility to meet future circumstances. It is up to the remuneration committee to decide on a fair and reasonable settlement and to make recommendations in light of all the circumstances, present and future. The remuneration committee's advice will therefore be available to ministers when they come to their deliberations. That strikes me as a sensible way of proceeding.

Amendment 51 seems to seek to pre-empt and hogtie the system and the work of the remuneration committee. I wonder whether David Mundell and Bill Aitken would be happy to accept such an amendment if it applied to MSPs. To insist on inflation-only increases based on the year before the introduction of the system is too restrictive and short sighted—it strikes me as being Tory dogma rather than common sense. I believe in cost effectiveness and efficiency in all public spending, but I do not support what I believe to be a wrecking amendment.

14:15

The Deputy Minister for Finance and Public Services (Tavish Scott): Despite Mr Smith's observation, we think that the purpose of amendment 51 is to ensure that the cost of remuneration for councillors in the first year of the new arrangements is not more than the cost of the current arrangements adjusted to take account of inflation. However, we are not sure that that is the legal effect of the amendment as drafted.

As Mr Welsh has just said, the amendment suggests a particularly short-sighted approach. After all, there is general recognition that the current system of councillors' allowances is inadequate. The leadership advisory panel noted:

> "Political management arrangements can too easily be influenced by the allocation of special responsibility allowances."

I do not recognise what Mr Aitken said about the Kerley group. The group noted that the current arrangements deter people from becoming councillors and commented that it did not believe that it was right that special responsibility allowances should be such a significant proportion of the payments to councillors. During stage 1, the committee heard that the current arrangements are unacceptable, unfair and in need of overhaul or replacement. Members also heard that the arrangements do not recompense existing councillors for the work that they do and that the level of payment available can discourage people from standing for election as a councillor.

The whole point of the provisions in the bill is that they are broad enabling powers, providing for the creation of a new system of remuneration of councillors and an independent committee to advise on the detail of councillors' remuneration. The committee accepted that principle in its stage 1 report. A committee will be appointed through an open and transparent public appointments process to consider a range of options, many of which will be complex, and to make detailed recommendations to ministers. The Executive has made it clear that we do not have a figure in mind for councillors' remuneration. Various figures have been bandied about, but I am not going to pre-empt the remuneration committee's work and I agree with what Mr Welsh said in that regard.

Mr Mundell's amendment 51 would pre-empt the remuneration committee's work. It would limit the cost of any new scheme to the cost of the current arrangements adjusted to take account of inflation, which would, in effect, limit the options open to the remuneration committee and could result in a decrease in the amount of money that serving councillors receive for the work that they do. The reason for that is straightforward: the bill provides for the establishment of a pension scheme for councillors, which is seen as long overdue, but the

cost of those pensions would also have to come out of the limited pot of money that Mr Mundell's amendment would establish, which is clearly unrealistic. Is Mr Aitken really suggesting that serving councillors should take a reduction in the remuneration that they receive to pay for their future pensions or is he simply against the payment of pensions to councillors?

I contend that amendment 51 is totally unnecessary and that it would undermine the purpose of the remuneration provisions of the bill. It is not about efficiency, about ensuring that councillors get a fair rate for the job or about encouraging more people to stand for election. I fear that it is about grabbing a cheap headline and treating councillors with disdain. I encourage Mr Aitken to withdraw it.

Bill Aitken: Well, some interesting stuff has come out of that comparatively short debate, in which, until about 20 minutes ago, I did not think that I would get involved. The Kerley report is somewhat at variance with what the minister has just said. Kerley states that his remit was to make recommendations

"taking account of available resources".

That makes it clear that Kerley thought that he had to arrive at a conclusion based on the initial cost, which at that stage was around £14 million per annum. When the entire Kerley package is introduced, the cost will rise to £17.2 million. On the face of it, that seems a fair settlement overall. I stress that the amendment is not, as the deputy minister suggested, about our not wishing to see councillors remunerated properly. We want councillors to be remunerated properly, but I question whether in certain areas we require the current number of councillors. However, that is, of course, a matter for another day.

To have urban constituencies with 4,500 to 6,000 electors does not seem to be asking an awful lot of our elected members. Of course, if councillors wished to have greater payments, there would have to be a consequent reduction in their number. On Mr Welsh's point, there is absolutely no inconsistency in what we are seeking to do. We are on public record as saying that we seek a reduction in the number of MSPs so as to spare the public purse yet more of the profligacy with which the Executive, aided and abetted not infrequently by the Scottish National Party, is prepared to treat the money of the people of Scotland. There is absolute merit in David Mundell's amendment 51 and I am sure that, if you gave him the opportunity, convener, he would want to press it. Failing that, I will press it on his behalf.

The Convener: David Mundell has now arrived, but I will not invite him to enter into the debate at this point. I am sure that Bill Aitken has adequately put the case that he would have put.

The question is, that amendment 51 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Mundell, David (South of Scotland) (Con)

AGAINST

Jackson, Dr Sylvia (Stirling) (Lab)
McFee, Mr Bruce (West of Scotland) (SNP)
McMahon, Michael (Hamilton North and Bellshill) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Smith, Iain (North East Fife) (LD)
Welsh, Mr Andrew (Angus) (SNP)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0.

Amendment 51 disagreed to.

Section 17 agreed to.

Section 18—Severance payments for councillors

The Convener: Amendment 3, in the name of Bruce McFee, is in a group on its own.

Mr Bruce McFee (West of Scotland) (SNP): Amendment 3 follows on from the stage 1 report, when the committee considered the question of the severance allowance that the Scottish Executive was proposing to make available to serving councillors who wish to stand down at the next election. There was a near-unanimous, if not unanimous, decision by the committee that the proposal was inequitable.

The bill's policy memorandum states:

"The Scottish Executive also recognises that a number of councillors have represented their communities for many years. Councillors do not receive any form of pension and long-serving councillors may not have accrued rights in other pension schemes."

Notwithstanding that a package is proposed that will deal with not only remuneration but pension arrangements for councillors in future years, it seems strange that we should draw an artificial line between a councillor who wants, or is persuaded, to stand down come the next election, and a councillor who wants to stand but does not make it through the process for one reason or another. If we draw that distinction, we will in effect be saying that councillors who will not co-operate with the new system because they see no future in it will be rewarded for standing down and taking no part in it. However, those who might have the same level of—if not more—experience but who want to co-operate with the new system to make it work and who want to continue to represent their communities will be punished if they lose.

In that context, amendment 3 is perfectly reasonable. It seeks to ensure that there will be equality among all those who are councillors at the moment, whether they decide to stand at the next election or not. I am not arguing that the arrangement be carried forward in perpetuity; I am saying simply that not only those who decide to stand down at the next election but those who are defeated should qualify for the severance payment. People who have dedicated years—many years, in some cases—to their communities, who have sacrificed their careers and who have foregone promotion prospects should not be penalised to facilitate a one-off scheme for one group of councillors.

I agree with the Convention of Scottish Local Authorities, which said:

"The severance payment proposal contained in the bill is tantamount to a bribe to persuade councillors to stand down at the next election".

I do not think that the committee should be part of that and I believe that we should try to find a solution that is fair and equitable. That is what the amendment contains.

I move amendment 3.

Dr Sylvia Jackson (Stirling) (Lab): I know that we have had a lot of debate about this issue. I am sure that the Executive would say that there is not a bottomless pit of money in this regard and that we should accept that any severance pay package is better than no severance pay package.

The committee was happy with the pension scheme, the remuneration committee and so on. However, although I would not go quite as far as Bruce McFee, there could be a gap in respect of severance. Obviously, such a decision will be a serious one for any councillor—after all, someone who has served for perhaps 20 or 25 years might stand again in the reasonable expectation that they will be re-elected. However if, for whatever reason, that does not happen, it seems that it will be a wee bit unjust if they walk away with nothing.

As a result, I ask the minister whether we could suggest to the remuneration committee some way of reconsidering not the severance package, which is good enough, but the situation of councillors who might have served for 20 or 25 years and who might realistically expect to be re-elected, but who will basically walk away with nothing if that does not happen.

Michael McMahon (Hamilton North and Bellshill) (Lab): While listening to Bruce McFee, I recalled our previous debates on the matter. I have to say that I disagree with very few of his comments: there is an apparent unfairness in the proposed system.

During stage 1 consideration of the bill, I shared COSLA's view that the proposal contains an unfair element or the suggestion of a bribe. However, Bruce McFee argued that an artificial line is being drawn. That is where I am convinced that the ministers' suggestion is correct. After all, we are discussing a move from one clear and distinct form of local government and electoral system to a new one. The proposals for the 2007 elections are not artificial; instead, they are distinct and will give rise to entirely new circumstances that will take us from an old to a new system. We will simply be giving people who have served local authorities for a long time an option if they no longer wish to participate in the new system: we will be saying that if they wish to stand under the new system along with everyone else who might previously have been put off standing but who might now be attracted to it, they will be doing so as a matter of choice, and on the same basis as everyone else. However, if they choose to draw a line under their service to local authorities because they do not want to enter the new system, a severance scheme would acknowledge that service, and that the person in question did not want to enter into the new system.

Without that clear distinction, I would agree with Bruce McFee's comments that the proposal looks like a bribe. However, if we look at the issue from the perspective of moving from an old system to a new system of local government, we see things differently. Considering amendment 3 in that light, I cannot support it.

David Mundell (South of Scotland) (Con): I apologise for my late arrival, but I am sure that Bill Aitken carried on my usual consensual approach to the bill.

I do not support amendment 3, but I hope that that will not prove to be fatal to the provision. I found Mr Kerr's previous arguments on the matter to be compelling for the reasons that Michael McMahon outlined. The payment in question is for the change in the system. It is not an imaginary concept; instead, it is very real and, in response to Sylvia Jackson's comments, I think that it will mean that councillors will have to make difficult decisions. However, we all make difficult decisions, particularly when we decide to stand for elected office. Some people will make the wrong decision; if they stand and lose, they might not receive a severance payment. People will simply have to be responsible for making that judgment for themselves. I cannot support amendment 3 because the suggestion in the bill that the payment is for transition from one electoral system to another is perfectly fair and tenable.

14:30

Mr Welsh: Sylvia Jackson clearly does not want a bottomless pit of finance to be opened up, but amendment 3 proposes a one-off payment. It

might be a delayed one-off payment to those who are not elected, but there would not be much delay in that. The payment is confined as far as total finance is concerned. I say to Michael McMahon that the break-off point is where the unfairness lies—people will be penalised for wanting to stand for public election, and they face a double penalty if they are defeated.

Amendment 3 seeks to address an anomaly and some unfairness in the bill. The qualifications for severance pay will mean that some councillors will definitely not stand at the next elections and will exclude some candidates from standing for re-election. That is what they are designed to do: they aim to deter candidates. A councillor who had many years of service but who was not re-elected would receive no severance payment, whereas a councillor—a former colleague—who had exactly the same length of service but who did not stand would receive full payment in recognition of their years of service. That is not fair, to my mind.

Amendment 3 would prevent such discrimination. It would ensure that payments were made and it would prevent discrimination and unfairness against people who stand but are not successful. If there are to be any such payments, they should be made fairly and equitably in recognition of past service. I believe that that is what they were originally intended to do.

David Mundell has mentioned the Republic of Ireland. It is one thing if the payments are meant to weed out people from the local government system deliberately, but the Irish situation was different. Many members of the Irish Parliament were also councillors. That is not the situation in Scotland. Is the intention to weed out people, or do severance payments represent recognition of past council work and years of public service? I am clear that they should represent recognition of past public service, so all past public service should be recognised. It should not be penalised by a rule that doubly punishes electoral defeat, which might be by the narrowest of margins.

Amendment 3 would prevent discrimination against long-serving councillors, who wish to be judged by the electorate, not prejudged by the bill. I seek members' support in getting rid of an anomaly in what will be a one-off payment.

Iain Smith: This is a difficult issue and there are two distinct ways in which we can view the severance payment. As David Mundell clearly put it, one view is that the payment should relate to the new form of election and be a one-off payment. The other view is that it should be part of the recognition of councillors' work and should form part of their overall package, which includes pay, pensions and severance. That would acknowledge that many councillors will not stand in 2007 and will therefore not benefit from the new pay and pensions scheme that is to be introduced for councillors beyond then.

There is a dilemma about which of those views is right, and that dilemma must be resolved. I am not entirely convinced that either side has resolved the matter yet, but it should not be described—as it is in Andy Kerr's letter to the committee—simply as a payment for councillors who

"may not wish to be part of the new arrangements that the Bill will put in place."

The payment will, in that case, clearly not be part of the overall pay and remuneration package. If it were, we would be considering how the arrangements would be in future years. People who enter local government for the first time in 2007 will inherit a right to pensions throughout their local government career, whereas those who continue in local government will inherit only a right to pensions for the part of their career that remains. There is a dichotomy there.

I hope that, between now and stage 3, the Executive will reconsider the matter in order to ascertain whether there is some way we can clear up exactly what is intended by the severance payment, and how councillors with service prior to 2007 will have that service taken into account in payments that they may receive in the future, rather than find themselves disadvantaged for having been councillors for many years, compared with those who will enter local government for the first time in 2007.

Paul Martin (Glasgow Springburn) (Lab): Although I do not support amendment 3, I agree with Sylvia Jackson that the Executive should accept some positive feedback on how we approach the issue. We need to be careful about referring to a cull of elected members, because that might discourage those who are at the top of the age profile from standing in future elections. We need to recognise that those who have significant experience in local government may be very effective councillors. A prospective weakness in the bill is that it will discourage such people.

I appreciate that Bruce McFee might accuse me of contradicting myself by refusing to support his amendment, but that is not the case. We need to look at the overall package to ensure that those who have experience in local government have the opportunity to look to the future. Far too often, we fail to recognise the valuable contribution of those who have served in local government for a long time. Such people should be given every encouragement to continue. However, amendment 3 would not deal with that, so there must be another way in which we can ensure that the valuable experience of elected members of local government can continue without our involving people in this winner-takes-all or loser-takes-all proposal.

The Convener: During our stage 1 consideration of the Executive's proposed scheme, the committee expressed concerns, which Bruce McFee has tried to address in amendment 3. However, there is one issue that Bruce McFee must address when he winds up the debate. I am always reluctant to support an amendment that has financial implications without knowing what those implications are. Does Bruce McFee have an estimate of how much additional finance he anticipates would be required for amendment 3 and where that resource would come from?

I remind the minister that the committee has made known its view that consideration should be given to providing councillors with a resettlement scheme that is similar to those that operate for elected members at other levels of Government, such as MPs and MSPs. If the remuneration committee that is to be established makes recommendations of that nature, will the Executive consider them with an open mind or will it reject them out of hand?

I would be grateful if the minister and Bruce McFee could respond to those points.

Tavish Scott: Amendment 3 deals with an important issue. I respect the strength of feeling that exists on the matter and the strong arguments that have been made.

It is fair to say that the Executive's position has been consistent. Andy Kerr outlined our position clearly at stage 1. Our proposal is for a one-off scheme that will be available only for councillors who choose to stand down at the next election. Amendment 3 would mean that councillors who chose to stand but were not elected would be entitled to a severance payment. We do not think that that is appropriate.

As Iain Smith illustrated, the balance of the argument hinges around the major change that the bill will introduce. Michael McMahon was quite right in his wide and clear reflections on where that balance lies. Our scheme will reward long service but, as members have rightly pointed out, it will also put responsibility into the hands of councillors. The introduction of a new electoral system is a big change, so we need to recognise that not all councillors will want to be part of the new arrangements. As Michael McMahon said, there are strong arguments that there will be a clear difference between what went before and the new system that will be put in place for 2007. The new arrangements can be appropriately construed as being very different from what we have at this time.

Our proposals are about councillors making a proactive choice. They can choose a severance payment if they stand down. We do not think that it is right in principle that councillors who stand again and who, if they are re-elected, will benefit from the new salary and pension arrangements that we discussed in relation to amendment 51, should also be eligible for a severance payment if they are defeated. They have a choice, as some members pointed out. It might be an uncomfortable choice but it will exist, nevertheless.

Mr McFee's amendment 3 would not help to widen access to local government. We need to encourage a wider cross-section of society to consider standing for election. In that context, in no way do I demean Paul Martin's observations about the quality and experience of councillors in local government; I acknowledge his arguments. However, I think that members throughout Parliament would like a wider cross-section of society to stand for election. The extension of the severance scheme might mean that councillors were less inclined to stand down before elections, because they would have nothing to lose. That would restrict the ability of parties to field new candidates.

The Executive is willing to fund the one-off severance scheme for those who choose to stand down in advance of the elections. We will consider the remarks that the convener and Sylvia Jackson made, but I fear that the bill would not allow the proposed remuneration committee to proceed in the direction that they might like. We will examine the matter closely and provide advice. We would not be prepared to fund any costs that were associated with extension of the scheme; such costs would be considerable—as the convener said when he made his observations on amendment 3—and would need to be met by councils alongside the new salary and pensions arrangements.

Amendment 3 is wrong in principle. It is potentially costly and it is detrimental to our widening-access agenda. I ask the committee not to agree to the amendment.

Mr McFee: I will be able to respond to the convener's question about how much the proposals in amendment 3 would cost when the minister can tell me how many councillors will stand down and how many will be beaten in the elections. That might give you a more accurate indication of the potential cost. It would also be easier for me to calculate that figure if the minister were to indicate the amount that he intends to allocate to severance payments. Until those blanks are filled in, most of which are not in my hands, I suspect that the convener will not receive a precise answer to his question.

Iain Smith said that the issue really depends on whether we believe that the severance payment is a reward for service, or that it is being made because a new system is coming in. The minister

relied heavily on the latter argument. I can only go by the policy memorandum, paragraph 27 on page 7 of which makes it clear that the Executive recognises the service that councillors have given over a long time, and that many long-serving councillors might have no suitable pension arrangements. There is no mention in the policy memorandum of any intention to encourage new candidates to stand and experienced councillors to retire; however, I assume that that will be the effect of the scheme. If that was the scheme's intention, it would have been more honest to have said so in the memorandum, rather than to suggest that the scheme is designed to recognise service because no pension scheme currently exists for councillors. The intention that is set out in paragraph 27 seems to be clear to me. It is also clear that the Executive's proposals will not deliver what the Executive pretends it wants.

Tavish Scott said that it was all about the change to the new system. In effect, the bill will create two classes among those who are currently councillors: councillors who decide not to stand again—for whatever reason—and who do not want to move to the new system or to continue to serve their communities, will be rewarded; but councillors who want to continue to serve their communities but who fail at the ballot box will be denied the severance payment.

Paul Martin said that I would accuse him of contradicting himself. He was right about that—he contradicted himself. Both he and the minister said that it would be unfair for someone who stood again because they wanted the benefits of the new system to receive a severance payment as well—I paraphrase.

The fact is that, if someone is not elected, they will not be eligible for the new system—if and when it comes in—because they will simply not be there as a councillor to take advantage of it. There is no prospect of councillors' being paid twice; we are talking about a simple one-off severance package for councillors who do not make it or who decide to stand down.

I put it to the committee that MSPs who stand for re-election but are not re-elected do not forego their severance payment. They get a severance payment regardless of whether they decide to stand down or of whether the electorate think that they are no good.

Amendment 3 is about ensuring straightforward equity in the present situation. The Executive recognises partially that some councillors will leave local government without any pension arrangement. Unless amendment 3 is agreed to, those councillors will receive no severance pay. The Executive has acknowledged one group of councillors but not the other. The crime that the other group has committed is to want to go on serving their communities. For that, they will lose their severance pay.

14:45

The Convener: I take it from that that you wish to press amendment 3.

Mr McFee: At this stage, I intend to withdraw the amendment; I will bring it back at another time.

The Convener: You want to withdraw amendment 3?

Mr McFee: You are dead right. That will give members such as Sylvia Jackson and Iain Smith the opportunity to find out whether there will be some movement from the Executive and some recognition of the situation. I hope to lodge an amendment at stage 3.

Amendment 3, by agreement, withdrawn.

Section 18 agreed to.

Section 19 agreed to.

Schedule

CONSTITUTION ETC OF SCOTTISH LOCAL AUTHORITIES REMUNERATION COMMITTEE

The Convener: Amendment 52, in the name of the minister, is in a group on its own.

Tavish Scott: After the preceding groups of amendments, I hope that the committee will find amendment 52 straightforward.

Although the bill makes provision for the Scottish local authorities remuneration committee to appoint staff—for example, a secretary to the committee—to assist it in discharging its functions, there is no provision that deals expressly with remuneration of those staff. Amendment 52 will make it clear that the committee will be able, when it appoints staff, to agree their terms and conditions, including remuneration. I invite the committee to accept that simple point of clarification.

I move amendment 52.

Amendment 52 agreed to.

Schedule, as amended, agreed to.

Sections 20 and 21 agreed to.

Section 22—Orders and regulations

Amendment 12 moved—[David Mundell].

The Convener: The question is, that amendment 12 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Mundell, David (South of Scotland) (Con)

AGAINST

Jackson, Dr Sylvia (Stirling) (Lab)
McFee, Mr Bruce (West of Scotland) (SNP)
McMahon, Michael (Hamilton North and Bellshill) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Smith, Iain (North East Fife) (LD)
Welsh, Mr Andrew (Angus) (SNP)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0.

Amendment 12 disagreed to.

Amendments 13 to 15 not moved.

Amendment 38 moved—[Tavish Scott]—and agreed to.

Section 22, as amended, agreed to.

Section 23—Short title and commencement

The Convener: Amendment 26, in the name of David Mundell, is grouped with amendments 53 and 54.

David Mundell: Amendment 26 is important, because it attempts to allow an overview to be taken of the electoral arrangements that will pertain in Scotland after the passage of the bill, when we will have different electoral systems for each form of election. In recognition of that, the Scottish Executive, through the First Minister, and Her Majesty's Government, through the Secretary of State for Scotland, have set up a commission to review the impact of the differing electoral systems on the public and on the democratic process.

It would be ludicrous for part 1 of the bill simply to pass into law without any reflection on the outcome of the commission's report, which will be presented to the First Minister. Amendment 26 seeks to allow a debate to take place in Parliament once that report has been presented to the First Minister. If the majority of members supported the conclusions of the report, part 1 would come into force. If there was no such majority, or if Parliament believed that changes needed to be made to part 1 in the light of the report's conclusions, there would be the opportunity for that. It would be incredible if we were to proceed headlong into full implementation of part 1 before the holistic review, as it has been described, had taken place and before every member understood its full implications.

There needs to be clear reflection on what the implications might be of, for example, the introduction of the single transferable vote for elections to the Parliament. Some members of the committee, such as Mr Smith, would be supportive of that; however, other members of the committee would not be supportive of that although they may have supported part 1. It is only right and proper that we should have a full debate about the electoral systems that will be available to us when the commission reports rather than proceeding with the measure in isolation.

As on many aspects of the bill, I find myself and COSLA in agreement on the issue. Those who have read COSLA's report will know that it strongly urges acceptance of my amendment, basically for the reasons that I have set out. Amendment 26 would allow the whole electoral system in Scotland to be reviewed by the commission. Despite what some members—perhaps even the minister—will argue, it is not a wrecking amendment; if there is a majority in Parliament and in both parties in the Executive, part 1 will proceed after the commission's report has been laid before Parliament. The amendment proposes a sensible provision that the public will be grateful to the committee for agreeing to. When the public become aware of the move to a multiplicity of electoral systems, they will not look favourably on any Parliament that has brought that about.

I will not comment on amendments 53 and 54 until I have heard what Helen Eadie says about them. Although I am generally supportive of amendments on major constitutional issues, I am not generally in favour of plebiscite.

I move amendment 26.

Helen Eadie (Dunfermline East) (Lab): I thank Elaine Smith for supporting my amendments 53 and 54. We propose a referendum for the folk of Scotland because of the special importance of any constitution. There have been several referendums, from the 1975 European Economic Community referendum to the referendum on devolution, the proposed euro referendum and, now, the referendum on the European constitution. The Tories may have denied the people the right to decide on the Single European Act and the Maastricht Treaty on European Union, but two wrongs do not make a right. I shall be interested to hear the Tories' views on amendments 53 and 54.

In recent years, 34 referendums have been held in the United Kingdom, on subjects ranging from whether we have elected mayors to whether we have devolution. We now propose a referendum on this major change to the way in which we vote.

The case for a referendum on the future of local government in Scotland exposes the Liberal Democrats, who rejected a referendum during the coalition negotiations. I have argued that rejecting a referendum is a serious political error on their part. This is the moment, and the method—by engaging the public in the national debate—to decide whether voter apathy can be reversed. If we do not do that, I believe that our relationship

with the public will continue to erode, undermining our ambitions for the indefinite future. Our arrogance will cost us dearly.

Another reason to favour holding a referendum is that it would be a surrender of political power to popular power. The decision to hold a referendum would say to the people, "We, the political class, are failing you. We have not listened enough. We have not been interested in hearing your voices, except once every four years. We face a rather desperate need to find new routes to public trust, so we are letting go." We should acknowledge that the proposed change in the shape of local government is indeed constitutional. It marks something pretty big and it merits the thumbprint of the nation to endorse it.

Let me take members back to Michael Forsyth. You will remember him; he was around at the time of the debate on devolution. That referendum was on whether we should have a devolved Parliament and, if so, whether it should have taxation powers. However, Michael Forsyth introduced the idea that there should be a referendum on the type of voting system that the Parliament would have. If that is right for the Scottish Parliament, right for the European Parliament, and right—as may be argued in the future—for the Westminster Parliament, I argue that it is right for local government, which is every bit as important as all those aspects of our daily lives.

I had the great privilege to be invited to John Smith's commemoration ceremony in the church on Iona on Sunday. Throughout his life, John Smith said that when we considered constitutional changes we should always have a referendum. He also said, within the Labour Party, that there should not be a change to our voting systems unless we had a referendum. That idea was carried by the trade unions and by the Labour Party. It was carried by every subsequent Labour Party conference decision—that is, that there should always be a referendum. Our manifesto was silent on the issue of there being any constitutional change—silent in 1999 and silent in 2003—but here we are, about to take the people of our country for granted by not engaging them. It is vital to engage our people.

I for one would be happy to hold meetings right across my constituency if the Parliament decided to hold a referendum. We should debate these issues with our people. That could be the start of a new type of democracy with our people.

Iain Smith: I disagree with amendments 26, 53 and 54. None of them is necessary, and I humbly suggest that Mr Mundell's amendment 26 is, indeed, a wrecking amendment. He knows full well that if part 1 of the bill were to be delayed, it would not be possible for the single transferable vote to be introduced in time for the 2007 elections. Part 1 gives the boundary commission powers to perform the boundary reviews that would be required, and it gives ministers powers to ensure that regulations are in place. It would, therefore, not be possible to prepare for the 2007 elections until part 1 was in operation. It would not be possible to hold those elections if David Mundell's amendment 26 was agreed to.

I see no reason why the Scottish Parliament should await a decision of a commission set up by the Secretary of State for Scotland on a reserved matter, before it decides what to do on a devolved matter. Giving away power in that way would make no sense. The Parliament has had ample time to consider the implications of the single transferable vote for local government. We have been debating the matter in Scotland for many years—from McIntosh in 1997 through to today. I see no reason to go back and await yet another set of consultations, debates and discussions in order to determine the appropriate system of election for local government.

I disagree, similarly, with Helen Eadie's amendments 53 and 54 on a referendum, because a referendum is not required. The issue has been open to public consultation for many years. Consultation after consultation after consultation has shown that there is widespread support for the reform. A referendum would simply delay the matter in such a way that it would not be possible to introduce the single transferable vote in time for the 2007 local government elections. The fundamental point of the bill is to ensure that those elections can be conducted for the first time with a fair vote. I will oppose Helen Eadie's amendments 53 and 54, which are supported by Elaine Smith, and David Mundell's amendment 26.

15:00

Elaine Smith (Coatbridge and Chryston) (Lab): I came along to speak to amendments 53 and 54. The proposed change is a major change to a tier of government; it is not a policy issue. As Michael McMahon pointed out, it is a transformation that will lead to a new system. This Scottish Parliament would, rightly, be concerned by any attempt that was made at Westminster to change our system without recourse to us. Many people in local government are concerned about this issue.

It has been agreed that a referendum will be held on the European Union constitution. It is no less important to hold a referendum on local government voting reform. The arguments about low turnouts are spurious, because referenda often reinvigorate interest in the democratic process and politics; the referendum on the Scottish Parliament was an example of that. It is paternalistic and patronising to impose the change

on the electorate and local government without engaging them. There are legitimate arguments on both sides about the merits or otherwise of proportional representation, and we should not be afraid to have them. I will not go into those arguments just now and labour the point. The Parliament should allow the electorate to engage in that debate through a referendum.

The partnership agreement might have promised proportional representation, but that deal needs the agreement of the Parliament to progress. The committees are designed to scrutinise Executive proposals and question them when necessary. The Parliament should not be afraid to go to the people on such a major constitutional change to another tier of government; indeed, it would be undemocratic not to do so. If Westminster can do it, surely this open, accessible, accountable Parliament should do it on this issue, which is every bit as important to the way in which people are represented.

If the bill is rushed through, as seems to be happening now, because of a deal that was done to secure coalition, that will be a sorry reflection of our new democracy in Scotland. From a democratic perspective, the most important priority should be to engage with the electorate. If people voted for the reform, opponents of PR would have to accept their decision as, to borrow a phrase,

"the settled will of the Scottish people"

with regard to their local representation, and it would have to be implemented. Proceeding in the current fashion is an affront to democracy and to the rights of our citizens in choosing how they are represented. They should expect better from the servants of the people in this place.

I rushed out of the Health Committee to come here and make those points; that committee is taking evidence on my Breastfeeding etc (Scotland) Bill, so you will have to forgive me for rushing back.

Mr McFee: I am interested in David Mundell's amendment 26, which, frankly, is a wrecking device. If David Mundell is interested in reducing the number of voting systems, I suggest that the bill gives him an opportunity to do that, because it, coupled with the withdrawal of Scottish MPs at Westminster, would remove first past the post from the political system in Scotland. That would have the added advantage for the convener and the minister of reducing the costs that are associated with the 72 MPs. I understand that David Mundell is trying to get to Westminster, so perhaps he would not want to vote for that measure.

The method by which the Scottish Parliament is elected is determined by Westminster. The method by which our members of the European Parliament are elected is also determined, to an extent, by Westminster. Of course, how Westminster elects itself is determined by Westminster. The fact that this place cannot even determine its own voting system tells us a bit about the Scottish Parliament. It is nonsense to suggest that we should wait to see what big brother Westminster comes out with before tagging on to the end of it. One of the ways of addressing the confusion—and there is the prospect of confusion—that could arise if local government elections are held on the same day as Scottish Parliament elections would be to change the day of the election, but we are told that we cannot do that under the terms of the bill.

On amendments 53 and 54, my experience of politics is that the British Government uses a referendum when it is politically expedient to do so. It did so in 1975, when we had a referendum on Europe after we had joined, and Tony Blair's recent decision is politically expedient because of the pressure that is being brought to bear on him by the Tories. I suggest respectfully to Helen Eadie and Elaine Smith that the referendum for which they are calling is a political expedience because of the terms of the deal between the Liberal Democrats and the Labour Party to form the Administration in Scotland.

The fact that the Labour Party manifesto was silent on voting reform speaks volumes about that party. If the Labour Party's intention was to form another Administration with the Liberal Democrats, as it clearly was, it should have been up front and honest with the people of Scotland and told them simply that voting reform would be the price that the Liberal Democrats would extract for a coalition deal. The call for a referendum is clearly a device to address an internal Labour Party matter and, to be frank, we should not be part of that.

Paul Martin: I make an observation on Iain Smith's point: there is a significant difference between consultation and a referendum, and it is important to recognise that. If I were a supporter of PR, I would whole-heartedly support Helen Eadie's proposal, because it would provide an opportunity to deal once and for all with the comments that I and others, including Helen Eadie, have made on the Scottish people having no appetite for proportional representation and not supporting the bill.

I appreciate that Iain Smith wants voting reform to be accelerated to ensure that the new system is in place by 2007. However, I am sure that the minister would agree that it is important that we get the system right for the Scottish people and that we deliver a system that is not only effective, but which is supported by the majority of the Scottish people. I am therefore surprised at the lack of support for Helen Eadie's proposal for a

referendum. I have an open mind on it and I am not convinced that it is the issue that the Scottish people want us to take to a referendum, but I am sure that that debate can be developed.

The Convener: There is no doubt that David Mundell's amendment 26 is intended to be a stalling amendment, if not a wrecking amendment. However, the amendment is completely unnecessary, because if members are opposed to the bill, they should simply vote against it. There is no need to put any poisoned pills into the bill to stall or wreck it, and amendment 26 is a rather obvious attempt to do that. I am sure that the amendment will receive no support in the committee or, if David Mundell lodges a similar amendment at stage 3, in the Parliament.

Bruce McFee should not hold his breath if he expects the withdrawal of Scottish MPs from Westminster, because the current progress of the Scottish National Party—losing one of its MPs at the previous general election, eight of its MSPs at the previous Scottish election and another of its MSPs last week—hardly indicates that the cause of independence is in fine fettle.

Mr McFee: I think that the gravy train is too strong, convener. I suspect that that is—

The Convener: Excuse me, Bruce. Please keep to order.

Mr McFee: I beg your pardon.

The Convener: Do not get too excited about any progress towards independence at this stage.

Helen Eadie made some valid comparisons with the introduction of mayors in local government in England and Wales, but one thing that leads me to be sceptical about her proposal for a referendum is the fact that there has been no widespread call for a referendum, not even from local government. COSLA indicated, in the submission that it made to members in the past day or two, that there was no overall position from local government on the issue, and I suspect that there is no widespread call from the public at large. Like Paul Martin, I am prepared to consider the arguments, but I am far from convinced that there is any overall call for a referendum. I am therefore not minded to support Helen Eadie's amendments 53 and 54 at this stage.

Tavish Scott: Members are right; there is a partnership agreement commitment to deliver the bill. In that sense, I accept the observation. However, having heard the debate, I have to conclude that the simple purpose of the current group of amendments is to delay the introduction of the single transferable vote. The best thing that I can say about the amendments is that they would set fascinating precedents in relation to how Parliament and Government operate.

David Mundell wants to wait until the independent commission that is set up by the Secretary of State for Scotland has reported and the Executive's response to it has been agreed. The committee is aware that the commission will look at the implications of voting systems in Scotland, but it will also consider the implications for voter participation, the relationship between public bodies and authorities in Scotland and the relationship between MPs and MSPs in the representation of constituents by different tiers of elected members. However, as was made clear when the First Minister wrote to party leaders in March, although the method of voting for Scottish local government will of course be a consideration, the commission's focus will be on parliamentary elections, and in particular on the method of voting in Scottish parliamentary elections.

We will be interested to hear what the commission says, but its recommendations will in no way affect the introduction of the single transferable vote for the next local government elections in Scotland. Amendment 26 is unnecessary on that basis, never mind on the basis of its wrecking nature—or its stalling nature, depending on one's point of view. It is, in many ways, a blatant piece of opportunism on Mr Mundell's part. I would expect nothing other from him, and I congratulate him on so eloquently describing it. I ask him to withdraw his amendment.

Helen Eadie wants us to consult yet again on the principle of introducing the single transferable vote. I have to ask to what purpose we should do so. We have made no secret of our intention to reform the voting system for local government, so it cannot be a surprise to anyone; the partnership agreement makes that very clear indeed. We must remember that there was a great deal of consultation on the subject before the partnership agreement was concluded last May. The key measure in the bill will have been subject to extensive consultation over recent years and has attracted considerable interest and debate since such issues were first aired in the McIntosh report.

McIntosh, Kerley, a white paper, the partnership agreement and the draft bill all sought views and generated discussion and debate. The suggestion by some members today that we have not engaged the public is absolutely not true. I appreciate that Helen Eadie is a long-standing campaigner against PR, but responses to the white paper consultation showed a significant majority in favour of the introduction of the single transferable vote. There were 960 responses in favour of introducing STV, while 39 favoured retaining first past the post. Even if we discount the pro-STV postcard campaign, which generated 706 of the 960 responses, that still leaves a

significant majority in favour of the single transferable vote.

There is no need for a referendum of the kind that is proposed in amendment 53. We have consulted extensively and the results show majority support for the introduction of STV. Amendment 53 serves no useful purpose. It is a clear attempt to delay the introduction of STV, rather than a genuine point of principle, and I ask Helen Eadie not to move it.

David Mundell: Throughout consideration of the bill, I have found myself without audible support from others on certain measures, but that has not led me to conclude that I was wrong in what I was proposing. Iain Smith's contribution inadvertently picked up on the issue that is at the core of amendment 26—the fact that the proposed change to the Scottish local government elections is being considered in isolation. There has been much debate about the measure in isolation, but there has been little consideration on an holistic basis of the overall impact of having four different forms of electoral system in Scotland for four different tiers of government.

It is reckless and ill-advised for Parliament to press ahead and put the measure in place before understanding the implications that it will have. I also believe that it is reckless and ill-advised for Labour members of this Parliament who do not support the single transferable vote to let the bill go through without such a debate taking place, before there is a real understanding of whether it is really the slippery slope towards the single transferable vote being used for elections to this Parliament. That puts such decisions into quite a different context.

15:15

I do not accept that the public see the world through the reverse nationalist magnifying glass that Bruce McFee and his colleagues use. The members of the public whom I meet do not look at every issue in a constitutional context; they look at them in a practical context. They know that they will be asked to vote for people by party on a list in the European elections, after which they will be asked to write 1, 2 and 3 on a ballot paper for the local government elections before going back to an X for the general election and two Xs for the Scottish Parliament election. We are failing in our duty to the people of Scotland if we are not prepared to lift our eyes above the horizon of this single issue and look at the whole electoral system. If we are not prepared to look at the measure in context, that will contribute not to an increase in the number of people who turn out to vote, but to a reduction.

I agree, however, with the point that Bruce McFee makes, which has been made repeatedly throughout consideration of the bill. I hope that the minister will revisit the issue at stage 3. The issue of decoupling the elections has been ruled out of order, at least at this stage, but I will bring it back at stage 3, at which time it might be ruled out of order again. If we are to go ahead with this system, the elections should be decoupled to minimise voter confusion.

At every meeting of this committee of late, I have been accused of blatant opportunism. I do not know quite where that charge is leading, but of course the Conservatives will fight any election that we are asked to fight under any electoral process.

My response to Helen Eadie's contribution is that I do not recall an occasion on which Michael Forsyth has been quoted as being in support of an argument and on which the argument has subsequently prevailed. Indeed, I think that Michael Forsyth would be very unhappy if he were to find that it had done so. On the basis of what we have heard today, I do not think that an argument for a referendum has been made. The people of Scotland do not have an appetite for the measure and have never indicated in any numbers that they do. They have voted for political parties on the basis of what the parties have said on the issue.

The SNP, to be fair, is in favour of the measure; the Liberal Democrats were in favour of proportional representation but are now in favour of a rather contrived form of the single transferable vote; and, of course, the Labour Party was in favour of first past the post. I say to Helen Eadie that, instead of a referendum being held, the people of Scotland will ultimately have their say on the introduction of the measure. They will use that opportunity to vote against the two parties that have let them down on the issue—the Labour Party, which has given up on first past the post, and the Liberal Democrats, who have given up PR for some contrived electoral system.

On that basis, I press amendment 26.

The Convener: The question is, that amendment—

Helen Eadie: Do I have the right to reply?

The Convener: No. Only the member who opens the debate on a group of amendments has that right.

The question is, that amendment 26 be agreed to. Are we agreed?

Members: No.

The Convener: David Mundell was too quick to try to vote. There must have been something in the debate that suggested to him that there was not unanimity in favour of his amendment. There will be a division.

FOR

Mundell, David (South of Scotland) (Con)

AGAINST

Jackson, Dr Sylvia (Stirling) (Lab)
McFee, Mr Bruce (West of Scotland) (SNP)
McMahon, Michael (Hamilton North and Bellshill) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Smith, Iain (North East Fife) (LD)
Welsh, Mr Andrew (Angus) (SNP)

The Convener: The result of the division is: For 1, Against 7, Abstentions 0.

Amendment 26 disagreed to.

The Convener: Does Helen Eadie wish to move amendment 53?

Helen Eadie: I detect a slight bit of support—perhaps I should call it doubt—in the minds of one or two of my colleagues. I think that there might be scope for me to persuade members to support the amendment. The convener said that he did not detect any clamour from across Scotland on the issue. However, I believe that West Lothian Council passed a motion the other week that called for a referendum. I am not sure whether the convener is aware of that, given that it happened on his own patch. I believe that support is beginning to grow across Scotland—

The Convener: At this stage, the member must decide—

Helen Eadie: I will not move amendment 53, but I will return to the subject at stage 3.

Amendments 53 and 54 not moved.

Section 23 agreed to.

Long title agreed to.

The Convener: That brings us to the end of our stage 2 consideration of the bill. I thank Helen Eadie for her participation. I also thank the minister for his contributions this afternoon and, indeed, the officials who have supported him. An announcement will be made in tomorrow's *Business Bulletin* about the lodging of amendments at stage 3.

15:21

Meeting continued in private until 15:56.

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