

# **LOCAL GOVERNMENT COMMITTEE**

Tuesday 21 May 2002  
(*Afternoon*)

Session 1

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## LOCAL GOVERNMENT COMMITTEE

### 15<sup>th</sup> Meeting 2002, Session 1

#### CONVENER

\*Trish Godman (West Renfrewshire) (Lab)

#### DEPUTY CONVENER

\*Dr Sylvia Jackson (Stirling) (Lab)

#### COMMITTEE MEMBERS

Mr Kenneth Gibson (Glasgow) (SNP)

Mr Keith Harding (Mid Scotland and Fife) (Con)

Iain Smith (North-East Fife) (LD)

\*Elaine Thomson (Aberdeen North) (Lab)

\*Ms Sandra White (Glasgow) (SNP)

#### COMMITTEE SUBSTITUTES

Robert Brown (Glasgow) (LD)

Tricia Marwick (Mid Scotland and Fife) (SNP)

\*John Young (West of Scotland) (Con)

\*attended

#### THE FOLLOWING ALSO ATTENDED:

Euan Robson (Deputy Minister for Parliamentary Business)

#### WITNESSES

Councillor Andrew Burns (Fairshare)

Professor John Curtice (University of Strathclyde)

Stewart Maxwell (Fairshare)

Amy Rodger (Fairshare)

Willie Sullivan (Fairshare)

#### CLERK TO THE COMMITTEE

Eugene Windsor

#### SENIOR ASSISTANT CLERK

Irene Fleming

#### ASSISTANT CLERK

Neil Stewart

#### LOCATION

Committee Room 4



## Scottish Parliament

### Local Government Committee

*Tuesday 21 May 2002*

*(Afternoon)*

[THE CONVENER *opened the meeting at 14:10*]

### Items in Private

**The Convener (Trish Godman):** Comrades, it is late, so let us start. I ask committee members to agree to discuss agenda items 4 and 5 in private. Item 4 is a work-planning paper with suggestions on the Debt Arrangement and Attachment (Scotland) Bill. It would not be appropriate to make public those suggestions. During item 5, we will discuss the merits of candidates for appointment as adviser during phase 2 of our renewing local democracy inquiry. Do members agree to discuss those items in private?

**Members** *indicated agreement.*

### “Renewing Local Democracy: The Next Steps”

**The Convener:** We move now to item 2, which is phase 1 of our inquiry into renewing local democracy. We will consider the white paper—“Renewing Local Democracy: The Next Steps”. Our first witness is Professor John Curtice. He has attended the committee before and we welcome him again. He is from the department of government at the University of Strathclyde in Glasgow.

I see that Professor Curtice will do a PowerPoint presentation, which impresses me because I cannot do them. He will take us through his presentation and his written submission. I apologise to members for the fact that they received the submission late, but the clerks and I received it only this morning. Professor Curtice knows the drill; once he has finished, I will open up the meeting for questions.

**Professor John Curtice (University of Strathclyde):** Thank you. The committee has asked me to do three things: first, to provide an overview of the electoral systems that are mentioned in the Executive’s white paper; secondly, to address the question of which system best meets the criteria that are laid out in the white paper in order to judge which electoral system ought to be used in future Scottish local government elections; and thirdly, to address the implications of the Executive’s decision not to reduce the number of councillors—such a reduction having been recommended by the Kerley working party. While doing those three things, I was asked also to address any recent research that I might have conducted. I will do that in the course of my presentation.

Given the pressure of time, and having made some assumptions about the committee’s familiarity with the various electoral systems, I will go through the first part of my presentation very quickly. The second part is undoubtedly more important.

I remind members quickly that the single transferable vote is used in multimember wards. Voters are requested to place candidates in rank order, after which a counting process takes place in which votes are redistributed as necessary in accordance with the second and later preferences that are expressed by voters, until a statutory quota is reached. There is experience of such systems in both the north and south of Ireland, in Malta and in the Australian Senate.

The second system that the Executive mentions is the additional member system. I assume that members are wholly familiar with that because it

is, of course, the system that is used to elect the Scottish Parliament.

There are two variants of those systems, which I mention in my submission. The first is the alternative vote. Conceptually, it is no more than the single transferable vote in single-member constituencies. The quota in the alternative vote is 50 per cent plus 1, which is exactly the quota that you would get if you were to work through the mathematics of STV. The alternative vote is used in Australia, and what I would consider to be a bastardised version of it is now used to elect directly elected mayors south of the border.

AV-plus is simply a variant of the additional member system. Instead of what happens in Holyrood, with directly elected members being elected by the first-past-the-post system, they are elected using the alternative vote. To my knowledge, AV-plus is not used anywhere in the world, but it was recommended by Lord Jenkins as part of his commission's work into a future electoral system for the House of Commons.

Those are the systems that we are considering—along with the current system that is used in Scottish local government, which is the first-past-the-post system.

The Executive mentions three criteria in its white paper, although the second really comprises three criteria in itself. The first criterion is the importance of maintaining the councillor-ward link. Secondly, the white paper says:

"Any new system should ensure that voters' preferences are clearly reflected ... should be capable of being used ... in both urban and rural council areas. A new system should not unduly act ... against the interests of independent candidates".

Thirdly, it says:

"Any new system must manifestly be seen to have clear support".

14:15

To what degree—if at all—do those criteria differ from those that have been the subject of debate ever since the McIntosh report was published in 1999? The answer is, "Not a great deal." The councillor-ward link, the need to deal with both urban and rural areas and the considerations for independent candidates were all covered in that report. The one consideration of the McIntosh commission that has been dropped is the requirement for a close fit between wards and communities which, as I explain in my written paper, is probably sensible. The one criterion that was not among the commission's criteria and that has been added is that there should be evidence of clear support.

In my view, there is a substantial ambiguity in

the white paper, which is the idea that

"Any new system should ensure that voters' preferences are clearly reflected in the result of an election".

Under one interpretation, that means proportionality but, under another interpretation, it means ensuring that there is a clear overall majority. To be frank, anyone who wishes to determine which of the systems meet the Executive's criteria faces a serious problem, because the criteria in the white paper are not sufficiently unambiguous for us to be able to find that out.

In order to be helpful to the committee, I propose to indicate the degree to which AMS and STV meet the criterion of proportionality, and under what circumstances they do so. I will also address the question of the extent to which FPP meets the criterion of majoritarianism, which is usually set out for that system. That seems to be the best that one can do, given the nature of the white paper.

The first criterion that the Executive says is vital is the idea of the councillor-ward link. Alas, in the debate that has been going on over the past three years, the councillor-ward link has been frequently invoked but rarely defined. It seems often to be a question of a definitional fiat; by the councillor-ward link, we mean simply that there should be one councillor to one ward. If that is what we mean, we can end all debate, because no system of proportional representation can operate where all councillors are elected in single-member wards.

The alternative is to identify what are thought to be the attributes of single-member wards. That argument is mentioned in the white paper. It relates, in essence, to the degree to which single-member wards provide incentives for local councillors to act as local advocates on behalf of individual constituents and communities, *vis-à-vis* the local council, and to the degree to which those councillors are clearly accountable to all the voters in their wards, as a result of which voters should feel a clearer sense of representation.

That is what I will mean by the councillor-ward link. It is a set of understandings about the advantages of councillors taking on roles as local advocates. It is argued by the advocates of single-member representation that that role would best be advanced through single-member wards. Equally, the advocates of multimember wards have a theoretical argument about why their favoured system promotes local service. Crucially, they rely on the argument that multimember wards mean competition between councillors, possibly even between councillors of the same party, and that that competitive process provides an incentive for individual councillors to engage in a service function that is at least as strong as that which can be found in single-member wards. I have been

doing research on the subject, not so much in Scotland, but in a comparative context, and I would like to share my findings with the committee.

Another piece of evidence comes from the Scottish Executive itself: the Scottish household survey. The survey for 1999-2000 asked two questions that are relevant to the debate. The first was to ask people whether they had been in contact with a local councillor in the past year about a problem or query. The answer was that 8 per cent of people had been in contact with a councillor.

Throughout the debate, one must remember that, although the probably constant flow of people coming to elected representatives with queries or problems seems terribly important to those representatives, it is relatively unimportant from the perspective of the electorate, because most people do not approach their councillors most of the time.

If, as is claimed, under the existing system there is a clear councillor-ward link, one would expect most people to know who their local councillor is. However, according to the Scottish household survey, only 43 per cent of people claim to know who their councillor is. It should be noted that no attempt was made to verify the accuracy of that claim.

I have been involved in comparative international work that has allowed us to ask the same questions about countries that use widely varying electoral systems. Some have single-member districts, some have multimember districts and some have mixed systems. Some of the questions that were asked in the survey are relevant to the issue that we are debating.

One question relates to the extent to which people report contact with their elected representatives. As members can see, people who live in countries that have single-member districts report higher average levels of contact than those who live in countries that have mixed or multimember systems. However, one key message is that most people are not in contact with their elected representatives most of the time.

If the claims that are made about single-member districts were correct, one would expect people to be able to name correctly one of the candidates in their district. If single-member districts promote a personal vote, it is to be presumed that people will know for whom they are voting. However, that claim is not substantiated by international evidence. In fact, people who live in countries that have single-member districts were less likely than those who live in countries that have multimember districts to be able accurately to remember candidates' names.

As I suggested earlier, if the link that is generated by single-member systems is valuable and valued by electors, they should feel that their elected representatives are more likely to understand what they think. On that issue, the result is a no-score draw among all the various systems.

Although the Executive believes that the councillor-ward link is vital and that claim has been central to the debate about electoral systems, there seems—according to that criterion—to be no significant empirical evidence that any of the systems under consideration has a clear advantage over the others. The evidence is nothing like strong enough to suggest that a judgment should be made on the basis of the councillor-ward link alone.

I will try to unravel the problem that is created by the ambiguity of the Executive's definition of its second criterion. Members will not be surprised when I say that, whether we choose AMS or STV, the outcome of elections is likely to be significantly more proportional than is the case under the existing system. One of the key characteristics of Edinburgh, for example, is that currently the SNP gets one fifth of the vote there, but has only one seat on the council. The Labour party receives less than one third of the vote, but has more than half the seats on the council.

If the Executive is concerned that electoral outcomes should be more proportional, the real issue is not a choice between STV and AMS; rather it is how those systems are implemented. In the case of the single transferable vote system, the size of wards is crucial to determining how proportional the system will be. In the case of AMS, the key factor is the proportion of seats that are additional. I illustrate that point by showing what would happen to Labour's position in Edinburgh under different systems. Under a four-member STV system, or an additional member system in which 43 per cent of the seats were allocated as additional seats, the Labour party would receive one third of the seats from one third of the vote. Under a three-member STV system or an additional member system in which only 25 per cent of the seats were top-up seats, the Labour party would end up with nearly 40 per cent of seats. I have provided the committee with further examples in my written evidence. If our concern is proportionality, we should focus on the size of wards under STV and the size of the top-up under AMS, rather than on the choice between AMS and STV. Each system can be made almost as proportional as the other, as long as the system is implemented in a way that is designed to achieve that.

However, there is one clear difference between the two systems. Under the single transferable

vote system, results are influenced not only by the first preferences of voters, but by their second preferences. For that reason, the system's impact will depend on the distribution of second preferences among voters. The slide on the screen now shows the second preferences of voters in the 1999 elections. For example, 19 per cent of Conservative first-preference voters indicated that their second preference was for the Labour party.

There are three crucial facts to derive from the table. First, nobody loves the Conservatives; therefore, they will be disadvantaged at present by any transferable vote system. Secondly, the Liberal Democrats tend to be relatively liked by everybody else. Thirdly and not least, the Labour party is preferred to the SNP among all the other parties' voters. Therefore, in a narrow contest between Labour and the SNP, the Labour party benefits from transfers.

The alternative vote system that the Executive's report mentions is also influenced by second preferences. It is therefore worth considering what would happen under that system, given those preferences. Given what I have said, what members see on the screen will not surprise them. The slide entitled "AV in Edinburgh" is a simulation of how the alternative vote system would operate in Edinburgh. The SNP's one ward in Edinburgh was won only narrowly. Under the alternative vote system, the SNP would be left with no seats in Edinburgh, and the Labour party would be slightly better off than it is under the current system, as would the Liberal Democrats. One can say simply and readily that, if the aim is to achieve proportionality, the alternative vote system should not be considered further. It is in no sense a proportional system and is capable, as in the case of Edinburgh, of producing results that are even less proportional than the current system.

How does the first-past-the-post system do at delivering majorities and how good is it at ensuring that a majority goes to the right party? Does it treat large and small parties, in its own terms, fairly? The Executive asks all those questions and they are all crucial to the claims that are made for first past the post. I argue that, whatever one thinks about STV and AMS, it is not evident that FPP meets the criteria that its supporters commonly uphold for it.

For example, advocates of FPP tend to dislike coalition Governments or hung councils, but alas—from their perspective—we already have them in Scotland. The 1999 elections generated 10 hung councils and only half the councils in Scotland had a majority single party running them. It is already the case that FPP relatively frequently generates non-majority councils in Scotland. It is also the case that, if the recommendations of the

Kerley report were implemented, eight or nine councils would still have a majority party using the figures from the 1999 elections.

In truth, the debate between FPP and STV—and probably also AMS, depending on how it was implemented—is not that one is clearly majoritarian and the other is clearly proportional. It is an argument about degrees of proportionality and majoritarianism. The difference between them is much narrower than the debate commonly assumes.

The second problem that FPP faces is that there is no guarantee that the party that gets the most seats is the party that has the most votes. That is clearly a failure of the system according to the criteria that its advocates set up. The slide entitled "Wrong Winners" gives three examples of where that has happened in Scotland.

The third failure of FPP is that it is not the case that it simply discriminates against small parties and is kind to big parties. If that were true, for example, the Liberal Democrats and the Conservatives should be treated more or less equally in Scotland. They are not; the Liberal Democrats basically get their proportionate share and the Conservatives are discriminated against. If it were the case that FPP advantaged big parties and not small parties, it should disadvantage the SNP less than it does the Liberal Democrats. As members can see from the slide entitled "FPP Scotland-wide in 1999", it fails that test as well. Therefore, I suggest that if, by saying that any system should reflect clearly the views of the electorate, the Executive means that councils in Scotland should have majorities that are clear reflections of at least the rank orders of the parties in terms of shares of the vote, FPP is clearly not the right instrument through which to achieve that objective.

Two other criteria are embedded in the Executive's second criterion for a new system. I will dispose of those briefly. One is that the system should be capable of being adapted to urban and rural areas. My view is that it would be possible to do that and that that would be made easier by the Executive's decision not to reduce the number of councils. It could be done simply by changing the sizes of wards and the proportions of additional seats. Secondly, STV is clearly rather more friendly to independents than AMS is. That is probably the one clear way in which one can distinguish between the two systems.

The third criterion is "clear support". It is worth noting that in saying that a

"new system must ... have clear support",

the Executive does not say support by whom—it could simply mean that all the political parties are in favour of it. I have assumed that by stating that



criterion, the Executive means that a new system will require significant evidence of public support, rather than simply support among politicians.

There is relatively little research on the public's attitudes to electoral reform for Scottish local government—it is not the world's most exciting subject. However, I am aware of two pieces of survey research evidence. The first comes from a question that was put in a System Three poll by the Electoral Reform Society. As the slide shows, there was heavy support in favour of the principle of proportionality.

14:30

The second piece of evidence comes from research that I was involved in at the time of the 1999 Holyrood election. We used the fact that we had a group of voters in Scotland that were used to both a proportional system and a first-past-the-post system to ask more questions about proportional representation than respondents had ever been subjected to previously. For the most part, the questions were about Holyrood and Westminster rather than about local government, but one question asked whether the Holyrood method of voting should be used in future local government elections and there was fairly substantial support for that proposition.

It would be difficult to argue that there is clear evidence that the electorate does not want a system that is more proportional. However, I acknowledge—my submission goes into more detail on this—that the answer to such questions depends on how they are asked. If we ask people whether the UK should introduce PR for the House of Commons, everybody says yes. If we ask them about the relative merits of proportionality versus strong government, we get a different answer. Having said that, there is a difference between the two sets of answers for Holyrood and Westminster. It may be that concerns about strong government are particular to Westminster and do not necessarily apply to Scottish local government.

What can give you some indication of the aspects of the debate about electoral reform that resonate with voters? Some of the debates do not resonate as much as people think, whereas others do. For example, the arguments that proportional representation leads to unstable government or that people prefer single-party government do not resonate. Only 16 per cent and 14 per cent of Scots voters respectively endorsed those propositions.

In contrast, the idea of having one MSP for an area rather than several is something that does resonate with the public. The evidence is that although there is probably broad support for the idea of proportionality, there are aspects of

alternative systems that are less popular and it is not the case that all the evidence supports the argument of one side against the other. However, I have come to the view that it would be difficult to argue that we could not change the system at all because there was strong public opposition to such a change.

The second aspect of public support that might be considered to be important is the argument that voters might withdraw from participating in elections because the complexity of the system meant that they did not understand what they were doing any more. My next two slides show that most people did not find complexity a problem. Very few people had trouble filling in the ballot paper in 1999, and although rather more people said that it was difficult to understand the relationship between votes and seats, there is no evidence to show that that led people not to vote.

Moreover, on one of the rare occasions that academics agree with one another, almost all the international academic evidence on electoral systems and turnout suggests that turnout in countries that have PR tends to be higher than in countries that do not. The academics differ about the size of the effect and some of the evidence shows a difference that is not particularly large; however, they all agree about the direction of the effect. It would be very difficult to argue that we should not introduce either STV or AMS to Scottish local government on the ground that the complexity will put off voters. That argument does not seem to have much basis.

The third thing that I was asked to do was to consider the implications of the Executive's decision to keep the same number of councillors, regardless of the choice of alternative system. That would make it easier to introduce either of the alternative systems under consideration, compared to Kerley's proposals. If we do not attempt to reduce the number of councillors in an area, under STV one or other or a combination of two things could be done. We could have more councillors per ward, which would make the system more proportional. Alternatively, we could have a smaller average electorate per ward. Four-member wards could have a smaller electorate, because we would have more councillors overall.

If we are concerned about having big wards in rural areas, the Executive's decision has made it easier to implement STV than it would have been under Kerley's original recommendations. However, the Executive's decision also provides more flexibility for AMS. What could be called the extra councillors that the Executive has brought back into the system could be used to provide more additional seats for any given ward size under AMS—that would create more additional top-up councillors, which would make the system

more proportional. Alternatively, the extra councillors could be used to create smaller wards with a smaller average electorate size in the single-member districts, which might make the system easier to implement in rural areas.

Apart from what might be considered its political wisdom of not asking turkeys to vote for Christmas, the decision makes it easier to deal with the potential conflict between the wish not to have wards that are too big, particularly in rural areas, and the wish for greater proportionality, which may or may not be embedded in the Executive's white paper.

**The Convener:** If nothing else, you have put us in our place by saying that only 8 per cent of people contact elected representatives, although 43 per cent of people claim to know who their local representative is. I noticed that, in your submission, similar percentages apply in relation to MPs, but that people were not asked who their MPs or MSPs were. I am sure that that question would have received many interesting answers and that the recognition figure would not be 43 per cent. Everybody claims to know us, but few probably do.

You said that not much research had been conducted on the public attitude to PR systems. Are you aware of any research on what the public think that the councillor-ward link is? Are the public more concerned about the elected individual or about the party?

**Professor Curtice:** I do not think that any research has been conducted on what people understand the councillor-ward link to be. That is a set of buzz words that has little meaning. A survey could not be conducted with the question, "What do you think that MSPs or councillors mean when they talk about the councillor-ward link? Answers on one side of A4." Doing that would be impossible.

Your second question was about the relative importance of the individual and the overall council. It is difficult to obtain direct evidence about that. The indirect evidence is that, throughout Scottish councils as a whole, the party label principally determines who is elected, although the popularity of a party label is determined not only by the popularity of parties at Westminster or Holyrood, but by the popularity of the parties in the local council. There is increasing evidence north and south of the border that what local councils do, as opposed to what local councillors do, can have an impact on their popularity.

However, some evidence shows that, at the margin, individual popular local councillors do better than other local councillors who are less popular. If you asked me to rank the relative

importance of those issues to how people vote, I would suggest that more than 80 per cent of people take into account principally the former and less than 20 per cent take into account principally the latter, although that balance in rural areas is rather different from the balance in urban areas. In rural areas, the party label is less important—it is sufficiently unimportant that many councillors are elected without any party label.

**Ms Sandra White (Glasgow) (SNP):** I thank Professor Curtice for his interesting presentation. I do not know about you, but my mind is boggling with the information on the first-past-the-post system and the other systems that you described.

I will pick up on one of the convener's points about the councillor-ward link and the fact that only 8 per cent of people had contacted their councillor. In areas such as those that I represent—Partick, for example—people do not realise that they belong to a particular ward, but see themselves as belonging to a party. The Kerley report talks about reducing the number of councillors in certain areas. The Scottish Executive proposes that, if a PR system is introduced for local government, the number of councillors should not be reduced. Do you think that that would be beneficial? Your evidence and the evidence I have taken from local people suggest that the councillor-ward link is not as significant as some people imagine. Perhaps that link exists more in politicians' minds than in the minds of the people.

**Professor Curtice:** The Kerley committee was politically unwise to suggest a reduction in the number of councillors because the parties that would lose out in an area from the change of electoral system might lose out even more from the reduction in the number of councillors. One should not do those two things at the same time.

One of the essential conflicts in devising any electoral system, particularly in regard to the councillor-ward link versus proportionality, is a debate between local representation and proportionality. Tension is created because the crucial factor that determines the proportionality of a system is the number of councillors per ward—in other words, making the system as big as possible. If the number of councillors is reduced, it is even more difficult to keep small wards. If the Executive is minded to introduce a degree of proportionality while maintaining a semblance of local representation, reducing the number of councillors will make that more difficult. Undoubtedly, that would make it harder to deal with a tension that is already difficult to resolve.

You spoke about people not knowing which ward they belonged to. It will not surprise you to discover two things: people's contact with and reported knowledge of candidates is higher in rural

areas than in urban areas and it is higher among older people than among younger people.

**John Young (West of Scotland) (Con):** I first became a councillor in 1964 in Glasgow where there were three councillors per ward, as you recall. The ward electorate ranged between 50,000 and 5,500, which was the result, I believe, of the boundary commission not having met since before the second world war.

I am a regional list member in the Scottish Parliament and, irrespective of party, many list members feel like second-class citizens. We feel like that not because of how we are treated—it has more to do with how the rules are laid down. As a West of Scotland member, I represent Trish Godman's constituency. If I receive letters from her constituents, I am supposed to give her copies of all correspondence regarding problems in that constituency. In some ways, I feel divorced from the electorate—a feeling I never had as a councillor.

Some critics of the multimember STV system claim that it could lead to a two-tier system of councillors. In other words, constituents are more likely to contact those councillors who are in relatively senior positions. That could be a member of the administration or a member of the party that forms the administration. Do you have any comments about that?

**Professor Curtice:** The concern about alleged second-class representation relates more to an additional member system than to STV. It is also a product of the rules according to which members of the Scottish Parliament operate. If the Parliament were to drop the convention of requiring you to notify Trish Godman every time you received a letter, you could compete with one another for the efficiency of your service and some people might suggest that that would be reasonable. As you rightly point out, the single-member first-past-the-post system is relatively new to Scottish local government. It is a product of the mid-1970s and is not to be found commonly south of the border where the vast majority of councillors are elected by multimember plurality.

The problem you allude to of people going to the more senior councillor might also be found in English councils. If they have more than one councillor, they can choose who to go to. What is the problem with that? If we have multimember representation, voters can judge for themselves who they think is best able to provide them with the service that they wish to have provided. If they go first to Councillor X and are dissatisfied with what Councillor X does, they can go to Councillor Y to see whether that person can do any better. That may be uncomfortable for individual councillors, but most of the time most of us are being told in most of our professional lives that

competition is good for us. It is not clear to me why competition should not be equally good for politicians in the performance of their service function.

14:45

**John Young:** I may be wrong about this, but I believe that the current Prime Minister of New Zealand indicated that PR at national level had led to a lack of stability in New Zealand politics. Mr Berlusconi's predecessor as Prime Minister of Italy indicated that it might be worth while reviewing the PR system there, because of the instability in Italian politics. He was credited with the joke that one could not bounce a ping-pong ball in the Italian Parliament without hitting at least 20 ex-Prime Ministers. For a long time Italy has had PR at every level, but now the Italians appear to be having doubts about the system.

**Professor Curtice:** I do not suggest that some countries have not had difficulties with PR because of instability. However, much of the Italian electoral system is now based on the first-past-the-post system, but that has not solved Italy's problems. Its failure to do so can be explained simply by reference to the way in which the first-past-the-post system operates in Northern Ireland. In Northern Ireland the system does not produce clear majority outcomes because, at least until the previous general election, in first-past-the-post elections the Democratic Unionist Party and the Ulster Unionist Party engaged in an electoral pact to ensure that in marginal Unionist constituencies there was no competition between them. The same thing happens in Italy in single-member districts, so the first-past-the-post system has not generated the majoritarianism that the Italians anticipated. Members should be aware that the system is no guarantee that instability caused by multiparty politics will be avoided.

Although we may want to argue about the instability that can be generated by hung parliaments, I am not sure that those arguments have much relevance to local councils, which are not trying to run the country and are not responsible for major defence systems or the national economy. As I indicated, even under the existing system councils have wide experience of operating without an overall majority. If the lack of an overall majority were a crucial problem in the running of local councils, a considerable number of problems should be evident to us already.

**Dr Sylvia Jackson (Stirling) (Lab):** I have three questions, although two of them are for clarification.

You seem to be saying that we have no clear research evidence of what the public think about the additional member system. People were asked whether the electoral system for Holyrood should

be replicated for councils, and their answer was yes. However, it is not clear that they were saying that AMS should be used.

People were also asked whether they preferred to have one MSP or more than one, and they indicated quite clearly that they wanted to have one MSP. If we can draw any conclusions from that, it is that people are opposed to the additional member system.

**Professor Curtice:** The answer to your question is twofold. First, we do not know whether the public prefers AMS to STV in Scottish local government elections. I do not think that the vast majority of people in Scotland even have a view on the subject. This is a very elite debate. However, that does not mean that politicians do not have the responsibility to reach a careful, well-argued, considered position on the issue.

Secondly, I acknowledge that the answers that are given in surveys are not wholly consistent. The answer that one receives is dependent on the way in which one poses the question. However, more surveys produce a majority in favour of proportionality than do not. The term councillor-ward link has resonance for people who are opposed to proportionality because the idea of having one MSP still has considerable popular appeal.

**Dr Jackson:** You have examined multimember wards. How do they operate? Have you examined areas where several political parties have several councillors within one large ward? Do such wards operate differently on the ground?

**Professor Curtice:** The operation of local government is not an area in which I specialise. However, I am not aware that anyone has compared what happens in single-member wards with what happens in other wards. Such a study would involve comparing the way in which councillors in Scotland do their job with the way in which councillors in most of England work.

**Dr Jackson:** Are you saying that no one has examined how the system operates on the ground in England?

**Professor Curtice:** From an English perspective, the question is irrelevant. No one in England wants to make the vast majority of wards single-member districts. The fact that most councillors in most districts in England end up representing multimember wards is regarded as utterly routine and not worthy of comment. It has become an issue in Scotland only since someone suggested that we switch from single-member to multimember wards.

**Dr Jackson:** Is there no evidence of how those wards operate in England?

**Professor Curtice:** I am not aware of any such evidence, but I am not a local government expert. Members may want to investigate whether local government experts who work on how councillors do their job have attempted to do the comparative study to which the member refers. I would be surprised if anyone has done it from the perspective that interests the committee. Most research is done in England, and most people working in England would not regard it as worth while to ask about the way in which multimember wards operate. The existence of such wards is not regarded as a problem in English local government.

**John Young:** I served as a councillor at a time when there were three-member wards in Glasgow. In those days, the Conservatives were still called Progressives. The ward that I represented had one Labour member and two Progressives. We worked together frequently, but that co-operation was based on the personalities of the individuals concerned—we all got on quite well, except at election time. In other wards, the system did not quite work—there were clashes even in wards represented by three members from the same party. The system relied on the fact that, in those days, community councils in Glasgow and Edinburgh were powerful and had large memberships, which we met. Today, community councils are mostly dead.

**Dr Jackson:** My last question is about the slide headed "Keeping Councillors". I did not follow everything that you said about that, particularly the third point on the smaller average electorate per ward. That is where I got lost.

**Professor Curtice:** I will repeat what I said slowly. Irrespective of the system that is used, the more councillors there are, the greater the potential for generating proportionality. That is a simple point of mathematics. If only four councillors represent the whole of Edinburgh, it is very difficult to make the system proportional. If there are 100, it is at least possible to make it proportional.

I have forgotten what the Kerley recommendations are, but let us say that Kerley recommended that there should be only 40 councillors and we have decided to retain 50 or 60. What do we do with the extra 10 councillors? Under STV, we could have an extra councillor per ward, so instead of having four-member wards, as recommended by Kerley, we could have five-member wards. That would result in greater proportionality. Alternatively, we could have more four-member wards, because there are 50 councillors to distribute across the authority rather than 40. That would produce a smaller average electorate per ward. Each ward would still have four councillors, as recommended by Kerley, but

the total electorate in each four-member ward would be smaller. That would bring us closer to the goal of local representation.

What could be done with the 10 extra councillors under AMS? They could all be made additional councillors, which would increase the proportionality of the system without increasing the average size of single-member wards from what it would have been with 40 councillors. Alternatively, I could go to the other extreme and make the 10 extra councillors directly elected. That would reduce proportionality, but it would also reduce the electorate size per ward and get closer to the idea of local representation.

I want to say something fundamental in response to Dr Jackson's questions. As I said earlier, if someone truly believes that the only adequate way of representing people in local government is through single-member wards, they are, by definition, against proportionality—they believe that single-member wards are more important than proportionality. There is no way that we can derive a proportional system with single-member representation.

The additional member system is an attempt to square the circle by saying that single-member districts are all right as long as some councillors are directly elected and there are other councillors to achieve proportionality. There is a basic tension there. Proportionality depends on the existence, somewhere in the system, of multimember wards. The opinion poll evidence suggests that there is still support for single-member representation, but there is also clear sympathy for proportionality. The electorate, like many politicians, would like to have its cake and eat it.

**Elaine Thomson (Aberdeen North) (Lab):** I apologise for having come in halfway through your presentation. I was across in Ireland last week watching the general elections and considering matters to do with STV. On the councillor-ward link, one of the things that struck me was that Ireland appears to have a tight link between representatives and their constituency, whether it is a three, four or five-member constituency. There seem to be informal arrangements to divide the constituency among the parties.

I came away from Ireland with the strong impression that STV ends up encouraging personality-based politics as opposed to party politics. The day before the general election, a row was going on about the fact that one of the parties had directed voters. A constituency had two candidates from the same party and the party had suggested that voters vote one way. Competition is not so much between parties, but between individuals in parties. Is that a feature of STV in Ireland or of STV in general?

**Professor Curtice:** The answer is almost undoubtedly that it is a feature of both. One way of thinking about it might be to say that STV encourages the Irish to be Irish. If anything, the criticism that is sometimes made of STV in Ireland is not that it discourages local representation or the service function, but that it exaggerates the importance of local representation and the service function and discourages members of the Dáil from worrying about what the Executive is doing throughout the state as a whole. That is the first point to make.

The second point to make is that in so far as there is variable experience, it seems to be the emphasis on the service function that varies. In Australia, the parties seem to have a lot of control over how voters vote in the Senate elections, because of the how-to-vote cards. They seem to have much greater ability to direct which way their voters go than do parties in Ireland. It also depends on what voters are looking for and the relative importance of parties versus individuals. The truth is that if voters are looking for the service function, STV will ensure that they get it in spades. If voters are not looking for the service function, they will not necessarily get it, because it will no longer be an effective means of competition between candidates of the same party. Voters might be looking for right-wing or left-wing candidates, or they might be looking for fundamentalist or non-fundamentalist nationalist MPs, in which case that is the criterion by which they will choose between candidates of the same party.

**Ms White:** I have a question about accessing the voters who come out to vote. The conclusion that I came to from your presentation is that there are good and bad points about the first-past-the-post system and about the single transferable vote. The issue is how we deliver the system to the electorate. Does the first-past-the-post system discriminate against smaller parties? Would a switch to STV encourage political parties to widen the scope for equality and involve more women and people from ethnic minorities? Would STV encourage voters to vote?

**Professor Curtice:** I am sorry if I do not remember all your questions—feel free to butt in. I will answer your questions in reverse order. As I suggested, the evidence appears to suggest that proportional representation encourages a higher turnout, but we should not assume that proportional representation will change a 40 per cent turnout into a 60 per cent turnout. It might change a 40 per cent turnout into a 45 per cent or possibly a 50 per cent turnout. Expectations should not be too high.

What were your first and second questions?

15:00

**Ms White:** Does the first-past-the-post system discriminate against smaller parties?

**Professor Curtice:** It discriminates against parties whose votes are evenly spread geographically, until those parties become the largest party, at which point, it gives them a bonus. By most reasonable definitions, the Liberal Democrat party is a small party in Scotland, both at Westminster and Holyrood and in local government, but the current system does not discriminate against it. That is because its vote is geographically concentrated. In contrast, the present system discriminates against the SNP, which by most European standards is a relatively big party, because its vote is evenly spread geographically.

One problem with the case for FPP is that no one has ever argued that majoritarianism should be conditional on the geographical spread of the parties' votes, although that is the reality. Even very small parties can do well under FPP if their vote is geographically concentrated. One fact about British politics is that Plaid Cymru has been consistently over-represented in the House of Commons because its vote is so geographically concentrated.

Your second question was whether STV might encourage parties to represent minorities and reflect the gender balance. In the Holyrood elections, the Labour party—for good or ill—demonstrated that it is perfectly possible for determined parties to achieve a gender balance in an FPP election. Compared with AMS, STV puts a lot of power in the hands of voters. If voters prefer female candidates to male candidates, there will be a gender imbalance. If voters prefer people with a south Asian background to those who are white, there will be a disproportionate number of south Asian candidates—and vice versa.

If one believes in balance, one must trust the electorate under STV. With that system, parties have an incentive to put up candidates who are identified with significant communities in each constituency. To come back to Elaine Thomson's earlier point, I want to mention the importance of locality in Irish elections. If there are three clearly identifiable communities in an Irish constituency, the parties will almost always put up one candidate from each of them, to ensure that they pick up the party vote from each community.

With AMS, the position can vary. The version of AMS that is used for Holyrood uses closed lists for the top-up system, which means that parties have a lot of control if they choose to exercise it. However, that is not an essential feature of AMS. It is perfectly possible to run an additional member system with so-called open lists, which allow

voters to have an influence on the order of the list. That takes us back to trusting the electorate.

**Elaine Thomson:** I want to follow up on that. Is there any evidence—either national or international—to show that STV systems result in a lower proportion of female representatives than first-past-the-post or other systems? I was struck by the low number of female representatives in Ireland.

**Professor Curtice:** I am not sure whether there is evidence to suggest that the situation is worse under FPP. There is certainly no clear or significant evidence to suggest that STV is good at achieving gender balance, although that is partly the product of the political cultures in which it is embedded. If you believe in having a gender balance or a racial balance, the evidence suggests that you should go for closed party lists, although there are lots of arguments against them. It depends on whether you want guided democracy or voter democracy.

**John Young:** Nuremberg is twinned with Glasgow. A few years ago, the council in Nuremberg was made up of a coalition of Social Democrats, Christian Democrats and Greens. If we adopted a PR system, would we have more coalitions? I can think of only one informal coalition in local government, and that example goes way back. We have a coalition between Labour and the Liberal Democrats in the Parliament, which was a bit unusual in some ways. Perhaps there was no alternative but for the single largest party to form a coalition in order to provide continuity. In small towns or in rural areas, there is already a degree of so-called coalition, but would that happen in the large cities?

**Professor Curtice:** This is not my subject, although I have read some information about it. In recent years, quite a lot of research has been conducted into how councils have adapted to the growing occurrence of there being no overall control, particularly south of the border, where it is a common phenomenon. There are many potential answers to your question. One answer would be to form a coalition between two or more parties and to share out committee chairs. A second possibility would be to form a minority administration. A third would be a system of rolling committee chairs and a fourth would be a system in which executive officers brief all the party groups on an equal basis. Coalitions could be formed around individual issues and may be linked to a system of rolling committee chairs. All those systems are possible. Ironically, the pressure to move towards a cabinet system will probably force rather more coalitions to be formed than has hitherto been the case in councils that have coped with there being no overall control.

**The Convener:** No one would disagree that the

debate is not taking place on the doorsteps—the issue does not come up when we are canvassing. In a sense, the debate is selective, but we must make sure that we deliver services properly and appropriately through the councils and that the Parliament takes the appropriate decisions. We will have to watch how we sell the system that we decide to go for, although I do not know whether we will change the system. The most important factor seems to be that services continue to be delivered appropriately, in the right place and at the right time.

I thank Professor Curtice for coming along. I am sure that we will see you again.

We will have a break for a few minutes so that the machinery can be removed. Fruit, tea and coffee have been provided.

15:07

*Meeting suspended.*

15:13

*On resuming—*

**The Convener:** We will make a start because we are running a bit late and it is very warm in this room—people will probably want to get out.

I welcome the witnesses from Fairshare. Councillor Andrew Burns is the chair of Fairshare, Stewart Maxwell is a member of the campaign committee, Amy Rodger is the campaign co-ordinator and Willie Sullivan is the campaign consultant. I have to declare an interest, because I know Willie.

You know the drill because you have been sitting in the room and you have attended the committee before. Say what you have to say and then I will open up the meeting to questions from members.

**Councillor Andrew Burns (Fairshare):** I thank the committee for inviting us to give evidence today. You will be pleased to know that our written submission is fairly comprehensive and that I will not go over its contents blow by blow. I hope that members have had a chance to scan it. I would like to make three brief points before members ask the difficult questions—I have no doubt that they will be difficult—which my three colleagues will answer.

First, I underline the point that Fairshare is a cross-party, non-party organisation that campaigns for the introduction of single transferable vote proportional representation for local government elections in Scotland. The cross-party nature of the campaign is reflected in our deputation. Ten minutes ago, John Curtice made a strong reference to the fact that there is little

difference between STV and AMS. However, for Fairshare, the crucial difference is that STV does not involve the use of lists—I cannot stress that point strongly enough. STV puts power into the hands of the voter, not into the hands of the party manager, because there are no party lists. Although we have an interest in other aspects of the white paper “Renewing Local Democracy: The Next Steps”, our key concern is with the electoral system.

Secondly, Fairshare believes that the imminent abolition of first past the post for local government elections in Scotland should not surprise anyone. It is worth my outlining the brief history of the situation. The first-past-the-post option for local government elections in Scotland was effectively dropped in 1998, when McIntosh recommended that only proportional systems and AV should be considered—that was fully four years ago. Two years ago next month, in June 2000, Kerley recommended the use of STVPR. We have debated the systems many times over that four-year period and you will be relieved to hear that we will not go into the detail of the systems this afternoon. As per Kerley’s recommendation, we are looking for the implementation of STVPR—and no other option—as an electoral system.

15:15

I notice that members have received a black-and-white copy—my copy is colour—of a chart that I e-mailed, which provides a graphic illustration of the reason why Kerley recommended a move away from first past the post to STVPR. The chart shows the results of the local government election on 6 May 1999. As you can see, more than 49 per cent of the electorate, or well over 1.1 million voters, did not get the councillor of their choice and only 51 per cent got the councillor of their choice. That clearly illustrates the problems with first past the post. We believe that those problems have been well debated over the past four years, that we must move on and that the Executive must make a decision on implementation. As I said, none of what I am saying should surprise anyone.

Thirdly, and lastly, given that the debate has lasted four years, Fairshare would like the Executive to make an unbreakable commitment to deliver STVPR as soon as the consultation on the white paper has finished. STVPR is proportional, as John Curtice highlighted and as Kerley required, and it strengthens the councillor-ward link. Elaine Thomson alluded to that when she spoke about her recent visit to southern Ireland, and Kerley also required that strong link. Given the interminable debate, we need the Executive to introduce a bill and to make a decision about the system as soon as practically possible. In 1973,

the Government implemented STVPR in Northern Ireland in three months flat. There is no reason why the Scottish Executive could not repeat that implementation time scale in Scotland—it could even be done before the May 2003 local government elections take place.

I conclude on that note. I am happy to take questions on my comments or on the contents of our submission.

**The Convener:** You are right to point out that the debate has been around for four years—the wheels of government turn slowly. However, if you were to push for a decision by 2003, the returning officers and chief executives who have given evidence to the committee would have something to say.

Before I open up the meeting to questions from members, I will ask a question. You were present for John Curtice's presentation, much of which addressed the ward-councillor link, which is retained by other forms of PR, such as the additional member system, as well as by STV. What particular advantages for that link does STV have over the other systems?

**Councillor Burns:** Elaine Thomson alluded to the experience in Ireland. The ward link can be strengthened—not weakened—by the implementation of STVPR. For me, the key difference between STVPR and AMS is the fact that, with STVPR, we would not end up with two tiers of councillor, whereas, with AMS, we would—in the same way as there are arguably two types of MSP—no matter how much we might want to avoid it. STVPR would produce multimember wards with councillors of one type only. That would mean that the power to order the lists is in the hands of the voter, not in the hands of the party managers.

**Stewart Maxwell (Fairshare):** Our submission talks about the councillor-ward link, but no one talks about the voter-councillor link. I have no particular affiliation with my councillor—he does not belong to my party and I have never gone to him. If there were three, four or even five councillors in multimember wards, that would strengthen my link as an ordinary resident with the councillor of my choice. The fact that there is one seat and one councillor does not necessarily mean that the link is strong. There might be a strong link between those who have an affiliation to a councillor and a councillor may feel a strong link to a ward, but there is no strength in that link at all for those who did not vote for the councillor, are members of other parties or do not feel an association with that individual for whatever reason.

**The Convener:** Do you think that the proportion of people who go to councillors—currently, it is 8

per cent—would increase if there were a selection of councillors to whom they could go?

**Stewart Maxwell:** I think that there would be an increase. I am politically active in my local area. I am a member of the SNP and my councillor is a Conservative. I am sure that he does an able job, but I would prefer to go to a councillor whose views are closer to my views than to one who opposes my views.

**The Convener:** There is a difference between a councillor's opposing your views and his having to deal with a significant problem or issue that you have.

**Stewart Maxwell:** I appreciate the difference. However, as an ordinary resident in my area, I would prefer to go to a councillor who better reflects my views. I believe that a multimember ward would give me an opportunity to choose. Even if there were no SNP councillor, there might be a councillor from another party or an independent with whom I would feel a closer affiliation than I do with a Conservative councillor. That would give me, as an ordinary resident and voter, a choice that does not exist in a single-member ward.

**Willie Sullivan (Fairshare):** I want to amplify that point. I see the link as psychological. If a person votes for someone in a multimember ward, they are more likely to have a representative for whom they voted. In most wards, if three or four parties are running, the majority of people who have voted will not have voted for their representative. People are more likely to use their local councillor if they have voted for that councillor.

**Ms White:** I declare an interest—I know Stewart Maxwell. I return to something that Professor Curtice said about STV. Studies say that people want some form of proportional representation. Have you carried out studies on the public's preference for STV as opposed to any other form of proportional representation?

**Councillor Burns:** As Professor Curtice illustrated, there is no hard, empirical evidence that shows that STV has a higher public acceptance than AMS. Anecdotally, however, I can say that AMS has resulted in some problems—MSPs probably know that better than I do. Some of those relate to how the system has been implemented and the rules that apply, but the fact that it gives the potential for two tiers of elected representatives raises serious problems. That will not happen under an STV system. There will not be two tiers or two types of elected representative; there will be one type of elected representative and the choice will be in the hands of the voter rather than in the hands of the party manager.



**Ms White:** I was going to ask Trish Godman whether I could ask another question, but I notice that Sylvia Jackson is now in the chair.

**The Deputy Convener (Dr Sylvia Jackson):** I have just taken over.

**Ms White:** The convener has changed in the blink of an eye.

You say that AMS creates two tiers. Do you have any evidence that the public are dissatisfied with the Holyrood elections? I could present plenty of evidence to show that MSPs are dissatisfied. I think that there should have been an STV system.

**Councillor Burns:** Given that the Parliament is only three years old, it is hard to conclude that there is any concrete, empirical evidence of such dissatisfaction. I guess that the first real test will be in May 2003, when we will see whether the turnout is up or down. That said, we cannot put a drop or an increase in turnout completely down to the voting system. A host of other issues will impinge on the turnout.

As Professor Curtice said, there is no clear evidence that the public have a preference for one system as opposed to another. However, I strongly feel that there have been specific problems with AMS and its use and implementation in the Scottish Parliament—I am sure that members know about that better than I do. Those problems would not happen with STVPR—there would be no lists and no party management control.

**Elaine Thomson:** I return to points that I raised and to which you alluded relating to the councillor-ward link. My clear impression in Ireland was that, if anything, there is a stronger geographic link. However, what appeared to happen was that that link became so strong that it totally overrode party affiliations and people simply voted for the candidate from their local town without regard to the party from which the candidate came. Such a situation would weaken our party-political system and might not be all that helpful to a council or administration that was trying to deliver a clear programme.

**Councillor Burns:** I have to disagree. STV would weaken party managers' control over the selection of candidates; however, as a member of the public and an elected councillor, I think that that would be no bad thing. I would rather that control was in the voters' hands, as happens under STV. If that constitutes a weakening of party control—as you say—I am fine with that.

STV will induce a level of competition inside as well as between the parties. Again, although that is culturally difficult for many of us to grasp, I see no problem with it and no need to worry about it. In fact, such a situation is healthy and will benefit

politics as a whole by putting more control and power into the hands of the voter instead of the parties.

**Stewart Maxwell:** In some areas of Scotland, independent councillors who do not wear any party badge run councils. There is no reason to suspect that they are any more or less efficient or effective than councillors who belong to parties. Although I am a member of a party and would like it to do well, I do not think that slightly weakening the link between parties and councillors will present any great problems.

**Amy Rodger (Fairshare):** I am sure that I have seen statistics that indicate that, in some councils, the independents are more tightly whipped than members of political parties. That is a scary thought.

**Elaine Thomson:** I disagree. I remember that, in Highland Council—members of which recently visited the committee—none of the meetings was whipped beforehand, despite the fact that we had the most enormous committees.

**John Young:** Councillor Burns mentioned that all the political parties are represented on Fairshare. Do you have any Conservatives?

**Councillor Burns:** Yes. Gilmour Parvin from the Tory reform group is on the committee and some elected councillors such as Brian Meek have been active in the group.

**John Young:** So Brian Meek is in the group.

**Councillor Burns:** He has been active. Moreover, although Daphne Sleight, the former leader of the Conservative group in the City of Edinburgh Council, does not support STV, she supports AMS. There is plenty of interest in PR among Tories.

**John Young:** I have been sitting here all afternoon thinking about STV. What if a large, powerful, well-organised political party, no matter what its label might be, whipped up its membership to vote in a certain direction? Is there a danger that that might happen in particular areas?

**Councillor Burns:** To be honest, I do not think that there is any more danger of that happening under STVPR than there is under first past the post.

**The Convener:** In your submission, you state that STV could be implemented flexibly to allow for existing geographical diversity. Indeed, the McIntosh report comments on that issue. Are you implying that the councillor-ward link is more important than proportionality?

**Councillor Burns:** No. That part of the submission concentrates on the issue of proportionality and geography. As people outside

the central belt know better than we do, if we were to have five-member wards in the Highlands and Islands, we might end up with a ward that was the size of Wales—I am exaggerating slightly. For the purposes of practicality, Kerley recommended the flexible adaptation and use of multimember wards and suggested that the wards should have between three and five members. There is absolutely no reason why a couple of the wards in the Highlands could not have one or two members. Although, strictly speaking, we might class that as AV, we need to be pragmatic when faced with physical geography and there is no reason why what I have suggested cannot happen. Cities could then have wards with four, five or six members—I think that Kerley recommended a maximum of five. The system is flexible enough to be able to cope with that. Again, I would argue that that is an advantage over AMS.

**The Convener:** Do you have evidence to suggest that there was voter dissatisfaction with the system that was used in 1999 for the elections to the Scottish Parliament? John Young said that, as a list MSP, he feels that he is not as close to the electorate as he was when he was a councillor elected on the first-past-the-post system. Do you have evidence that the public would agree with that viewpoint?

15:30

**Councillor Burns:** I do not. I repeat that I do not have empirical evidence of voter disillusion with the additional member system. The system has not been running long enough for serious academic work to be conducted. However, members will know better than we do that there is a lot of anecdotal, day-to-day evidence—not just in the chamber and the committee rooms, but out in the street—that people are slightly disillusioned by the operation of AMS. That was a key issue for Kerley when, two years ago, he clearly recommended STVPR. Fairshare is campaigning for the implementation of that system.

**The Convener:** I think that we, and not the public, are dissatisfied with the current system. A way of resolving the situation could be to have a job description for list MSPs.

To what extent would changing to STVPR encourage a higher turnout in local government elections? Any form of PR seems to encourage people to vote in local government elections, because it gives them more choice.

**Councillor Burns:** I would not claim that STVPR would necessarily vastly increase turnout over another PR system. Professor Curtice said that all proportional systems increase turnout between 2 to 10 per cent. Electoral reformers are wrong to argue that PR will somehow magically

solve all our problems with disengagement—it will not. Wider issues such as local government finance and local government powers will crack the problem. PR increases turnout, but it does not revolutionise it. It is right to point out that.

**Willie Sullivan:** I agree with Councillor Burns. Let me give an example. If you wanted a Labour councillor in north-east Fife, there would not be much point in voting under the present system, but there would be a point in voting under an STV system. That applies in different areas for different parties. One can project that STV might slightly increase turnout.

**Ms White:** We do not have any Lib Dem members present, but they might have liked to ask my question. Critics of PR claim that STV in particular creates more coalition Governments, which allows smaller parties to implement policies in government. That means that voters' wishes are not necessarily reflected. What is your response to the argument that STV allows smaller parties to have a disproportionate influence in government?

**Councillor Burns:** That argument is simply not true. Under the Scottish Parliament's additional member system, there is a built-in threshold of 6.8 or 6.9 per cent. Therefore, Robin Harper's Green party and Tommy Sheridan's Scottish Socialist Party had to get over that threshold to get a single MSP. I am no mathematical genius, but it does not take a genius to work out that, in a five-member or six-member ward, it would take a high percentage of the vote to obtain an elected representative. Therefore, AMS puts up a sizeable hurdle that ensures that minority parties are not over-represented. As far as I know, Kerley's proposals, which Fairshare backs, would create a higher hurdle than AMS for minority representation in the Scottish Parliament.

**Amy Rodger:** Sandra White referred to smaller parties within coalitions. I emphasise the fact that, across Scotland, a good number of coalitions are running councils in which some partner parties have only a few councillors. That does not happen only with STV or other PR systems; it happens with the current system.

**The Convener:** Your group contains a cross-section of political parties. Is there any evidence that the use of STV per se would encourage the political parties that are represented in your group to select a wider range of candidates? Would it not be more effective to make changes to political parties' arrangements for selecting candidates and for encouraging people to stand? Elaine Thomson mentioned women's representation and the Labour party's measures for the Scottish Parliament elections have been pointed out.

**Councillor Burns:** I am sure that others will comment on that, but I think that it would be wrong

to claim that STV will magically provide an overnight improvement in the gender and racial balances. As the previous witnesses said, STV will not have that effect. If we are to achieve those goals, it is more important that internal selection processes and party cultures are amended—or not amended, as the case may be. Gender balance can be achieved with a first-past-the-post system, which was illustrated by the exact 50:50 gender balance among Labour party candidates for the Scottish Parliament elections. That balance can also be achieved with the STV system.

**Amy Rodger:** However, when a team of candidates—rather than a single candidate—is fielded in a ward, parties have an added incentive to ensure that the candidates appeal to everyone. Gender balance is the most obvious criterion to satisfy, but other criteria, such as different occupations or ages and racial equality, will be taken into account. The multimember system provides an opportunity that the single-member system does not provide.

**John Young:** I have a question for Councillor Burns, or for any of the witnesses. We all agree that every electoral system has disadvantages. What is the main disadvantage of STV?

**Councillor Burns:** I think that there are few disadvantages. I do not claim that STVPR is a perfect electoral system—it is not, but neither are the first-past-the-post system, AMS, and the AV and AV-plus systems. If there were a perfect electoral system, every country and legislature in the world would use it. STVPR has flaws, but of all the systems on offer, it is clearly the preferable one. We have spent four years debating the issue through the McIntosh report and Kerley; it is time that the Scottish Executive came to a decision. There is public support for a change and there are no inherent flaws to stop us from considering STVPR.

**John Young:** The general public might be aware that PR stands for proportional representation, but I guarantee that if we walked outside and asked 12 people—even very intelligent people—to describe it, many of them would have considerable difficulty. Do you agree?

**Willie Sullivan:** There is a question of political leadership. Political representatives are there to help to structure the best form of government to deliver the services that people expect. Perhaps STV makes government more difficult, but sometimes doing something better makes it more difficult.

**Stewart Maxwell:** If you asked 12 members of the public at random to explain any system, including the first-past-the-post system, they would look rather puzzled.

**John Young:** It might be easier for them to explain the first-past-the-post system.

**Stewart Maxwell:** A smokescreen is often thrown up about how complicated PR is. That is a mistake. Although the way in which the votes are counted is more complex than the normal method that we have all experienced on election nights, the voting is no more complicated for the voter. It is not complicated to put an X in the box or to write 1, 2 and 3 on a ballot paper. That is extremely simple. I am sure that most people do not care about the complexities of how the votes are counted.

**John Young:** Perhaps the candidates care.

**Stewart Maxwell:** Yes, but the voters are interested only in making their mark on the ballot paper. Writing 1, 2 and 3 in the boxes is perfectly simple.

**The Convener:** There are no more questions. I thank the witnesses for their evidence. This is the first stage of the committee considering the evidence. Andrew Burns has continually said that he hopes that the Executive will move. At least you have been here today and have given evidence on the Executive's white paper, although you may believe, as Professor Curtice does, that there are some faults in it. We are currently examining the matter at the pre-legislative stage and we will examine it again. I am sure that you will be back, if not in person certainly through written evidence. Thank you for your attendance.

## Subordinate Legislation

### Marriage (Approval of Places) (Scotland) Regulations 2002 (draft)

**The Convener:** Comrades, we will proceed. We are now joined by Euan Robson, who is Deputy Minister for Parliamentary Business; Paul Parr, who is head of registration at the General Register Office for Scotland; and Neil Taylor, who is the principal legal officer at the Scottish Executive solicitors.

The draft regulations were sent to members on 1 May and no comments have been received. However, the Subordinate Legislation Committee's report, which is included in the papers that members have received, draws our attention to the regulations on a number of grounds. The Subordinate Legislation Committee wrote a letter to the Executive and its answers are included in the papers. The committee is asked to note question 4, which relates to the regulations that require a local authority to refuse to grant a period approval and entitle a local authority to revoke or suspend such an approval if it is satisfied that the applicant is not

"a fit and proper person".

The Subordinate Legislation Committee noted that there appeared to be nothing in the parent act—the Marriage (Scotland) Act 2002—to justify those provisions. The power in the act enables ministers to make regulations

"for or in connection with the approval by local authorities of places in their areas".

The act says nothing about approval of persons. Members may want to ask for clarification. The Subordinate Legislation Committee considers that there is doubt as to whether the regulations are *intra vires*.

I do not need to outline the procedure; it is the usual procedure. I will allow the minister a short time to present the instrument and members can then ask questions of clarification. I will ask the minister to move the motion formally, or speak again if he wants to, and I will open it up for debate. I will then put the question on the motion.

I ask the minister to give us a briefing.

**The Deputy Minister for Parliamentary Business (Euan Robson):** I am pleased to be here. I reiterate my thanks to members of the committee for their help, advice and support when the Marriage (Scotland) Bill went through, particularly for some of the remarks that they made at stage 3.

The regulations that are before the committee are very similar to those that were circulated in draft before stage 3. One or two minor textual amendments have been made since then.

It is important to note that the regulations are the product of a working group. I put on record my appreciation of the work of the working group, which laboured long and hard on the regulations. The working group comprised the GROS, representatives of the Convention of Scottish Local Authorities and representatives of registrars. Those are the practitioners who will have to put the regulations into effect. I appreciate the work that they have done.

I hope that the regulations have been written in as open and clear a manner as possible. It just remains for me to say that I am happy to try to answer questions. I might need to take advice on some of the more technical points, but I shall do my best to answer members' questions about the detail.

**The Convener:** I shall start. I would like clarification because there were some questions in the letter that we saw. The second question was about the definition of place. The Subordinate Legislation Committee suggested that it considered that that definition was defectively drafted. Did you agree with that? Was it changed?

15:45

**Euan Robson:** As far as the Executive is concerned, the policy expressed in the bill and during the stages of the bill will be introduced by the regulations. The Subordinate Legislation Committee seems to have interpreted the regulations differently, but the Executive is content that what is before you is effective and will work.

Answers were submitted to all the points made by the Subordinate Legislation Committee. I understand that those answers have been circulated to the members.

An explanation of the definition of place was given. All the practitioners were content that that would be an appropriate definition that would be workable in practice and that it was within the powers granted by the parent act. There is nothing more I can add about that. We were quite satisfied that the definition would be acceptable.

**The Convener:** Okay.

We move to question 4. The Subordinate Legislation Committee states:

"in so far as the regulations authorise local authorities to make a judgement as to ... a 'fit and proper person' to hold an approval, they represent at best an unusual or unexpected use of the power. At worst, there is a doubt as to whether they are *intra vires*."

I do not remember that phrase being in the bill.

**Euan Robson:** It might be worth repeating what we said in our answer to question 4. Regulations 7(4), 15(2)(c) and 17(2) are *intra vires*. The enabling power is for ministers to make regulations

“for or in connection with”

the approval by local authorities of places. The phrase “in connection with” covers the point about “fit and proper” persons. The phrase

“a fit and proper person”

is included to ensure that someone who might be considered to be disreputable in some way and is well known to be so would not be able to apply for a licence under the regulations.

We believe that the parent act covers the point that the Subordinate Legislation Committee was making by the use of the phrase “or in connection with” approval by local authorities. The provision was requested by the working group, as it was felt to be helpful to the means of processing applications.

**Ms White:** Further to the point that you made, convener, I want to ask for clarification of what constitutes

“a fit and proper person”

under regulation 7(4). The minister has clarified the point, but not to my satisfaction. Can I get any more information from you, minister?

**Euan Robson:** The definition of

“a fit and proper person”

does not refer to the person who is to be married, but to the person making the application. The practitioners sensibly felt that, in line with the parent act, there should be an ability to say that someone who was felt to be unfit should not be granted an application. Having that ability would ensure the solemnity and dignity of the occasion.

**The Convener:** Can you give me an idea of someone who would be thought to be unfit?

**Euan Robson:** That is for the discretion of the local authorities. I am advised that the provision is in line with the same requirement in licensing law. It is not as if the concept is an alien concept that has been introduced suddenly. The provision is drawn from an equivalent concept in licensing law under which someone may not be considered to be a fit and proper person to hold a licence for a public house.

**Ms White:** On a further point of clarification, I understand the position with regard to the licensing laws and I understand that the draft regulations do not apply to the person who is to be married. Will you clarify that the regulations apply

to applications for a licence to hold the ceremony in a marquee or on a piece of land? I understand that the person making such an application is doing so on behalf of the person who is to be married.

**Euan Robson:** The regulations relate to what are called period approvals, which are given to applicants such as the manager of a hotel. Such approvals relate to people who are in some form of business. The regulations cover licences that are granted for a period of three years. They do not apply to a person who would apply for a temporary licence to hold a ceremony in their back garden. The regulations do not relate to temporary approvals—they affect only some of those who will be applicants. I am sorry. I should have made that clear.

**The Convener:** I want to ask about question 11 in the Subordinate Legislation Committee’s report, which relates to the purpose of paragraph 6 of the schedule. The report sets out that the regulations apply also to places in the open air. The Subordinate Legislation Committee stated that the meaning of the phrase “similarly defined space” is not clear in such circumstances.

The Subordinate Legislation Committee considers that paragraph 6 of the schedule represents an unexpected or unusual use of the power as applied to a place in the open air. That committee drew that point to our attention.

**Euan Robson:** Paragraph 6 of the schedule relates to the prohibition on food and drink. If I remember correctly, the example that was given was Arthur’s Seat, which might be used as a place for a civil marriage. The condition has been included in the schedule to provide a parallel provision to the one that applies in a hotel where a room may be made available for the marriage to take place.

We do not envisage that the whole of Arthur’s Seat would be involved and that people would have to stop picnicking because a civil marriage was taking place on one part of it. We envisage a small area being roped off for that occasion. That would create a “similarly defined space”—a small area where the ceremony takes place. The condition is included to ensure nothing more and nothing less than the solemnity and dignity of the occasion. It is included to ensure that the whole of an open space is not caught up in the provision.

**The Convener:** Okay. Do members have further points of clarification?

**John Young:** The convener made a point earlier about water.

**The Convener:** Yes. That was in respect of the definition of place.

**John Young:** I was wondering about that. Are

the boundaries that run through lochs clearly defined? Do they follow local authority or other boundaries? In other words, if someone wanted to be married on the water—on a vessel—would that present difficulties?

**Euan Robson:** I do not believe so. I am reminded that every registration district has a distinct geographical boundary that runs through deep waters.

**The Convener:** What would happen if someone sailed over that boundary by mistake?

**John Young:** They would be half married and half not.

**The Convener:** What would happen if one part of the boat was within the boundary, but people got married in the wrong part of it?

**John Young:** That is the \$64,000 question.

**Euan Robson:** It would be grounds for divorce—I am only joking.

The convener is right—one would have to ensure that when the ceremony was being conducted the boat was within the registration district concerned. Similarly, people on land who were close to the boundary of the registration district would have to ensure that they were in the right district. That would be taken into account in planning with the registrar. I do not envisage the issue that the convener raises being a practical difficulty. If practical difficulties arise in the operation of the regulations, they can be amended at a later date.

The arrangements that are made by the approval holder for a civil marriage ceremony must have the prior written approval of the district registrar for the registration district concerned. In other words, if people were on a steamer that was heading towards the boundary, the registrar would have to ensure that the ceremony was completed before the boat crossed that boundary.

**John Young:** What would happen if a boat were suddenly blown over the boundary?

**Euan Robson:** If weather conditions were seriously inclement, the ceremony might not take place at all.

**The Convener:** The Marriage (Scotland) Act 1977 does not mention local registration authorities.

**Euan Robson:** That technicality was explained and the Subordinate Legislation Committee accepted our explanation of it. The other phraseology that is used in the regulations comes from the Marriage (Scotland) Act 1977. The regulations are entirely workable in practical terms.

**The Convener:** As members have no further questions, I ask the minister to make some concluding remarks and to move the motion.

**Euan Robson:** A minor queue is developing at registration offices. The Marriage (Scotland) Act 2002 has been well received and I hope that it will contribute to the general happiness of a number of couples.

I move,

That the Local Government Committee recommends that the draft Marriage (Approval of Places) (Scotland) Regulations 2002 be approved.

*Motion agreed to.*

**Euan Robson:** I am very grateful to the committee.

15:58

*Meeting continued in private until 16:14.*

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