

LOCAL GOVERNMENT COMMITTEE

Tuesday 26 November 2002
(*Afternoon*)

Session 1

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LOCAL GOVERNMENT COMMITTEE

30th Meeting 2002, Session 1

CONVENER

*Trish Godman (West Renfrew shire) (Lab)

DEPUTY CONVENER

*Dr Sylvia Jackson (Stirling) (Lab)

COMMITTEE MEMBERS

Mr Duncan Hamilton (Highlands and Islands) (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)

Angus MacKay (Edinburgh South) (Lab)

*Tricia Marwick (Mid Scotland and Fife) (SNP)

John Young (West of Scotland) (Con)

*attended

WITNESSES

Professor Bill Miller (University of Glasgow)

Peter Peacock (Deputy Minister for Finance and Public Services)

Alyn Smith (Researcher)

CLERK TO THE COMMITTEE

Eugene Windsor

SENIOR ASSISTANT CLERK

Ruth Cooper

ASSISTANT CLERK

Neil Stewart

LOCATION

Committee Room 2

Scottish Parliament

Local Government Committee

Tuesday 26 November 2002

(Afternoon)

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

Item in Private

The Convener (Trish Godman): Comrades, I will start the meeting. First, I welcome Tricia Marwick to the committee as a sub—that is her word, not mine. She has been here before, so she knows what we are doing.

I seek the committee's agreement to take agenda item 4 in private in order to consider a draft report. Are members agreed?

Members *indicated agreement.*

Local Government in Scotland Bill: Stage 2

The Convener: We are in the final day of the committee's stage 2 consideration of the Local Government in Scotland Bill. Once again, I welcome to the meeting the Deputy Minister for Finance and Public Services, Peter Peacock, and his officials.

After section 30

Amendment 77 moved—[Peter Peacock]—and agreed to.

The Convener: Amendment 93 is in a group of its own.

The Deputy Minister for Finance and Public Services (Peter Peacock): Amendment 93 is a purely technical amendment that enables the Executive to fulfil its commitment to deal with the housing debt of councils that transfer their housing into community ownership. Furthermore, it meets the new policy circumstances that now pertain and give ministers the necessary powers over time.

Under section 90 of the Housing (Scotland) Act 2001, Scottish ministers have the power to pay grants to local authorities in connection with local authority housing-related debt. However, they have no express statutory power to make direct payments to funding providers.

Scottish ministers may make payments of that nature using common-law powers, provided that the payment is authorised under the Budget Act. In such circumstances, the usual practice is to seek statutory powers for recurring payments. That is the purpose of amendment 93, and it raises no other policy or practical issues related to stock transfer.

I move amendment 93.

Mr Keith Harding (Mid Scotland and Fife) (Con): Minister, you said that the amendment will allow you to reduce or eliminate housing debt. Will that happen irrespective of any stock transfer?

Dr Sylvia Jackson (Stirling) (Lab): Does the provision contain any accountability mechanism to Parliament for the use of such a power?

Ms Sandra White (Glasgow) (SNP): We know that local authorities have this power, whereas the Executive does not. I know that the minister has said that amendment 93 is simply a technical amendment, but if ministers have such a power, will it speed up the process for establishing housing stock transfers? Will the amendment have any financial implications?

Peter Peacock: In response to Keith Harding, I should point out that, because of the change in policy circumstances, we felt that we needed a

general power in case any other relevant circumstances arose. That is what amendment 93 provides. However, I have to say that we have no particular circumstances in mind at the moment.

In response to Sylvia Jackson's question, we did not feel that the provision required parliamentary authority as the power would be used as a consequence of decisions about stock transfer and so on. As a result, the amendment contains no provision for reporting to Parliament.

In response to Sandra White, the situation has come to light because we have entered a new policy arena in which, for the first time ever, we are paying off local authorities' housing debt. After finding out that we could not pay the funders directly, we felt that, for reasons of administrative convenience, it was appropriate to take this particular power. The provision itself has no financial implications.

The Convener: Thank you. The question is—

Ms White: Convener—

The Convener: I am sorry, Sandra. We have moved on. The question is, that amendment 93 be agreed to. Are we agreed?

Ms White: Convener—

The Convener: I am sorry. We have moved on. We will deal with your point later.

Ms White: Convener, I beg your indulgence. The minister said that amendment 93 will allow ministers to exercise this particular power, regardless of whether stock transfer is involved. I find it quite difficult to take that comment on board.

The Convener: I thought that the minister had answered that point.

Ms White: Not to my satisfaction.

The Convener: He might not have answered the question to your satisfaction, but did he answer it? Yes, he did.

Ms White: I do not think so.

Peter Peacock: I am happy to discuss the matter further, convener, at your discretion.

The Convener: Sandra, you will need to be quicker than this. I am not going to delay things because the minister's answer does not satisfy you.

Peter Peacock: I thought that I had answered the point, but perhaps I missed some other point that Keith Harding or Sandra White raised. If either of them will make that point again, I will seek to provide clarification.

Ms White: If ministers have this power, will they be able to write off any council debt, regardless of whether stock transfer is involved?

Peter Peacock: As I have said, in taking this particular power in relation to stock transfers, ministers will also have the power to pay off debt in other circumstances. However, we have not yet defined those circumstances. We are simply taking both powers at the same time.

I thought that members would welcome this power as providing flexibility for ministers instead of seeing it as a matter for regret. Amendment 93 would give ministers extra flexibility to remove debt from a local authority, if that were required.

The Convener: So your question has been answered, Sandra.

Ms White: I think that Keith Harding wanted to come in.

The Convener: I am sorry, but who is in the chair here? The question has been answered.

Ms White: Not to my satisfaction.

The Convener: I am now going to put the question.

Ms White: On a point of order, convener.

The Convener: The question is, that amendment 93 be agreed to. Are we agreed?

Ms White: I do not agree. We cannot get an answer to the question. There is no accountability to the Parliament on this matter.

The Convener: There is disagreement, so we are going to a vote.

Mr Harding: Yes. We will go to a vote.

The Convener: There will be a division.

FOR

Godman, Trish (West Renfrewshire) (Lab)

AGAINST

Harding, Mr Keith (Mid Scotland and Fife) (Con)
White, Ms Sandra (Glasgow) (SNP)

ABSTENTIONS

Jackson, Dr Sylvia (Stirling) (Lab)
Marwick, Tricia (Mid Scotland and Fife) (SNP)

The Convener: The result is: For 1, Against 2, Abstentions 2.

Amendment 93 disagreed to.

The Convener: I suspend the meeting for five minutes while we check this out.

14:09

Meeting suspended.

14:11

On resuming—

The Convener: We now proceed to amendment 94, which is in a group on its own.

Peter Peacock: Amendment 94 relates to money managed by local authorities in Scotland. At any one time, Scottish local authorities will have substantial sums held in the bank or in investments. Much of that money is spoken for and is held temporarily, on what the banks refer to as short-term call. Usually, it is a mix of revenue income and capital borrowings. There are periods when councils are said to be cash rich because of the particular flow of funds at a given time; there are other periods when they are cash poor because of the flow of expenditure.

Some of the money that is available when councils are cash rich is the balance of monthly grant unspent at any particular time; income generated during the usual course of activities; receipts from the sale of assets; capital loans taken out by the authority which have not yet been applied to the purpose for which they were borrowed. Money is also put aside for contingencies.

Shetland Islands Council and Orkney Islands Council, uniquely, have other funds in reserve, which are generated from their engagement with the oil industry, as authorised by Parliament in the 1970s. Those funds are held against the day when the oil industries move elsewhere and the islanders and the islands need to find new ways to make a living. For the time being, both councils prefer to spend only the interest income from those reserves.

The way in which such money is generally managed in local authorities is usually referred to as treasury management. Whatever the basis for lending and investment, councils want to get as much benefit from the resulting funds as they can without putting them at significant risk. The key criteria that fund managers need to bear in mind are: liquidity, or the accessibility of funds; the risks in using various investment vehicles; and the potential returns to the council through interest income.

During the period of preparation for the bill we were asked to consider the legal regime that controls treasury management in Scotland. It was put to us that the current arrangements are well out of date and do not recognise a number of developments in the financial field that have taken place over the past 40 years. It was suggested that we could do more to help local authorities get best value from their funds. That could be achieved, even though we prefer councils to follow risk-averse, conservative investment policies, which keep money in domestic banks, stocks and bonds and in domestic currencies.

It was pointed out to us that local authorities in England and Wales have been allowed a range of extra freedoms and flexibilities in investment. We are satisfied that the public money that is being

managed by Scottish local authorities could safely be put to work a little more actively. The Chartered Institute of Public Finance and Accountancy code on treasury management is a respected code of practice. It is in use in every Scottish local authority and has done a great deal to improve performance. We want to hold discussions with local authorities and others with an interest in money management about a range of details that will ensure that good practices such as those advocated in the CIPFA code of practice for treasury management are adopted.

We believe that we could sensibly allow different provisions to be made for investments for different purposes. For example, it is sensible for any new regime to allow Orkney Islands Council and Shetland Islands Council to take a longer-term approach to the investment of the special reserves arising from their oil-related activities. One option would be to enable them to take advantage of the investment approach that is authorised for use by Scottish local authority pension funds managers. If two different approaches are in use in an authority, it should be required to seek Scottish ministers' consent before moving funds from one investment system to another.

14:15

The regulation-making power that is described in amendment 94 is intended to allow us to move forward once detailed discussions of those matters are complete. The amendment provides that there must be full consultation on proposals and that draft regulations should be subject to parliamentary approval by the negative procedure.

With those undertakings, I hope that the committee will agree to amendment 94. I know that the amendment will be warmly welcomed by all concerned in managing local authority funds.

I move amendment 94.

Tricia Marwick (Mid Scotland and Fife) (SNP):

I want to ask about the regulations that the minister intends to introduce. I understand that at the moment local authorities can invest—I am thinking about the scandal that took place in the Western Isles a few years ago. Will the regulations that you plan to introduce ensure that scandals of that sort cannot happen in future, or will the liberalisation of the financial regime that you propose make such scandals more likely in the future?

Peter Peacock: Tricia Marwick makes a very good point. I have quizzed my officials about the matter, on the basis of the advice that I was given originally. I am absolutely certain that the new financial regime would not allow or encourage local authorities to do what Western Isles Council did. I understand that Western Isles Council acted

outwith its powers. The liberalisation that we propose—to the extent that it is a liberalisation—gives authorities more flexibility, but within a very prudent regime. We recognise the risks that are involved. Nothing in these proposals would authorise or make proper what happened in the case of the Bank of Credit and Commerce International. That is completely outwith the bounds of what we propose.

Amendment 94 agreed to.

The Convener: Amendment 107 is grouped with amendment 107A.

Peter Peacock: Amendment 107 should be welcomed as an opportunity to address public concerns about the quality of drinking water. We need to address that issue now.

Member will be aware of well-publicised incidents that took place this summer. For example, there were difficulties with E coli at a campsite. The first stage of a comprehensive public consultation is complete. Interested parties, including local authorities, the Royal Environmental Health Institute of Scotland and Unison, said that new private water supplies regulations that are due to come into force in 2003 will have significant financial implications for citizens and business.

In the recent Scottish budget, money was allocated for grants to bring private supplies up to new standards—£22 million in the period 2003 to 2006. We now need a legislative mechanism to ensure that those grants are delivered cost-effectively and efficiently.

Local authorities are the most appropriate body to deliver grants because they are responsible for monitoring supplies and enforcing standards, and have expertise in grants administration. Amendment 107 would place a duty, rather than a discretionary power, on local authorities to pay grants. That will guarantee consistency and will ensure that the objective of improving public health throughout Scotland is achieved. As I indicated, funding has already been secured in the Scottish budget. The level of that funding is based on knowledge of the number of supplies.

Amendment 107 also seeks powers for Scottish ministers to pay local authorities grants for the cost of the grants that they pay and the cost of administration. A full public consultation on private water supply regulations and the grant regulations is due in the spring. I trust that the committee will view the proposed new section as a positive measure to improve public health and I urge the committee to support amendment 107.

I want to reassure Tricia Marwick, who lodged amendment 107A, that it has always been the intention that the Scottish ministers shall fund

private water supply grants that are made by local authorities, in accordance with the conditions that will be set in regulations. Moreover, it has always been the intention to fund reasonable costs that are incurred by local authorities in the administration of the grants scheme. Therefore, Tricia Marwick will be pleased, and perhaps surprised, to learn that I have no objection to amendment 107A in principle.

However, before amending subsection (6) of the proposed new section, the Executive would like the opportunity to give fuller consideration to the detailed wording of the amendment and to the way in which the Executive would reimburse such expenditure. For that reason, I invite Tricia Marwick not to move amendment 107A. The Executive accepts the principle that it contains and I have given my assurance that the amendment's thrust reflects the Executive's policy intentions.

The Executive will give further careful consideration to the issue, with a view to preparing a stage 3 amendment that embodies the basic principles that Tricia Marwick and other members might desire. I give an undertaking that I will advise the committee of our proposed amendment in plenty of time before stage 3, to allow proper consideration by the committee. I invite Tricia Marwick not to move amendment 107A. If she is unwilling to do so, I ask the committee to vote against it on the basis of the assurances that I have given about dealing with the issue at stage 3.

I move amendment 107.

Tricia Marwick: I lodged amendment 107A because I felt that the Executive ought not to impose a duty on councils and then not give the funding to allow that duty to be carried out. That is not only my view, but the view of the Convention of Scottish Local Authorities. COSLA had been led to believe that the relevant part of the proposed new section would read "shall" rather than "may".

I have another concern about the councils' duty to improve private water supplies, which the minister might be able to answer. Although I understand that Scottish Water is responsible for the public water supply, I do not see why the duty to deal with private water supplies is not being placed on Scottish Water, instead of on local authorities. That might have made a bit more sense.

Another reason for amendment 107A is my concern about lead pipes. The problem of lead pipes leading to the public water supply is not being dealt with. About 60,000 houses in Glasgow have lead pipes and Glasgow City Council can deal with only up to 500 of them a year. If a new duty to improve private water supplies is to be imposed on local authorities, it is imperative that they have full funding to allow that work to be carried out.

I accept the minister's assurances and I appreciate his acceptance, in principle, of amendment 107A. Subject to his comments about why the duty is being placed on local authorities in the first place, I move amendment 107A, but do not propose to press the amendment to a vote.

The Convener: Do other members wish to comment?

Peter Peacock: As I think Tricia Marwick said, the point about lead pipes in Glasgow relates to the public water supply, not to private water supplies. I am happy to refer that matter to colleagues who have the principal responsibility for that supply.

Local authorities are responsible for monitoring supplies and for enforcing standards in relation to private water supplies. The other reason that we placed the duty on local authorities is that they have the expertise in administering grants for private water supplies.

As I have indicated, the policy intention is for the Scottish Executive to fund the cost of the duty that will be placed on local authorities in relation to private water supply grants. That intention is expressed broadly in Tricia Marwick's amendment 107A. We will look at the issue and will come back with a precisely worded amendment at stage 3.

Amendment 107A, by agreement, withdrawn.

Amendment 107 agreed to.

The Convener: Amendment 108 is in a group on its own.

Peter Peacock: Amendment 108 provides for a technical adjustment to allow councils to comply with proper accounting practice in the treatment of pension arrangements in their accounts. From next year, the code of practice in local authority accounting will require all councils in the United Kingdom to account for pension arrangements. That is in line with financial reporting standard 17, or FRS17 as I will refer to it in the rest of my remarks. The code of practice to be applied from 2003-04 has been the subject of detailed consultation with local authorities in accordance with arrangements required by the Accounting Standards Board. We and local authorities support the change.

FRS17 will not change the way in which councils make pension payments or the entitlement of current or previous employees. Councils will continue to make contributions to their pension funds based on regular actuarial reviews. The change is purely a change in accounting treatment—there will be no movement of cash sums paid in or out. The intention is to allow local authorities to record the necessary accounting transactions. The accounting transactions arising from implementation of FRS17 will be recorded in

the pensions reserve. Pension payments and contributions will remain properly chargeable against the local authorities' general funds.

Councils are concerned that, in responding to the change in accounting policy, there should not be an unintended impact on their annual council tax setting arrangements. Allowing surpluses or deficits on that reserve to feed through into the budget calculations would result in volatility in council tax levels unrelated to any genuine change in the level of council activity.

The first part of the amendment will allow Scottish ministers to issue regulations by allowing councils to establish the pensions reserve and determine the items that authorities may account for within it.

The second part of the amendment will ensure that local authorities are not required to take account of any deficit or surplus on the pension reserve when setting their council tax levels. Councils will still be required to respond to the quinquennial reviews and valuations of their funds and those might, as always, have some implication for council tax levels over time.

The power to make regulations under the amendment would also allow the Parliament to ensure that further improvements to local authority accounting practice arising from closer alignment with the UK generally accepted accounting practice and whole government accounting could be accommodated without any unintended impact for council tax payers.

I move amendment 108.

Tricia Marwick: I would be grateful if the minister would comment on common good funds. As I understand it, amendment 108 will allow local authorities to move money in and out of common good funds. Common good funds are not owned by local authorities. They have been set up to benefit particular communities. If the purpose of amendment 108 is to allow local authorities free rein to dip in and out of common good funds as they see fit, without any requirement to consult the communities to which the benefit of the common good funds should go, I will oppose the amendment.

Common good funds are a serious matter. It will not be resolved by allowing local authorities the free rein that I suspect amendment 108 will give them.

Peter Peacock: I am just triple-checking with my aides. There is no implication for common good funds; the amendment applies only to pension funds. The scenario that Tricia Marwick describes could not occur under the terms of amendment 108.

Amendment 108 agreed to.

Ms White: I lodged amendment 78 to make record services for local authority sites and monuments statutory rather than voluntary. At the moment, the majority of local councils carry out that work, but only 28 out of the 32 do so and it is voluntary. Amendment 78 would get rid of that gap and make it statutory. As a member of the William Wallace Society, I have had experience of looking through records and I know that it is difficult to find out where certain areas are if the local authority does not have those records. The Ancient Monuments Board for Scotland, which advises Scottish ministers, has been asking since 1996 for record services to be a statutory requirement and not a voluntary option.

I move amendment 78.

14:30

Peter Peacock: As Sandra White said, local authorities have a key role to play in conserving Scotland's rich and diverse built heritage. They play an important role in protecting our listed buildings and, through the planning system, they also have a role to play in protecting our ancient monuments. Twenty-eight local authorities already have, or have access to, sites and monuments records to help them in that task, which means that only four do not.

Making a national statutory provision that would impact on only four local authorities is taking a legislative sledgehammer to crack a nut. Such a move does not have the support of COSLA or of the Executive, especially as the overall aim of the bill is to empower local government, not direct it. Local authorities are encouraged by the Executive to make provision for sites and monuments records through national planning policy guideline 5 and planning advice note 42. Historic Scotland has provided advice and support to a number of local authorities to enable them to enhance SMRs for their areas.

Since Sandra White lodged amendment 78, I have advised the responsible minister of the concerns raised, although they relate only to four councils. Historic Scotland has today written to the remaining four local authorities. Historic Scotland will draw their attention to the guidance that I have referred to and will meet their representatives to find a way forward for them to close the gap that apparently still exists. I hope that such active encouragement and support will ensure the completion of nationwide coverage of SMRs.

The fact that the amendment has been lodged will help to demonstrate to the councils involved that it would be wise to seek to make progress on that issue in case Parliament feels that it must act at some point to require some action. However, to enact primary legislation at this time to achieve the

aims sought would be an action significantly in excess of what is required. I hope that, on the basis of my assurances and the action that we have taken since she lodged her amendment, Sandra White will consider withdrawing her amendment.

Ms White: I am encouraged by what the minister has said and by the fact that Historic Scotland is writing to the four remaining local authorities. I hope that they will take on board that advice. I seek leave to withdraw the amendment.

Amendment 78, by agreement, withdrawn.

The Convener: Amendment 111 is grouped with amendment 110.

Dr Jackson: Amendment 111 has been suggested by local authorities and would give them more flexibility. It would allow them to charge parents of pupils who live within walking distance of a school for extra places on school buses. At present, those extra places are distributed free in a manner decided by the local authority. The anticipated effect of amendment 111 is that it would lead to more children being transported to school by bus rather than being dropped off by car, hence stopping congestion around schools. Local authorities say that it would allow them to pay for larger buses or for a bus rather than a minibus. At present, they are limited to using the size of vehicle that is required to transport only those for whom they must provide transport.

I move amendment 111.

Peter Peacock: We welcome amendment 111, which will allow local authorities greater flexibility in providing school bus transport. We understand that COSLA supports the amendment and believes that it will allow local authorities to respond to requests from parents to provide additional transport to schools at a reasonable charge for pupils who live within walking distance of schools. As Sylvia Jackson has said, it may also allow local authorities to pay for larger buses than those required at present, or to provide a bus rather than a minibus or taxi on some routes. We hope that that measure will lead to some decrease in the number of children being dropped off at and collected from schools by car, and will therefore increase safety around school entrances.

I am pleased to see that the amendment makes specific reference to avoiding financial hardship and assessing how much a parent should pay. The Executive therefore expects that those on low incomes will not lose the free places that they currently enjoy and that free places will continue to be available for those who come after them.

The amendment will not affect pupils who live outwith walking distance from schools and who receive free school transport. Those pupils will

continue to receive free transport to and from school.

It will be for local authorities to decide whether they wish to change their existing policies. The amendment allows them the flexibility to do so in a way that is responsive to local needs. We have made it clear from the outset that the purpose of the bill is to provide a framework to enable the delivery of better and more responsive public services. We are satisfied that allowing local authorities the flexibility sought in the amendment contributes to the overall aim of the bill. For those reasons the Executive supports amendment 111.

Amendment 110 is a technical amendment that simply modifies the long title to reflect more adequately the content of the bill.

Dr Jackson: I am pleased that the minister agrees that amendment 111 is worth while. Local authorities will welcome the flexibility that it will bring to considering transport around schools.

Amendment 111 agreed to.

Sections 31 and 32 agreed to.

Section 33—Repeals and consequential amendments

Amendment 95 moved—[Peter Peacock]—and agreed to.

The Convener: Amendment 96 is grouped with amendments 39, 40, 97, 109 and 98.

Peter Peacock: Amendments 39 and 40 are intended to ensure that the current obligation to make associated companies compete for contracts in compulsory competitive tendering defined activities is repealed. The amendments are largely straightforward and technical and are to achieve clarification. However, although they are minor and technical, they are part of a change that is profoundly significant—the repeal of CCT, which we have debated at length.

I turn to amendments 96, 97 and 98. The existing regulation-making power on the promotion of economic development is no longer necessary in the light of the underlying policy of the bill. The bill sets out to empower local authorities as far as possible, not to restrict their power to advance well-being. What local authorities do to promote the economic well-being of their area will be subject to the general provisions of the bill concerning best value and the power to advance well-being. Amendments 97 and 98 are consequential. The effect is to remove two references in planning legislation to sections 171A and 171B of the Local Government (Scotland) Act 1973. The relevant part of the Town and Country Planning (Scotland) Act 1997 covers the powers of a local authority to acquire land by agreement or by compulsory purchase for planning purposes.

The amendments ensure the removal of the qualification in the 1973 act to the exercise of those powers.

I turn finally to amendment 109. The spirit of the best-value regime is that local authorities and passenger transport executives use best value to secure goods and services. There is no reason why that should not extend to the subsidised passenger transport services. It will remove unnecessary red tape, but local authorities and passenger transport executives will still be bound by European regulations. The fact that local authorities and passenger transport executives can choose to go out to tender if they wish to introduces greater choice for them.

Amendments to section 63(5)(b) and section 88(1) are a consequence of the abolition of sections 89 to 91. The Strathclyde Passenger Transport Executive will be required to use best value by means of a direction issued by the Strathclyde Passenger Transport Authority, which is covered by the best-value provisions of the bill.

I move amendment 96.

Amendment 96 agreed to.

Amendments 39, 40, 97, 109 and 98 moved—[Peter Peacock]—and agreed to.

Section 33, as amended, agreed to.

Section 34—Definitions

Amendments 48, 52 and 53 moved—[Peter Peacock]—and agreed to.

Section 34, as amended, agreed to.

Section 35—Short title and commencement

The Convener: Amendment 99 is grouped on its own.

Peter Peacock: Amendment 99 allows for the early commencement of the temporary suspension of the legislation that we dealt with in earlier stages of the bill. That will enable the deadlines that were envisaged then to be met. The amendment has the full support of the Scottish Negotiating Committee for Teachers, and its introduction will help to facilitate the completion of the job-sizing exercise that is required as part of the teachers' recent settlement. I move amendment 99.

Amendment 99 agreed to.

Section 35, as amended, agreed to.

Long Title

Amendments 100 to 103 and 110 moved—[Peter Peacock]—and agreed to.

Long title, as amended, agreed to.

14:41

Meeting suspended.

14:47

On resuming—

Proportional Representation (Local Government Elections) (Scotland) Bill: Stage 1

The Convener: We will now take evidence at stage 1 on Tricia Marwick's bill on proportional representation. Again, we welcome Peter Peacock, the Deputy Minister for Finance and Public Services. We also welcome Sarah Morrell, the head of branch 1 of the local government constitution and governance division of the Scottish Executive, and Gillian Russell, from the office of the solicitor to the Executive. I ask the minister to say a few words, after which members will ask questions.

Peter Peacock: Members will have seen the memorandum from the Executive that sets out its views on Tricia Marwick's bill. I shall reiterate the points that are made in that memorandum. There is no need to remind the committee of the recommendations that were made by McIntosh and Kerley on electoral reform.

We have consistently confirmed our commitment to progress electoral reform for local government. We did so last week at the committee. The issue of electoral systems was therefore included as part of the local government white paper, "Renewing Local Democracy: The Next Steps", on which we consulted earlier this year. The responses to the consultation showed a significant majority in favour of the single transferable vote system. We have announced that the proposed local governance bill will be published before the end of this parliamentary session. The bill will include STV as the alternative choice to the first-past-the-post system for local authority elections and will be available for decision by the new Executive following the May 2003 elections. If the bill is passed by Parliament, it will be possible to introduce the changes in time for the 2007 elections. We believe that it would be wholly impractical for that to be achieved in a shorter time scale.

The proposed local governance bill will not just be about proportional representation. We want to consider local governance in the round and not focus simply on the narrow issue of electoral reform, which is what Tricia Marwick's bill does. Its narrow focus is one of a number of concerns that I have about it. It cuts across the work that is already in hand on electoral reform. We have already consulted on options, and announced that we will be bringing forward legislation to introduce the changes.

I note that a policy memorandum has now been provided for the bill, to provide the policy context and objectives. It would have been helpful to see that earlier, but it does not lessen our concerns. I note that Tricia Marwick considers that sufficient consultation has taken place on the proposals in the bill. However, neither the section on consultation nor the section on alternative approaches recognises the arguments put forward by opponents of STV, so it presents an unbalanced view. No indication is given of the timetable for the introduction of the new system and the processes that will allow it to operate.

The financial memorandum gives no indication of the likely financial or resource costs of introducing a new electoral system. I note that the Presiding Officer has indicated that a financial resolution would be required for the bill. Any new electoral system will have resource implications for the Executive, and it is important that the Parliament knows what they are when considering the bill.

The financial memorandum recognises that there are implications for the Local Government Boundary Commission for Scotland if STV is introduced, because the LGBCS will need to make recommendations on new electoral wards. The memorandum states that the LGBCS is scheduled to conduct a review of arrangements in 2004, and that any additional expense will be minimal. Neither of those statements is accurate. The review that is scheduled for 2004 is an administrative one, not an electoral one. The review of electoral boundaries is scheduled to take place between 2006 and 2010. The introduction of STV will require additional funding as the Local Government Boundary Commission for Scotland will be required to draw up revised electoral boundaries and consult before making recommendations to ministers. Furthermore, the administrative and electoral reviews would both need to be rescheduled, but the memorandum does not refer to that.

In short, the bill is unnecessary and ill conceived. It is unnecessary because the Executive was and is acting on the issues involved. It is unnecessary now because the measures that it proposes are not capable of being in operation before 2007. It is ill conceived because it deals with only one aspect of the renewing local democracy agenda. I suspect that it is also ill conceived because it arose out of political opportunism, on the back of a press release, rather than as the foundation of good government. That is the Executive's position in opposing the bill.

The Convener: In evidence last week, you indicated that there was significant public support for an STV proportional representation system, as

demonstrated in responses to the "Renewing Local Democracy" consultation. Is there sufficient evidence that changing the electoral system would bring benefits to local government?

Peter Peacock: A debate has raged for quite a period of time on the essence of that question. There is no doubt that in the consultation that we undertook, when asked about alternative systems to first past the post, the single transferable vote system emerged as the clear favourite among those who responded to the consultation. It is clear that in the minds of those who support the single transferable vote, there is a belief that it would bring improvements to local governance generally. The bill is not an Executive bill; it is Tricia Marwick's bill, and she may wish to justify it in her evidence.

The Convener: In your opening remarks you said that the bill is not wide enough and that the local governance bill will be much wider in terms of renewing local democracy. What benefits are there from waiting for an Executive bill on electoral reform, rather than going down the road of Tricia Marwick's bill?

Peter Peacock: We have always tried to view the question of renewing local democracy as having more than a single dimension. It is about the electoral system; it is about greater access to standing for election and the removal of political restrictions; and it is about removing barriers to people in terms of remuneration, salaries, pension arrangements and so on. Those are only some of the issues. We have always seen the matter as one that must be viewed in the round, which is why we have taken the approach that we have. These things always take time. We always want to provide the opportunity for much discussion and debate about such major measures of change as are proposed in our local governance bill, which is still being drafted.

In the short term, given that the Executive is committed to publishing the local governance bill before the parliamentary session ends and given the fact that, in our view, the measure in any circumstances could not be introduced in practice before 2007, there is little point in proceeding with a single-item bill on renewing local democracy just before the end of the session. It would be better to deal with all the matters in the round in the local governance bill. We need to do that in time scales that meet the deadline for the 2007 arrangements but give Parliament much greater time to consider all the matters in their proper context.

Mr Harding: The Executive's memorandum to the committee states:

"the Local Government Boundary Commission for Scotland ... will require to make recommendations in relation to new electoral wards if STV is introduced ... The White Paper made clear, however, that Ministers do not

envisage a review of council boundaries or the number of councils in the foreseeable future."

Is that an admission that the Executive does not intend to introduce STV at all?

Peter Peacock: When the Executive came into power following the last reorganisation of local government, we inherited provisions relating to boundary reviews. As we move forward, it is already clear that the statutory basis for such reviews will need to be altered in order to accommodate any move to STV. Far from making an admission in the way that Keith Harding has described, we have recognised that there are questions that need to be addressed about the boundary commission's role, about ward boundaries and about council boundaries—although council boundaries are a separate matter, as Keith Harding will appreciate. A new electoral system could operate within existing council boundaries, so one does not need to look at council boundaries per se. That probably deals with Keith Harding's question.

Let me make one additional point about why we picked up what Tricia Marwick says in her financial memorandum. The financial memorandum does not fully recognise the change that would need to take place in the sequencing of events for the boundary commission in order to accommodate STV.

Mr Harding: On the hypothetical basis that the Parliament votes for STV instead of the first-past-the-post system, what are the practicalities of STV being introduced by 2007?

Peter Peacock: We cannot anticipate events in a future session, but if Parliament were to approve the local governance bill that the Executive proposes to publish before the end of this session, the changes that would flow from that could be implemented by 2007. However, we do not believe that it would be possible for changes that are proposed at the end of this parliamentary session to be implemented by 2003. In part, that is because a boundary review would be required.

Let me also pick up the points that Sylvia Jackson made at last week's evidence session on the local governance bill and on renewing local democracy generally. When we announced our local governance bill in September, we indicated that we would establish a working group of relevant officials and others to examine the practicalities of holding elections in Scotland using STV. Many practical things, including boundary changes, need to be worked through. That is why we think that 2003 is not practical. However, 2007 is a considerable time ahead, so if Parliament approved the measures, we think that they could be introduced by 2007.

Dr Jackson: I want to build on what the minister said about the practical issues. As he saw last

week, some committee members have raised issues about how the system would work on the ground. Albeit that the Scottish Parliament's present electoral system, which is an additional member system, may be different from what is proposed for local government, some of us are concerned that multimember wards could result in councillors chasing up the same constituents' cases.

The minister may not have had a chance to see Professor Miller's submission, which the committee will discuss later, but Professor Miller makes quite an issue about the efficient working of local government. Could the minister share any evidence with us about whether a multimember STV system would work efficiently on the ground?

Peter Peacock: As I have said, we plan to look at the whole issue in great detail to see what the implications would be on the ground. There is no reason in principle to believe that the system cannot be made to work. It works in other parts of the world. As far as I am aware, no one has argued that the essence of the system prevents local government from working—that is not at the root of the problem.

Since last week, we have pursued a number of sources that may contain evidence on the practical workings of the system, so that that can be fed into the working group to which I referred and considered more widely. We would be happy to share with the committee any information that we obtain.

My officials tell me that we have made inquiries of the Electoral Reform Society, COSLA and the Scottish Executive central research unit. We have asked those bodies to seek academic and other evidence that is available on this issue. Initial indications suggest that there is not a great deal of such evidence. We have been in touch with Trinity College Dublin, which has carried out research into the practical issues that are of concern. Once we have received that, we will be happy to share it with the committee.

15:00

Elaine Thomson (Aberdeen North) (Lab): Everyone agrees that there are benefits in broadening the make-up and increasing the social diversity of the people who seek election as councillors. There are also benefits in increasing public engagement with local government. In part, that involves raising turnout at elections.

I refer to the paper by Professor Miller that Sylvia Jackson mentioned earlier. He suggests that a range of factors, of which proportionality is only one, contribute to providing the benefits that I have described. Professor Miller mentions compulsory voting, postal voting, weekend voting,

the closeness of the race and the importance of electoral contests to the electorate. In your view, what is the role of such factors—as compared with the introduction of STV—in getting people to engage with local government?

Peter Peacock: You make rather well the point that I tried to make earlier about the need to take a broad-based approach to renewing local democracy and participation in democracy. It is not enough just to change the electoral system.

You spoke about the benefits of broadening the make-up of councils. Electoral reform per se will not achieve that; it has more to do with the issues that we touched on last week—for example, the barriers that exist to women's participation in local councils. Do we need to provide more child care in the support packages that we give to councillors? Do we need to provide councillors with more support in general? Does the current allowances system discourage people who are self-employed or employed by small firms from participating? We need to consider a range of issues.

You also spoke about the need to increase turnout. I am not sure that changing the electoral system will do that per se. Stirling Council, of which Keith Harding is a member, used a postal ballot in a by-election. The turnout in that election was significantly higher than one would have expected. That suggests that, even within the present system, it is possible to take measures that improve turnout and participation in elections. STV on its own will not lead to increased turnout.

I have not had an opportunity to see Professor Miller's evidence. However, I accept the contention that, although STV may change the dynamics of local government in certain respects—some argue that it is essentially fairer, whereas others dispute that—it will not in itself bring about the changes to local government that you described. A much wider range of measures is needed to do that. We are trying to deal with those issues in the local governance bill.

Ms White: You are right to say—as others have—that there is more to local government than the voting system. However, given the evidence that the committee has received and the findings of the Kerley and McIntosh reports, would you say that PR is one of the most important changes that have been proposed for local government? Why does the Executive believe that it cannot be in place in time for the 2003 elections? We heard evidence last week that a PR system for local government was introduced in Northern Ireland in 12 weeks.

Peter Peacock: I was asked whether PR would represent a significant change. It would clearly represent one of the most significant constitutional changes at a local government level in Scotland

for as long as any of us can remember. That is why the issue has taken so long to be considered and debated. There is no point in going over the ground again about why we have included provision in the local governance bill for STV as the alternative to the first-past-the-post system.

There are a variety of reasons why we do not think that the new system could be introduced by 2003. Believe it or not, the preparations for the 2003 elections are well under way. Returning officers, electoral registration officers and all sorts of other people have been actively working on them. The Executive, with local government and the Electoral Commission, has been examining arrangements for advertising and publicity for the combined local government and Parliament election. As I said, a great deal of preparation is under way.

As we have just discussed, the Local Government Boundary Commission for Scotland would have to be instructed to review the make-up of ward boundaries if a new system were to be implemented. Although new technology helps, we could only ask the commission to do that after Parliament passed the bill. That means that the review would have to be done towards the end of the parliamentary session, which would leave only a matter of weeks before the date of the election. Another point is that all the political parties either have selected or are well down the road of selecting candidates for the election on a particular set of circumstances and understandings. I do not think that it would be fair for us to cut across that at this stage.

For a whole variety of reasons, it is not practical to introduce PR by 2003. That emphasises the point that, as the Executive is planning to publish a local governance bill, there is no point in proceeding with the Proportional Representation (Local Government Elections) (Scotland) Bill. It could not be implemented by 2003.

Tricia Marwick: Can the minister tell me the first debate that the Scottish Parliament had after it assumed its powers?

Peter Peacock: My powers of recall are good only up to a certain point, but I imagine that it was about local government.

Tricia Marwick: Absolutely. On 2 July 1999, the first debate that the Scottish Parliament had was on the McIntosh report. Will you tell me why it has taken all this time for the Executive to propose a local governance bill, which we have yet to see?

Peter Peacock: As I have said, the Executive was committed from the word go to make progress on electoral reform, which is exactly what we have done. As I have also said, such changes represent significant constitutional change—they are not the sort of thing that should be rushed through in any

parliamentary democracy. People need time to think through the arguments, present them and hear counter-arguments. That is what the Executive has been doing. We said at the beginning of the session that we would make progress and we have. A Cabinet sub-committee has examined the matter and discussed all the relevant issues. The Executive has concluded that we want to introduce a local governance bill to cover not just PR, but a wider package. That is what we have done; we are fulfilling our commitments.

Tricia Marwick: Of the announcements that you made last week on what the local governance bill will include, how many were McIntosh recommendations?

Peter Peacock: I cannot tell you the precise number, because I have not done that calculation. A significant number of proposals related to the issues raised by McIntosh and further refined by Kerley. However, some also dealt with matters that the Executive has considered separately.

Tricia Marwick: Seven of last week's eight announcements were recommended by McIntosh in June 1999 and debated by Parliament on 2 July 1999. In your local governance bill, which we will undoubtedly see at some point, practically every proposal could have been legislated for from July 1999. Is that not true?

Peter Peacock: I have said that it is right and proper to take time to discuss what, in relation to the STV proposal, will represent major constitutional changes. It is also important to allow the arguments to mature. We said that we would make progress and we have done that. There is no question but that the Executive will publish its local governance bill before the end of the parliamentary session.

Tricia Marwick: Given that our first debate on the McIntosh recommendations was on 2 July 1999, is it acceptable that, after four years, the Executive will not have produced a bill on all those recommendations for consideration and enactment by March 2003?

Peter Peacock: As I said, the Executive has acted entirely properly. I could make a political comment. I think that I am correct to say that the Scottish National Party has been committed to STV for a long time, but that Tricia Marwick's bill did not materialise until a few months ago. I think that it materialised more in the hope of creating a split in the coalition, which it singularly failed to do, than with the aim of good governance.

Tricia Marwick: You talked about the ministerial working group on renewing local democracy, which was established in August 2000 to develop the Kerley report's recommendations. How many times did that group meet between August 2000

and November 2001, when I said that my bill would be introduced?

Peter Peacock: I do not have that detail to hand. The group met several times. What is important is that as soon as the First Minister, Jack McConnell, took office, he reinvigorated the process. He made clear pronouncements and commitments, which have been honoured.

Tricia Marwick: I am sorry that you do not recall the parliamentary answer that you gave to my written question. Between 1 September 2000 and 30 November 2001, the ministerial working group on renewing local democracy met three times—once on 3 October 2000, once on 13 November 2000 and for the last time on 13 February 2001. Does that suggest that the Executive intended to introduce PR or to implement any of the recommendations that McIntosh made way back in July 1999?

Peter Peacock: As I said and as you confirmed, that group met several times. To assume that the only means of communication in government is meetings is to misunderstand considerably what goes on in government. A range of informal exchanges takes place. A range of papers is prepared and discussed before formal meetings to sign off those papers. A range of things happens between meetings. It is wrong to characterise the situation as a lack of Executive will. The Executive made it clear at the outset, when the partnership agreements were struck, that we would make progress on electoral reform, which we have done.

Tricia Marwick: You said that Jack McConnell reinvigorated the process when he took over as First Minister. Does that mean that, under Henry McLeish as First Minister, little progress was made or tiny wee steps were taken?

Peter Peacock: No. That is a misrepresentation of my comment. When the First Minister took over, he wanted to put the matter at the top of his agenda, to have it dealt with in the first days after he became First Minister. That is exactly what he did, to ensure that the issue did not linger but received attention. That is not to say that meetings did not take place before then. As I said, meetings took place and officials prepared papers that were discussed in the proper way in which the Government goes about its business.

Tricia Marwick: Was not the reason for the need to reinvigorate the process the fact that I gave notification that I would introduce a bill on PR, which the Executive had singularly failed to do?

Peter Peacock: Absolutely not. We made it clear almost four years ago, after the Parliament was first elected, that we would make progress, which we have done. Only last week, I described in detail what we will do in the local governance

bill. That is what the Executive said that it would do and that is what it will do.

Mr Harding: In response to Sandra White's question, the minister said that returning officers and others are well down the road of organising next year's elections. To my knowledge, that used to be done only a matter of weeks before elections. Has the fact that the Executive has combined Scottish Parliament and local government elections created unnecessary problems and expense?

Peter Peacock: Combining the elections was an extremely good idea, which the Executive suggested and to which the Parliament agreed.

Tricia Marwick: Will you confirm that only the Executive can bring forward financial resolutions, which means that, although a member can indicate financial implications, it is for not the member, but for the Executive—having worked out all the costs—to bring forward a financial resolution?

Peter Peacock: I would have to confirm it, but I think that the position is that a minister has to sign a financial memorandum. However, I am not convinced that the minister actually has to make that financial memorandum. After all, the bill would not be a proposal of the Executive. I would have to check the procedure and come back to you to confirm that that is the case.

Tricia Marwick: I can confirm that, procedurally, you are quite wrong. The standing orders make it quite clear that only ministers of the Scottish Executive can bring forward a financial resolution. That was the case with Mike Watson's Protection of Wild Mammals (Scotland) Bill and it is the case for every financial memorandum. They can be brought forward only by a minister.

Peter Peacock: I will have to come back to you on that, because I do not have that information at my fingertips. There is a point of language here, as "bringing forward" and "signing" may mean different things in different contexts.

The Convener: I think that Keith Harding would like to clarify the situation.

Mr Harding: My understanding is that only a minister can move a financial resolution, but the individual member who is introducing a bill has to prepare it. That is my experience from introducing the Dog Fouling (Scotland) Bill.

The Convener: Clarification is obviously needed.

Tricia Marwick: Will you confirm that the Executive would have been prepared to bring forward a financial memorandum at stage 3 of the Protection of Wild Mammals (Scotland) Bill for additional costs had a compensation measure gone through?

Peter Peacock: As I said, I would really want to check the facts before answering that.

The Convener: It would be helpful if you could clarify that. Thank you, minister.

15:16

Meeting suspended.

15:21

On resuming—

The Convener: Okay, comrades, we can start again. I welcome Professor Bill Miller, who is the Edward Caird professor of politics at the University of Glasgow. I am sure that you have given evidence to a parliamentary committee before.

Professor Bill Miller (University of Glasgow): No.

The Convener: In that case, it will be a new experience for you. I think that you will find it very exciting. We have received your paper and I know my committee so I am sure that all the members have read it. I invite you to say a few words before we ask questions.

Professor Miller: I will be brief. The briefing document told me that you would all have read my paper. I showed one paragraph to my wife, who said that you would have to read it twice to get any meaning out of it, but there we are.

The first point in my paper is that the standard works on electoral systems suggest that you should not change an electoral system unless there is an overwhelming reason for change. Change is disruptive. It is not that people cannot understand the mechanics of the system: they have difficulty coming to terms with the politics of the system and how they can achieve political objectives under one system or another. You require an overwhelming reason for change.

Secondly, I highlighted the importance of aims and objectives. It seems to me that the case for change has to be derived from a clear perception of the aims and objectives. I suggest that the aims and objectives that the public want, and that any democratic theorist would want, are simply that the electoral system should produce representative, responsible, efficient and honest government. The problem with those objectives is that, as the Jenkins commission pointed out, they are not entirely compatible, so you have to decide what your priorities are. In particular, if you are thinking of a change, you have to recognise your problems and find the remedy for them. If you do not have any problems, you do not need change at all, and there should be a presumption against change.

With the suggestion of a party PR system, the question that arises is when the priority should be

representation rather than responsible, honest or efficient government. It seems to me that representation should be the priority when a permanent minority is permanently excluded from the political process. Typically, such a minority would be an ethnic or religious minority—Northern Ireland comes to mind as an example. In such circumstances, PR must be taken far beyond the electoral system, otherwise there will simply be a Parliament with the same minority that exists in the country. As well as PR, power-sharing arrangements must be introduced.

Another possible objective is representation of the poor by the poor, which was the basis upon which the Labour party was founded. My impression is that the Labour party has given up that objective and that none of the major parties, with the possible exception of Tommy Sheridan's party, has taken up that banner. Perhaps one reason for that is the perception that people are not permanently poor, but drift in and out of poverty at different times in their lives.

Gender, on the other hand, is permanent. A strong case can be made for PR by gender. The Scottish Parliament has done pretty well in respect of gender representation, not through changes to the law, but through party activities. That brings home the point that many objectives can be achieved in local government and Scottish parliamentary elections by party action rather than by legal changes.

Both Westminster and local government operate first-past-the-post systems that have produced infinitely more proportional results in respect of ethnic minorities than the Scottish Parliament. The Scottish Parliament has no members from ethnic minorities. Anything divided by zero results in infinity. Even one member from an ethnic minority would be infinitely better than the number that there are in the Scottish Parliament, which uses a proportionate system.

That emphasises the fact that we are not talking about proportionality—we are talking about party proportionality and party PR. Party PR is the least good reason for switching to a proportionate system. Representation of minor parties is not really a problem, as they are not permanent minorities. People switch in and out of support for minor parties—for the Liberals in particular—frequently. Although leadership politicians in those parties might think that they are permanently excluded, their voters are not permanently excluded, as the voters are not their voters—they are simply people who happen to vote for them on a particular occasion.

Although the Jenkins commission was in favour of proportionate systems in general, it highlighted a slight problem with party proportionate systems in referring to the problem of "hinge power". If a

minor party receives seats in proportion to its votes, it acquires power out of all proportion to its votes, as it can switch between the major parties and steer the system; indeed, it may be permanently in government. It is significant that the leader of the fourth largest party in the proportionately elected Scottish Parliament has twice served as First Minister.

There is a question about the burden of proof. If a change is proposed, it must be shown that a serious problem requires to be solved, that the change will solve the problem and that it will not introduce problems that are worse than the problem that it solves. In the briefing documents that I have read, there were consistent references to maximising turnout, as if that was the problem. Turnout is a problem in many elections, particularly in local government elections. Party PR is not the solution to that problem, although it does no harm and, on the evidence that we have, it may do a little good—although only a little.

Four factors appear to produce increases in turnout: proportionality, compulsory voting, postal voting and weekend voting. As far as we can tell, all those factors produce minor increases in turnout. The competitiveness of the race and the saliency of the contest produce huge increases in turnout. If one wants to solve the problem of turnout in local government elections, the package that one would devise would not be a party PR package but would contain the following elements. First, local government elections would be held on the same day as either Scottish parliamentary or—better still—Westminster parliamentary elections. From the English experience, we know that that brings the turnout in local government elections up to the parliamentary level. Nobody who goes into the polling station to vote in a parliamentary election refuses to vote in the local government election. The problem lies in getting people to the polling station in the first place.

The second element is postal or weekend voting and the third, which I favour, is compulsory voting. I see no reason why we have compulsory taxes but optional voting. If they were given the option, most people in the country would prefer to have optional taxes and compulsory voting. Moreover, compulsory voting does not have to be dressed up in a draconian guise. It would be possible to raise the council tax per capita by £5 per year and every fourth year give somebody who turned up at the polling station a £20 voucher towards their council tax in that year. It would look like a discount, but it would be in the spirit of compulsory voting. It would not be difficult to administer. If people did not turn up to vote, at least the councils would have the additional money in their coffers. Councils would win both ways if they did that and it would be much better than the marginal twiddle of introducing party PR, which may or may not

work. When party PR was introduced into the elections to the European Parliament, turnout went down rather than up. Proportional representation is not a guarantee that voting will go up.

15:30

I want to draw attention to fiddling the system. As David Butler says, all electoral systems are fiddles by the people who have the power or wit to adjust the system when it is being formed. The primary way of adjusting a PR system is by varying the number of seats per constituency. The more seats per constituency, the more proportional the system; the fewer the seats, the less proportional the system.

The consequence of that can be seen when countries such as the Czech Republic decide that they want to favour the large parties. Those countries do so simply by having fewer seats per constituency, which means that all the large parties benefit at the expense of the smaller parties. That is an open and clear adjustment to the system.

The problem in the local government setting in Scotland is what the Irish call the Tullymander, which is named after a certain Mr Tully. Tullymandering has been applied in the Irish Republic and Greece so that proportionality across the country is varied. That has the effect of there being some proportional representation in some parts of the country but much less in others. In the Irish case, it led to three and five-seat constituencies. In Scotland, the proposal is to do something even worse, which is to have two and five-seat constituencies. A two-seat constituency is almost a majority situation—it is hardly proportional, as there are not many proportionate ways of dividing up two people. I agree that it is a bit more proportionate than dividing up one person, but nowhere near as proportionate as dividing up five or—as Professor Curtice recommended—eight.

In Scotland a relatively proportional system in the Labour-dominated central belt and a majoritarian system in the rural areas are being proposed. That means that, where Labour is strong, it will not pick up all the votes because other parties will get their proportionate share. Where Labour is weak, it will not get anything at all, because the system has suddenly been changed to one that is biased against small parties. The Labour party is not a big party throughout Scotland; it is big in some areas and small in others. The proposals would vary the proportionality of the system in a way that correlates with party strength, which is a classic way of fiddling or rigging a system.

The Convener: Thank you. Last week, the committee took evidence from the Deputy Minister for Finance and Public Services on the Executive's proposed local governance bill, which will include the introduction of STV for local government elections. Given what the minister said then and what he said today, what is the merit of supporting the single-issue bill that we are considering today, which will address PR in local government, when the Executive says that the issue is wider than that?

As you also seemed to be saying that PR alone will not increase the turnout of voters in local government elections, is there merit in waiting for the Executive's bill? It will include other provisions that aim to address issues such as diversity—the sort of people who stand as councillors—and how a councillor is treated. The Executive bill also aims to widen the vote and encourage people to vote.

Professor Miller: That will depend on the committee's bet on which measures the Executive bill will introduce. Certainly, party PR is only one small element of an electoral system. If the committee wants comprehensive reform, it would be better to wait for the Executive bill. However, there is no reason why reform cannot be introduced piecemeal; it does not have to come in one package. My argument is that moving to a PR system would be a relatively minor part of the package; it would not solve any important problem of which I am aware, apart from the fact that the Liberal party would like more representation.

Ms White: I know that you have opposed PR in any form for a long time now—that is your prerogative. I have a couple of questions about your written submission. Are you representing yourself, rather than the world of academia?

Professor Miller: Yes—in fact, I am not even representing myself: I came because I was invited, not because I felt cause to come.

Ms White: I just wanted you to clarify that point.

You mention in your submission:

"The public responses ... are overwhelmingly in favour of PR but do not reflect public opinion – over three-quarters were 'received as part of a pre-printed postcard campaign'."

When I attended a seminar on Saturday with other Local Government Committee members, PR and the first-past-the-post system came up in our discussion groups. People were not cajoled into anything.

You said that the Labour party is perhaps not really such a large party in respect of Scotland. It is not just Labour, however: in some areas, such as Angus, the SNP is a large party that gets a disproportionate number of seats. Would you not say that PR is about giving people choice and proper representation for the areas where they live, rather than for the whole of Scotland?

You mention PR and other voting systems, particularly first past the post, throughout your paper. You state:

"party-PR ... is particularly problematic in a system with two large parties."

Obviously, we do not have only two large parties in Scotland; we have three, or perhaps four. You go on to say that the price to pay for PR

"might be cash-under-the-table, special subsidies for special interests".

Some people might say that that is going on now, without PR. Could you answer those points, please?

Professor Miller: Surely. I will deal with your points in order. My comment about the "pre-printed postcard campaign" came entirely from the briefing documents that were made available to me by the committee. One of the committee's reports drew attention to the fact that about 80 per cent of the responses in favour of PR came in on the same postcards. If 80 per cent of responses came in on the same postcards, we might be a bit suspicious that perhaps 90 per cent of them had come in through the process that generated those postcards, with some people losing their postcards and having to write in on ordinary paper. In other words, the campaign was very politically motivated. Obviously, I cannot sit in front of a group of politicians such as this and say that politically motivated campaigns are a bad thing per se, but it is important to recognise that the results of such campaigns are not representative of the general run of public opinion.

You said that PR came up a lot in groups at the seminar that you attended. If political campaigners were there, of course they would home in on such groups. The reason for using opinion polls is to speak to people who are not in the same room. To be frank, the people outside do not care very much about the electoral system one way or the other. As someone who has studied electoral systems, I do not think that the choice of system is all that important, either. The importance of electoral systems is usually grossly overestimated by the enthusiasts who think that they will solve all the problems of politics by tinkering with the electoral system in some way.

As to questions whether a system is fair and a proper way to represent people, party PR represents parties in proportion and, if that is the major objective, then party PR achieves what it sets out to achieve. No PR system is totally proportionate. The worst of the PR systems is usually not as good at proportionality as the British first-past-the-post system—you could compare Spain with Britain, for example. However, PR systems are generally more proportionate than the first-past-the-post system. If representing parties

in proportion is the objective, then party PR is great. If that is not the objective, or if there are other objectives, there is no reason why party PR would solve all the other problems. Indeed, it may make some of them rather worse.

At the very least, you have to answer a number of questions. In particular, why are you proposing different systems and different degrees of proportionality for different parts of Scotland? I have heard all the arguments about big constituencies in large geographic areas but in an age of telephones and e-mail, I am no longer terribly impressed by distance. I do not see why the Highlands and Islands in general should be over-represented in the Scottish Parliament or why special electoral systems should be devised for those areas that would not be applied elsewhere. You have to make a very strong case to explain why you are proposing to operate two very different systems in different parts of Scotland.

I turn to the question whether, where two big parties are in contention, small groups or collections of people who are not in any sense a group might have excessive power. You are quite right to say that we do not have a two-party system throughout Scotland. Local government has a lot of different two-party systems. We have Labour-versus-the-SNP systems in some places, and it is conceivable that after the Conservative revival we could have Conservative-versus-Labour systems in parts of Scotland where those parties are represented strongly. The existence of two-party systems in local government, even within four-party Scotland, is not that extreme.

On cash under the table, I was thinking not of Scottish local government and extreme interests, but of places such as the Israeli Parliament in which there is an extreme form of proportional representation. One or two extremists there can gain inordinate amounts of power simply because they can tip the balance one way or the other. It is also the case that around the world, politicians change sides after cash has been put into bank accounts.

Ms White: I just want to clarify a point. The people whom we met on Saturday were not politicians or members of political parties, but members of the community. They picked up on the point about PR.

The Convener: Before I call Sylvia Jackson to speak, I want to clarify that the paper that was sent to you, which you referred to in an answer to Sandra White, was the Executive's consultation, rather than a report from the Local Government Committee.

Professor Miller: I wish that I could give you a clear answer. I could look up the various papers that are in my file. There was a little bit of Google

searching on the web and your clerks supplied documents that were all connected with the activities of the committee.

The Convener: The paper to which you referred was not a committee report.

Dr Jackson: I thought that your paper was very useful, not only because you identified three aspects of representation, but because you referred to accountability and good governance. I talked about that last week and I shall come back to it in a minute. I am particularly interested in what you said about Tullymandering. That was important and I am sure that we can follow it up with Tricia Marwick later. What you said about how minority groups or extremists—I am perhaps not using that word correctly, but you know what I mean—can affect government and be part of the ruling group was interesting.

I want to go back to good governance and the points about efficiency and honesty. I should be clear that at the start of the debate I was possibly more pro-PR than anti-PR. However, although the Scottish Parliament has an additional member system, which could be STV, I am a little concerned about how things will work out in practice on the ground. There could be problems in relation to the electorate's knowing who to approach within a multimember ward. There is an issue around efficiency, because several members might be chasing up the same constituent's issue. I wonder how the different aspects are balanced, particularly given that you said that we should be serious about making the changes, because they are an upheaval. I would like you to comment on those practicalities. I have been asking specifically what evidence there is on the ground about STV systems that already exist and about the importance of the councillor-ward link and efficiency in general.

15:45

Professor Miller: I shall run through those issues in quick succession. I would not always equate minorities with extremists; some minorities are anything but extremist. Nonetheless, I hope that extremists will stay minorities: that is one of the happy thoughts to come out of democracies.

You are right to focus on PR as the issue rather than a specific form of PR. The question of whether PR is achieved by the additional member system or the STV system is much less important than whether a PR system is used rather than a majoritarian one.

You asked about the experience of STV systems. Around the world, there is little experience of the STV system. It is one of the lesser-used systems, found in Ireland, Malta and bits of the Australian system. It is also used in

local government in some parts of America. Every conceivable electoral system has been used in local government elections somewhere in America over the years. Nevertheless, there is not an enormous amount of experience of the STV system even there.

Conceivably, an STV system would allow political fights between members of the same party. If several people are standing in the same constituency, there might be a tendency for them to use that. The parties themselves might impose discipline and forbid their members to stand against each other, instead selecting the appropriate number of members to stand in a certain constituency. However, that would not stop somebody who is a bit of a maverick—the elected mayor of London, for example—from stepping outside the party and putting themselves forward in the hope that they could somehow connect with the party in the mind of the voting public if not in the party's offices and apparatus.

An STV system would encourage splits within parties. Some people would like to encourage splits within parties. However, others think that disciplined parties make the choices more meaningful to the electorate, that the choices are essentially party choices rather than personality choices and that anything that makes those choices fuzzy is not a good thing.

The issue of the links between elected members and the electorate comes up quite a lot in general discussions of electoral systems. I am not sure how close the links are between elected members and their constituents under any system. Certainly, the links can be weaker and stronger irrespective of the electoral system. In the German parliamentary system, for example, some members are elected in territorial constituencies and others are elected from party lists. However, even those who are elected in the territorial constituencies have practically no links with their constituents, as they regard their constituents' business as a matter not for them but for the civil servants. The elected members deal only with policy. It does not matter whether they are territorial members or list members—they all take that view.

I am sure that people approach their elected members to do things for them on an individual basis. However, in 1987, when I was researching the British Parliament election, we asked people whether they had heard anything about the Labour, Liberal, Conservative and SNP candidates in their constituencies. We questioned people daily in the four weeks running up to the election. On polling day, three quarters of people had heard something about the major party candidates. However, four weeks before that, the figure was only 8 per cent. The knowledge that people had of

their candidates in the parliamentary system was gained very late on. One would have thought that more than 8 per cent must have been helped by their constituency MP at some stage. If they had been, they must have forgotten during the life of the Parliament. The connection is not that tight.

You also talk about several members representing a certain area and people not knowing which one of them to approach. My guess is that, even if one member represents an area, there might be candidates from the other parties who are willing to take up cases before they get elected in the hope of establishing personal credibility and picking up little bits of support. As much of that work does not require one to be elected—it requires putting in effort, contacting people, facilitating things and being in the political swim—a non-elected person could do a lot of the same job.

Change would not be all that great. That brings me back to the suggestion that the differences between the systems might not be as great as the mechanics of the system imply. The argument against change is not that a change to PR would be a disaster—it would not be a disaster. Even if it were a bad thing, it would not be a very bad thing. The argument against change contains an element of rearranging the deckchairs on the Titanic and forgetting that there are other things one could be doing, such as trying to stop the hole in the ship's hull.

Mr Harding: I thank you for your report, which I found interesting, as well as your presentation today.

I agree that the general public does not care about electoral reform. The first-past-the-post system seems to work quite well and it is understood. Having said that, we are going down that road because I do not believe the case for change has been made. If STV is introduced, do you feel it will improve the governance of councils?

Professor Miller: It would replace a number of dominant single-party councils by a dominant coalition, which would be even more difficult to remove than a dominant single party because the gearing effect is much less in a proportional system than in a first-past-the-post system. There are no swings of 5 per cent or 10 per cent, totally unseating one party and putting power into the hands of the other. STV would take power out of the hands of the electorate. Some people might feel that that is a good thing and that the electorate does not have good ideas.

One great problem with local governments is that local government elections are widely regarded as second-order elections. That is to say that the theory of second-order elections is that people vote in them on issues that relate to

something else. People vote in local government elections depending on how they feel about Iraq or the Prime Minister or even the American President, none of which has anything to do with local government issues. One can be sceptical about electorates and I think that one should be as sceptical about electorates as one is about politicians. I hold no brief for the electorate.

Mr Harding: I do not know whether you read the Kerley report.

Professor Miller: I looked at it some time ago.

Mr Harding: Do you feel that it was flawed in that the authors discounted the first-past-the-post system and were not asked to compare it with all other forms of voting?

Professor Miller: The choice between different PR systems is a bit like someone going to a car showroom and saying that they might be interested in a car and the salesman trying to force them to pick the colour before they are even sure if a car is needed. They might want to discuss whether there is a point in buying a car, but the salesman tries to make the choice for them. It is not terribly useful to spend a long time discussing the difference between one PR system and another rather than discussing if one wants a PR system at all. That is a much bigger question.

Kerley mentions the alternative vote system. The great discovery was that the alternative vote is a majoritarian system. Well, of course it is: that is blindingly obvious. The alternative vote system is more strictly majoritarian than the first-past-the-post system. To find mention of that in a document that is concerned with PR systems is absurd.

I was much more impressed by the Jenkins report than by the two Scottish reports. Whatever conclusions Jenkins comes to—I might disagree frequently with those conclusions—he is incredibly impressive along the road to his conclusions. Every argument on either side is laid out. There is no argument that Jenkins is unaware of or unwilling to express in his wonderfully literate style.

Tricia Marwick: Welcome, Professor Miller. Have you read the bill?

Professor Miller: The bill is quite short. I remember printing it out and skimming through it.

Tricia Marwick: Have you read the bill?

Professor Miller: Yes. It did not take me long, as it does not contain much. All it does is state the intention to introduce a single transferable vote system. It contains little associated items, to do with how much it would cost to switch from one system to another. That is an irrelevance to any major policy issue. It is a matter of detail for people like you, but it is of no interest to people like me.

Tricia Marwick: Given that you have read the bill, where in the bill does it state:

“The Bill’s proposals go beyond the Irish example (between 5 and 3 seats per constituency) and have constituencies ranging from 5 seats (somewhat proportional) down to a mere 2 seats (scarcely proportional—almost majoritarian)”?

Professor Miller: That is a quote from my submission.

Tricia Marwick: Of course it is—it is a direct quote from page 4 of your submission. Where in my bill are such proposals made?

Professor Miller: Let me send a question back to you. Where did I get the information that there was a suggestion that there should be two-seat constituencies in Scotland? I did not make it up; I got it from somewhere. Was it in your bill or was it in some of the accompanying papers?

Tricia Marwick: With respect, you most certainly did not get it from my bill, nor did you get it from any of the documents that I have issued. Such information simply does not exist.

Professor Miller: If I understand you correctly, you would be in favour—

Tricia Marwick: Excuse me, I ask the questions. I asked you where in my bill it says what you claimed that it says. You have concluded that my bill does not say what you claimed in your submission that it says.

Professor Miller: I am not going to go through your bill line by line.

Tricia Marwick: We know now that your assertion that my bill says that the number of seats per constituency ranges from five down to two is simply incorrect.

Where, in all the material relating to my bill, have I indicated that my bill will have an effect on turnout?

Professor Miller: That is not the sort of thing that occurs in the bill and I do not know whether you have said it. However, people who advocate your bill have certainly cited that as a reason why it would be a good idea to switch. Turnout is a major problem in local government elections. I have suggested a number of radical changes that would address that problem. In my view, those changes are far more important than a switch from a first-past-the-post system to a PR system.

Tricia Marwick: You have been invited before the committee to speak about my bill. I have not indicated in any of the documents that I have produced that the bill might have an effect on turnout. Although your wider views are very interesting, it would be to the committee’s benefit if we were to confine ourselves to what my bill and my policy documents say.

You assert:

"There is no groundswell of intense public demand for PR."

You say that the Government's consultation amounted to the submission of a number of postcards. Why have you ignored the recommendations of the McIntosh commission, which took evidence from practically every organisation that one can think of in Scotland?

Professor Miller: When I talked about public opinion, I was not referring to the McIntosh commission or the Kerley report; I was referring to public opinion surveys that asked a much wider public whether they were in favour of proportional representation, for example. The public usually says that it is in favour of such things. When one asks the public about a responsible Government that could be dismissed if it did not do things that they liked, they say that they are in favour of that as well. The problem is that the public wants both. They want an identifiable, responsible Government that they can take action against if they do not like what it does. At the same time, they would also like proportionality. Other things being equal, it is obvious that proportionality is a positive thing. There is no doubt about that.

Tricia Marwick: You will be aware that a huge majority of people has always said yes in every opinion poll that has ever been conducted that has asked the specific question, "Are you in favour of proportional representation in local government?" That is true of supporters of every political party. Do you accept that?

Professor Miller: In the surveys that I have conducted in which I have asked whether elections should be by proportional representation—I have conducted such surveys throughout the whole of Britain and in at least five European countries, including eastern Europe—the public has said, by a huge majority, that they want more direct control. People are in favour of proportional representation. For that matter, they are also in favour of referendums, in which they could take decisions directly into their own hands. However, councillors take a somewhat different view.

16:00

Tricia Marwick: You say that, if STV were introduced,

"Key decisions would be transferred from the electorate to obscure back-room bargain-makers".

Where are most decisions made in councils in relation to the first-past-the-post system?

Professor Miller: The question is whether changing the system will produce something that is much better instead of something that is much

the same. My argument is that things would be much the same. Changing electoral systems does not have nearly the impact that one would think it might have. If we really care about issues such as the disconnection between politics and the public, we should consider using means other than changing the electoral system. I am trying to highlight the irrelevance of changing the electoral system itself.

Tricia Marwick: You point out that Professor Curtice recommended that there should be eight seats for each constituency. We have already covered the fact that my bill certainly does not agree with your point of view. Given your long-standing opposition to the proposal, would you accept any system of proportional representation or STV?

Professor Miller: I am neither desperately against nor desperately in favour of it. Other things being equal, proportionality is a good thing. However, hung councils and Parliaments are as unpopular with the public and with me as disproportionality. People want both. The problem is how to explain any great advantages of moving to a new system.

If we are to move towards proportionality, I have to say that I found the Jenkins commission's proposals to be far better than any others, because the commission rather subtly argued that one could adjust the degree of proportionality by adjusting the number of additional members. For example, we could have a system that was a bit more proportional than the first-past-the-post system but still tended to deliver majorities to provide a clear focus of responsibility. If we used the AMS, we would not need to have one or the other system, but could adjust matters on a sliding scale by adjusting the number of top-ups. I suppose that the equivalent in STV would be to adjust the number of seats in each constituency without varying the number in different areas of the country at the same time.

Tricia Marwick: I want to ask about Tullymandering, in which seats are gerrymandered within a PR system. When the Local Government (Scotland) Act 1973 split up all the local authorities, we had the spectacle of ministers drawing up boundaries, including those for Eastwood District Council. Was that an example of Tullymandering? Moreover, what about what happened in Stirling, where whole communities were moved in and moved out? That all happened under the first-past-the-post system. Why do you think that Tullymandering can happen only under a PR system?

Professor Miller: Tullymandering comes from the word gerrymandering, which is named after Governor Elbridge Gerry, who manipulated a first-past-the-post system in Massachusetts a couple of

centuries ago. If we let power holders determine the boundaries of any system, they will do so to help themselves or their friends, or to help minorities that they particularly favour and hurt those that they do not favour. That happens a lot in the American system. It is very important that boundaries are drawn up by independent commissions instead of politicians. I think that the only case you are making is that such matters should be taken out of the hands of politicians and put into the hands of an independent commission.

Tricia Marwick: Do you accept that Tullymandering is not something associated only with proportional representation but that it has taken place under the first-past-the-post system? I simply do not understand where your supposed argument is coming from. Tullymandering can happen under any system.

Professor Miller: No. I am trying to keep the language clear. We use the term gerrymander for the adjustment of boundaries in a one-member-per-constituency system, and it can be used to bias the system. We use the word Tullymander to refer to the adjustment of the number of members per constituency. Both are means of manipulating electoral systems. You are quite right to say that you can manipulate any electoral system, be it first past the post, majoritarian or PR. I am not suggesting that PR is more prone to manipulation than any other system. I am just saying that, whether you are deliberating on the bill or on any of the supporting papers, I hope that you will not go ahead and introduce a system through the Parliament that proposes different numbers of members in different constituencies. The proof of the pudding is in the eating, and we shall see at the end of the day whether that is what emerges from your deliberations.

Elaine Thomson: Some members of the committee, including me, recently observed the Irish general election, which certainly gave us a different view on PR and on some of the issues that we have been discussing. The whole issue of how many seats there are per ward or per constituency, as well as the turnout, is pertinent to any consideration of PR systems, whether by STV or any other method. As I read it, the bill allows a variation in the number of candidates who can be put forward for an electoral area. In Ireland, a lot of the competition seemed to be between candidates from the same party, as opposed to a party versus party contest. I am interested in your views on that.

I would also like you to expand on some of your earlier comments about the proposals for rural areas. What would be the impact on different parties of having two-member constituencies in some areas? You seemed to suggest that that aspect of the bill could work against certain parties in central areas of Scotland.

Professor Miller: If you had the variation by which there were fewer members per constituency in rural areas than in densely populated areas, that would work against the interests of any party that was stronger in the densely populated areas than in the rural areas. At the moment, that would certainly include the Labour party, but such a variation would operate throughout time irrespective of the parties involved. All the present parties could be swept away, but if the strength of the new parties varied between the urban and the rural districts, having a variation between those areas would lead to bias in favour of some parties and against other parties.

You mentioned competition between candidates of the same party being encouraged by multimember seats, and particularly by the STV system. That is one of the famous characteristics of the Irish system. To some extent, it may be cultural. Indeed, one of the problems with comparing electoral systems in the UK and the Republic of Ireland is that there is a cultural difference as well as a system difference. Maybe the Irish are particularly culturally inclined towards particularistic and personalistic politics and would be under any system. That is always a possibility. Nonetheless, that is one of the characteristics associated with that system.

If there are five seats in a constituency, a party may put up five candidates, but may not have enough strength for all five to get elected. It follows automatically that those five people will go home at night and think, "My opponents are in front of me but my enemies are behind me," as they say in the House of Commons. They have to fight on two fronts: they have to fight against the other parties to increase the size of their party vote, but they also have to fight against the other members of their own party to make sure that the party vote goes to them rather than to somebody else. Under list PR, all those fights happen within the party. Before the election, people fight for positions on the list. Once that is done, that fight is not taken out to the electorate and confused with the actual electoral process.

PR is not the only system that allows party members to stand against each other. In Glasgow 150 years ago, we had a system for parliamentary elections in which there were three members of Parliament for the city, but each elector had only two votes. That introduced a system of competition, which the Japanese have used more recently, in which members of the same party essentially fight against each other. It is a faction-ridden replacement for a more disciplined party system.

The list system with a fixed and closed list encourages party discipline, because the party decides where the names shall be on the list.

There can also be competition between members of the same party in an election if there is an open list, whereby people can tick the individual names on the list. If the party has two persons elected, it is the two who have the most ticks beside their names who get elected. That system would do exactly the same thing as STV or the limited vote system of Japan to encourage people within the party to have their fights in public. I am sure that people have their fights in the party otherwise, but still.

Dr Jackson: I want to return to the point about the number of seats per constituency and what is in the bill to clear the air. As I read the bill, it seems to say substitute "one councillor" with up to "a maximum of eight councillors"

so the figure could be anything between those numbers. However, your paper is more specific. Could you look at the background information that you were working on when you wrote your paper and clarify where that came from?

Professor Miller: I am happy to do that. The information will be in the folder that I have in front of me, but it would take too long to go through it at the moment. I should say, though, that where I got the information from and whether I am right or wrong does not matter at all. What matters is what you eventually enact as members of the Parliament. If you enact a system that has different numbers of members in different constituencies, a Tullymander will be operating. If you do not, you will not have that particular distortion of the system. Whether I am labouring under a misapprehension and whether I have been misinformed is of no interest, not even to me, let alone to the great Scottish public out there.

The Convener: It is interesting for me, because I read the paragraph slightly differently from Sylvia Jackson. In your paper, you quote what Professor Curtice said to us, and later you state:

"The Bill's proposals go beyond the Irish example".

You then give an Irish example. My reading of the bill, along with Elaine Thomson, Sylvia Jackson and Keith Harding, is that "one councillor" is substituted with

"a maximum of eight councillors"

so there is confusion in the committee, but we will clarify that.

Tricia Marwick: I have one final point. You talked a great deal about the fact that proportional representation—whether it is STV or the system that we have at the moment—sets politicians against each other. With single transferable voting, party politicians fight with each other, but do you not think that STV will take the decision making out of the hands of the politicians and put it into

the hands of the public, so that they can decide who they want as elected representatives? If we cannot engage the public in local council democracy or in the Scottish Parliament, we are going to continue to see the kind of turnouts that we have at the moment. Do you accept that open list STV is an opportunity for the public to make their views known about the representation that they want, and that it is the one thing that takes power out of the hands of party politics?

16:15

Professor Miller: I agree that if we have a system that allows the public to discriminate between different members of the same party, it takes power out of the party and puts it into the hands of the electorate. It gives an enormous incentive to the different candidates of that party to fight each other hard. The only basis on which the public can discriminate between two candidates is the case put by one candidate about why they should be elected rather than their fellow party member. In other words, the fight will be intensified and in the public arena.

I do not think that people come to an election with a vast knowledge of individuals. Knowledge of individual candidates will be based on what they see and hear during the election process. It will be part of the electoral battle rather than some preconceived wish to elect Fred Bloggs rather than Joe Smith. In general, the idea that elections can be used to choose individuals rather than parties is a classic mistake in anything other than a small community of face-to-face interacting people who know the candidates from 20 years back.

My wife comes from Newport-on-Tay in Fife, so I can imagine a place where everyone in the village knows every candidate inside out, but politics does not operate that way for most of the time in most places in the modern world. The numbers of electors per elected member are so much larger that they do not have individual personal information about them. If people are elected on their individual characteristics rather than on their party and party programme, that is a threadbare basis on which to choose. I mentioned the Japanese limited vote system, which had an element of that. It was noticeable that television personalities—soap opera actors and sports stars, for example—tended to crop up. They were elected on name and face recognition rather than on anything that could be dignified with the name of policy.

Elaine Thomson: I was recently talking to an Icelandic ex-politician who spoke about the situation in Iceland, which has proportional representation. The result of a recent election meant that a minority party was required to make

up an Administration. One result of the negotiations to put the coalition together was that the minority party finished with a number of ministerial seats out of all proportion to the underlying vote. Could that happen in local councils?

Professor Miller: Referring to public opinion, I said that opinion polls show that the public would like fair proportionate representation but not hung parliaments, for exactly that reason. The questions are usually about Parliament rather than local government. Small groups end up with excess power.

That was one worry of the Jenkins commission, which found that in the British national arena, the Liberal Party, although small, would in the past have been in office virtually permanently, sometimes with the Conservatives and other times with the Labour Party. Classically, in Germany in the 1980s, the equivalent of the Liberals—the Free Democrats—simply switched sides in the middle of a Parliament. They threw out the Government that was in and installed another Government, which was in power for six months or so before it bothered to hold an election to legitimise its hold on power.

Post-election coalitions smell bad. Coalitions that are formed after the election and have not been announced to the electorate beforehand are very much of the backroom influence. They take power out of the hands of the electorate. A pre-election coalition is a different animal. When people know that they are voting for a package, they are effectively voting for a bigger political party that happens to call itself Lib-Lab rather than Labour or Liberal, for example. It is a package, and the people know what they are getting. Therefore, all the criticisms of domination by a single party can be levelled at domination by such a coalition. It is effectively another party. However, the post-election coalition is very different.

The Convener: Thank you. This is your first visit to this committee, but I am sure that it will not be your first visit to a parliamentary committee. I know by the questions from the committee members that they have been interested in what you have to say and by your paper. Thank you for coming along.

Professor Miller: Thank you for inviting me. I thoroughly enjoyed the session.

The Convener: We will have a short suspension to change witnesses.

16:20

Meeting suspended.

16:26

On resuming—

The Convener: Okay, comrades. I welcome to the other side of the table Tricia Marwick MSP, whose bill we are discussing today. I also welcome Alyn Smith, who is the parliamentary researcher to Richard Lochhead MSP.

I need not tell Tricia Marwick the drill. It is over to you. After that, we will open up to questions.

Tricia Marwick: It is a great pleasure at long last to be able to give my evidence on the Proportional Representation (Local Government Elections) (Scotland) Bill. It has been a long time in coming.

Let me introduce Alyn Smith. Not only is he a parliamentary researcher for Richard Lochhead, but he was responsible for helping me to draft the bill after it was denied assistance from the non-Executive bills unit. The bill had to be drafted externally, but it is important to put on record that it is indeed a member's bill in every shape and form. I hope that lessons will be learned and that the Scottish Parliamentary Corporate Body and the non-Executive bills unit will consider carefully what they do in the next parliamentary session. We need to ensure that members are not denied assistance, as I was for this bill.

I want to talk briefly about what the bill intends to do and the reasons why it is before members today. My first question to the minister today was to ask him what was the first debate that we had in the Scottish Parliament after we acquired our powers. The minister did not know, but he suspected that our first debate was on local government and on the recommendations of the McIntosh commission. Indeed, it was. People outside this place will find it incredible that we will not have enacted legislation on the subject of our very first debate by the end of our first session in March 2003.

Following our July 1999 debate on McIntosh, the Kerley report was commissioned. Kerley was tasked with making a recommendation on proportional representation in local government. He reported in June 2000 that the favoured system was single transferable voting. The ministerial working group on renewing local democracy was set up on 22 August 2000; however, from 22 August 2000 to November 2001, that group met only three times. The minister did not know that, but I reminded him of that fact. I lodged the proposal for the bill on 21 November and, thereafter, the Executive decided that it had to move a few tiny steps forward. Since then, we have had more Executive consultations.

16:30

The bill was published on 26 June 2002 and the committee has considered the evidence carefully. The bill was introduced simply because it was clear that the Executive was not moving forward on the issue at all. As I have stated, there were only three meetings of the ministerial working group on renewing local democracy. That does not suggest that the Executive is keen to do anything about the matter.

Essentially, the bill is a piece of enabling legislation. It enables proportional representation to be introduced and it gives ministers powers to decide the boundaries and the timetable for its implementation. The bill's objective is simply to replace the first-past-the-post system that is currently used to elect the 32 local authorities in Scotland with an STV system of proportional representation. With respect to the committee's witnesses, the bill will not allow an amendment to introduce any other kind of proportional representation. Therefore, the issue for the committee and the Parliament is simple: members are either in favour of the single transferable vote or they are not.

The advantage of single transferable voting is that it ensures that no votes are wasted. It permits the electorate to express a series of preferences about how their votes are allocated. An important aspect of STV proportional representation is that it puts the power in the hands of the electors, not in the hands of the political parties.

Members have asked about the consultation on the bill. I agree whole-heartedly with the representatives of Fairshare who said last week that they had been "consulted to death" on proportional representation in local government, from McIntosh, through Kerley, to all the Executive's consultation. On every occasion, the huge majority of people have been found to be in favour of an STV system of PR.

Now is the time to act. That is what I hope the committee will do. I started by saying that our first debate was on the McIntosh proposals. The bill gives the Parliament an opportunity to enact a PR bill before 2003. That is the least that the electorate of Scotland can ask for. Frankly, I am not convinced by the Executive's proposal that it will introduce for consultation legislation that will not be enacted until another Executive takes over in 2003. One Executive cannot bind another Executive to anything. The Executive that winds up in March will not be able to bind its successor to anything. That is why I say to all the people who are in favour of an STV system of proportional representation that there is a bill on the table—a bill that will make PR a reality by 2003. If members believe in an STV system of PR, they must support the bill.

Would Alyn Smith like to add anything?

Alyn Smith (Researcher): I think that Tricia has covered the points more than adequately. We will be happy to answer any technical or other questions about the bill.

The Convener: Tricia Marwick is right about McIntosh: the debate on local government was the first debate after the transfer of powers to the Parliament, and I recall speaking in it. I remember, because I was extremely nervous. It was the first time we were debating something as legislators—after the Queen had officially opened the Parliament. Until then, we had just been playing at it, in a sense.

Tricia Marwick said that she lodged her bill because the Executive was not moving fast enough. Like everyone on the committee, I have read the McIntosh report—indeed, I have read it a few times. The minister's response suggests that the Executive is now moving forward and that we will have a local governance bill, which will take in things other than PR. In the McIntosh report, PR was not something that stood alone, but was very much part of a package.

Why should the member's bill take precedence over a bill that the Executive will introduce, which will cover all the other bits? If the bill is passed, and I am still convener of the committee after the elections, I might receive a proposal to cover another wee bit of the McIntosh report. By then, we could have done the PR bit, but not the rest. The Executive is trying to pull everything together. Why should we single out PR?

Tricia Marwick: The reason why we are considering the Proportional Representation (Local Government Elections) (Scotland) Bill is precisely because the bill is before the Parliament now and it is for the Parliament to make a determination on it before the elections in 2003.

The bill in no way replaces the Executive's proposals. By its own admission, the Executive is not even going to try to put the measures through by 2003; they will only lie on the table for the next Executive to come in and consider. As I have indicated, there is nothing that binds a successor Executive to anything that the current Executive or a current committee does up to March 2003.

I truly wish that, shortly after July 1999, the Executive had introduced a local governance bill in response to the proposals contained in the McIntosh report. That would have found my whole-hearted support. As I said to the minister today, all the recommendations that will be put into the draft local governance bill come from the McIntosh report. I find it quite incredible that we have gone from 1999 to 2003, and the Executive has not legislated in any of the areas that the report covered. The issue is not just PR; the Executive has not and will not legislate on any of the

proposals that the minister suggested could form part of a local governance bill.

Members should bear in mind the fact that I am only a single member, yet, quite frankly, if I had benefited from the skills, experience and support of NEBU, the committee might have seen a local governance bill from me. However, that was simply not possible. The choice before the Local Government Committee is to have on the statute book something from the McIntosh report that will open up local government, or to consider a proposed draft bill from the Executive that will not be decided upon by the Parliament before 2003, with nothing that binds a future Executive to consider it, never mind enact it.

The Convener: My memory may be a bit fuzzy, but I think that when the chief executives of local councils came before the committee some time ago, they were a bit concerned about the timing, and did not think that they would be able to get all the procedures sorted out. That is what the minister said earlier today. You obviously disagree with that and think that, if the bill is supported, the necessary changes can be made by 1 May 2003.

Tricia Marwick: Let me clear up that matter. There seems to be a misunderstanding. When my bill was lodged in June 2002, there was, as far as I was concerned, still a possibility of there being PRSTV elections in 2003. As time goes on, and considering the fact that the Proportional Representation (Local Government Elections) (Scotland) Bill has reached stage 1 only now, in November, I think it very unlikely that the May 2003 local government elections could be run using PRSTV.

In Northern Ireland, STV was introduced within three months because there was the political will to do so. I do not believe that it is possible for the Parliament to agree to the bill in time for STV to be implemented for the May 2003 local government elections. However, it is important that the bill becomes an act by May 2003. If that happens, this session of Parliament—running from 1999 to March 2003—will have enacted a piece of legislation that introduces PRSTV for local government.

Mr Harding: This afternoon, the minister implied that the bill is politically motivated. The SNP will be the greatest beneficiary of the introduction of PR for council elections. What are the benefits of the bill for local democracy?

Tricia Marwick: It was a cheek for the Deputy Minister for Finance and Public Services to suggest that my bill is politically motivated. We are all politicians—the minister is just as much a politician as I am.

I am not sure what the minister meant when he said that the bill is politically motivated. It is true

that in some areas of Scotland the introduction of PRSTV would advantage the SNP, but in other areas it would advantage other parties. In Angus, where the SNP has 72 per cent of council seats but only 47 per cent of the vote, Labour has 18 per cent of the vote but only three seats. There the Labour party would benefit from the introduction of PRSTV. In East Dunbartonshire, the Liberal Democrats have 42 per cent of the seats but only 27 per cent of the vote. In Stirling, the Conservatives have 41 per cent of the seats but only 27 per cent of the vote. In Midlothian, Labour has 94 per cent of the seats but only 46 per cent of the vote, whereas the SNP has 31 per cent of the vote but no council seats. Every party—Labour, the SNP, the Conservatives and the Liberal Democrats—will be both advantaged and disadvantaged by PRSTV.

PRSTV is important not because of how it affects the political parties but because of how it advantages the electorate. Electors will have the opportunity to ensure that the political make-up of councils reflects the votes that they cast, which is not the case at the moment. As I indicated to Professor Miller, PRSTV takes power away from political parties and gives it to the electorate, which is the most important part of the system. I do not claim and never have claimed that the Proportional Representation (Local Government Elections) (Scotland) Bill or PRSTV will increase voter turnout, but those who bother to vote in an election that is conducted under PRSTV will have the satisfaction of knowing that the make-up of councils reflects the way in which they voted.

Mr Harding: When he said that the bill was politically motivated, the minister may have been suggesting that you were trying to cause embarrassment to the coalition.

You say that PRSTV will provide better representation, but will it not lead to coalitions? Will not some parties remain excluded? That is the situation in the Scottish Parliament, 46 per cent of whose members are ignored. PR has not worked very well in the Scottish Parliament. Why should it work in councils? Do you believe that councils will be better run by coalitions than by determined parties with clear manifestos?

Tricia Marwick: The electoral system for the Scottish Parliament is not STV.

Mr Harding: It is a type of PR.

16:45

Tricia Marwick: As I said last week, frankly, the Scottish Parliament's system was a political fix. Nobody should assume that the mistakes and inadequacies of that system will be replicated under STV.

Keith Harding made a point about coalitions. People should get what they vote for. I acknowledge that, in some cases, coalition government might be a consequence of STVPR. I do not think that coalition government per se is bad. What is bad is the likes of the situation in Midlothian Council, where one political party has almost all the council seats on less than half the votes that were cast. That is unfair.

Every electoral system has its pluses and minuses. We need to weigh up whether a system has more pluses than minuses. The first-past-the-post system is fundamentally flawed and anti-democratic. That is why I believe that STVPR is not only the system for local government; some day I hope that we will all see sense and introduce STVPR for the Scottish Parliament.

Alyn Smith: I will pick up on the suggestion that the bill is a political mischief-making exercise.

Mr Harding: That was a political question for the politician.

Alyn Smith: I am sure that it was, but I will give the technical answer. If we wanted to make mischief, we would issue an announcement that called the Executive rude names—admittedly, that is primarily done by ministers these days. To draft a bill is not to undertake a mischief-making exercise. Too much work has gone into the bill for that. We had no support in drafting it and the bill is a major, albeit tight and compact, piece of work. The bill has been produced with the best intentions.

Mr Harding: I appreciate that. I, too, have had difficulties with my member's bill, which has taken two and a half years.

All the evidence that we have heard says that PR leads to coalitions. In the interests of the electorate, would the SNP overturn its policy of not entering into coalitions with Conservatives?

Tricia Marwick: PR could lead to coalitions. I am a truly wonderful person, but I cannot single-handedly overturn any SNP policy. The SNP is a very democratic party. Such decisions are taken by our national conference or by a national council, which is composed of SNP members. They alone would take that decision—not me. That is democracy.

Mr Harding: On a first-past-the-post system.

Dr Jackson: I will take up Tricia Marwick's point about no votes being wasted. The previous witness, Professor Miller, said that that depends on the number of councillors per ward. The bill specifies

"a maximum of eight councillors"

per ward. What numbers will be implemented in urban areas and rural areas? I would also like your comments about possible Tullymandering.

Tricia Marwick: The bill was carefully drawn up to be non-prescriptive. It says that the number can be up to eight to give as much leeway as possible to ministers, who might decide to draw the ward boundaries themselves—the bill allows them to do that—and to the Local Government Boundary Commission for Scotland, when it considers what best fits. It would not be right for me to say what I consider the best number. A body of work exists. Kerley says one thing and John Curtice says another.

I deliberately made the bill non-prescriptive to allow consultation on the number of councillors. That is why it is an enabling bill. It enables the approval of PR. Thereafter, it is up to ministers to introduce the scheme. I have no doubt that all of us will have a view at that point.

Dr Jackson: Do you not think that the fact that an enabling bill could be used in future in the way that Professor Miller outlined is a cause for concern? The majority party here, whether in coalition or not, might work the system by setting the arrangements for rural and urban areas to its own advantage.

Tricia Marwick: As I have said, the bill is an enabling bill, and any scheme that is proposed in future will have to be consulted on. It was certainly not possible to outline all those things within the confines of the bill, nor do I think that it would be correct for a politician to do that in the bill—consultation with communities, local authorities and the Local Government Boundary Commission for Scotland would need to take place. What my bill does is to allow that consultation to take place after the bill is enacted. That is the important point; I have been non-prescriptive. The bill allows the kind of flexibility that we know will allow communities genuinely to express their views.

Dr Jackson: You are saying that consultation has to happen, but you said in your opening remarks that people have been consulted to death. If, as we have heard from Professor Miller, the fairest system is the one in which we have the largest number of councillors per ward, how can you argue against that? Why not put that in the bill instead of making the bill an enabling bill? I cannot see the point of that, when the evidence shows that having the largest number of councillors per ward is the fairest system for ensuring that the way in which votes are cast means something to the people.

Tricia Marwick: Let me make it clear. I said that consultation has been done to death, and that is certainly true. Consultation has taken place primarily around PR and STV and people are overwhelmingly in favour of PRSTV. Sylvia Jackson is right to say that consultation has not taken place on the number of seats per ward, although Kerley certainly made a recommendation

on that, but it is my view that there needs to be more consultation on that specific point.

The whole point of my bill is that it is an enabling bill. The committee is being asked to consider the principle of PRSTV, and that is what the Scottish Parliament will have to vote on. That is the whole point of an enabling bill. The Executive has passed such bills on a number of occasions. For example, the National Parks (Scotland) Act 2000 is a piece of enabling legislation. Once the bill was enacted, the Executive went out to consultation on where the parks should be and what their limits should be, and it is now producing detailed regulations. That is what enabling legislation does, and that is what my bill does. It is the principle behind it, not the detail of it, that should concern the committee at this stage.

Dr Jackson: You have to accept that what you propose is open to the Tullymandering that Professor Miller described and that that is a problem.

Tricia Marwick: Whether it be Tullymandering or gerrymandering, there will be a bit of fiddling in any system. The Conservative Government did it when it created Eastwood District Council. Anyone who has read the legislation that created that council will have seen the references to the third house on the left with the red door, for example. The longest piece of legislation prescribed what constituted Eastwood. In Stirling, the Conservatives took out some bits and put in other bits. Any system, whether it is PR or first past the post, is of course—

Mr Harding: On a point of order, convener. I understood that such decisions were made by the Local Government Boundary Commission for Scotland. To keep condemning the Conservative party is quite wrong.

The Convener: I was just about to intervene to say that those decisions are made by the Local Government Boundary Commission for Scotland.

Alyn Smith: We must separate the desirability of the principle of STV from the detail of how it is to be implemented. It is a great shame that the committee does not have an Executive bill before it, as I am quite sure that such a bill would not give the detail of how each local government area would be subdivided. If anyone wants to take me on a tenner's bet, I will put my money on the table. To draw up a piece of primary legislation that gave such detail would be a hell of a job. Each local government area is subject to local government consultation and each consultation is a separate piece of work. It is not the job of the Parliament to get tied up in that degree of detail.

I want to pick up on the points that were made about Tullymandering and gerrymandering. Academics use a plethora of terms to describe

what is essentially the same thing. That issue is dealt with by local consultation. To get into an argument about how many wards there will be is to enter a cul-de-sac—no primary legislation will do that.

The Convener: From the time that I became a councillor, I have been interested in the phrase "councillor-ward link". What do you think that that is?

Tricia Marwick: I do not really know what it is, although I am not alone in that. All the research shows that few people know who their councillor is, but that most people know how to contact a councillor if they so desire. The councillor-ward link is more a link from the councillor to the ward rather than from the ward electorate to the councillor—councillors, rather than the electorate, speak about the councillor-ward link. STVPR ensures that the councillor-ward link—or councillors-ward link—will remain.

It is not unknown for the people of Scotland to have three or more councillors representing a ward. That was the situation before 1974, when a number of councillors represented the same ward, albeit under the first-past-the-post system. Councillors at that time were elected on a rolling three-year term basis. The suggestion of having more than one councillor is not brand new.

Members asked whether people would know where to go if they had a problem. I can tell the committee where they would go—they would go to the councillor in their area who they believe will best help them. The present system includes some ward councillors who are absolutely useless—people who do not answer the phone or hold surgeries. Whom do people go to when they have only one councillor and that person does not do their job? The beauty of STVPR is that it gives the elector—the constituent—the choice of whom to go to.

The Convener: I am not sure that that is how I would describe the councillor-ward link, although I admit that I, too, do not have the absolute answer on what it is. I think that, at present, if a councillor is not doing their job, people can turn to an MSP or an MP.

I wonder whether we are trying to put the cart before the horse. You said that you do not subscribe to the view that PRSTV or any other PR system would increase voter turnout, but is that not what we are after? We should find methods that will increase voter turnout and, after that, examine the system under which people vote. That feels a more satisfactory proposition than changing to a system in which we would continue to have a low turnout. I understand your argument that the system will be fairer, but I would prefer us to find ways of increasing voter turnout. That is

what the committee is trying to do in the debate about the wider issues of renewing local democracy.

It seems that it is difficult to describe what a councillor-ward link is. However, there are some extremely good councillors in whose wards turnout at elections remains pretty high, goes up and never drops below 50 per cent. That is because the councillors do the job. I hope that you see what I am getting at. I feel that we could be putting the cart before the horse.

17:00

Tricia Marwick: I understand your point of view and how concerned you are about voter turnout. As politicians, we should all be concerned about voter turnout. However, turnout will increase only when people are sufficiently interested in local government. People can try artificial mechanisms to increase voter turnout, such as putting the local government elections on the same day as the Scottish Parliament elections, but I believe that such artificial mechanisms will prove unhelpful in the long run.

Even if all the suggestions that have been made were accepted and we somehow managed the marvellous achievement of ensuring 100 per cent voter turnout, without PRSTV we could still have a situation in which Labour had 94 per cent of the seats on 46 per cent of the vote.

Dr Jackson: That does not follow.

Tricia Marwick: Yes it does. The SNP could still have 31 per cent of the vote and yet have no seats. The answer is not just to increase voter turnout, which I accept would be a good thing, but to change the system under which councillors are elected to one that is fairer and more representative.

The Convener: I would perhaps challenge those percentages, but I put that to one side. My feeling is that your position is that first past the post ain't working. I am not sure whether I would accept that. If 100 per cent of the electorate voted and one party received 98 per cent of council seats on 40-odd per cent of the vote, that would be the time to say that the system is not right. It seems to me that ways of increasing voter turnout need to be considered before we look at the electoral system that should be used.

Tricia Marwick: I understand where you are coming from, but I totally disagree with you. If the system is still unfair on 100 per cent voter turnout because it still produces the huge disparities that first past the post must throw up, the electoral system needs to be changed.

We all aspire to higher turnout but, frankly, I think that it will take a long time—and politicians

will have to work extremely hard—to achieve that. We must address the fact that the electorate are turned off by elections of whatever kind. Yes, we need to increase the turnout, but to suggest that we should wait for ever and a day before we attack or change the voting system is quite wrong.

Alyn Smith: The convener suggested that we are putting the cart before the horse. Time and again, we have seen that voter turnout increases in direct proportion to how people think their vote counts. If they are in a ward or constituency in which one party has swept the board, they tend not to vote because they do not think that their vote will count. Reams of material back up that point.

First past the post means wasted votes. There is no question but that STV means that each vote counts for a lot more than it does under the current system. In itself, that would increase voter turnout, because people will know that their vote counts.

It was said that there is a difficulty in defining the ward-councillor link. However, that depends on whether we are talking about the geography or the electors within the ward. STV broadens the geography but it increases the councillor-electoral link. Ultimately, that is rather more important.

The Convener: I do not see the councillor-ward link in that way at all. To me, the councillor-ward link means the amount of work that a councillor does in a ward. That is the way in which the councillor makes the link with the ward. As I said, there are councillors who are continually returned on a high percentage turnout because they work very hard and people know who they are. That does not necessarily happen only in small villages, as in the example that Bill Miller gave us. I know many councillors who do a particularly good job and who work hard. We can see the response that comes from that.

I have said what I think a councillor-ward link is, but I am not sure that everybody would agree with me. People see the geographical entity as being important, but I do not particularly see that. I may be wrong. The issue comes up in all our questions and in all our papers, but nobody has explained to me what they mean by the councillor-ward link.

Ms White: The example of 94 per cent of seats with only 46 per cent of the vote came from a Unison document. As has been said, there are swings and roundabouts for all political parties. In Angus, where the SNP has 72 per cent of council seats with 47 per cent of the vote, the SNP would lose out under STV. Would STV bring freshness to Scottish politics? Do you agree that it is unhealthy that one political party can dominate the whole system in Great Britain through the first-past-the-post system? I hope that, if STV is introduced into Scottish local government, it will eventually be introduced at Westminster, too.

Tricia Marwick: Before and throughout my political life, I have believed that a proportional system is the only fair system of voting—I have been absolutely clear about that. The issue of which political parties have benefited and which have not might be interesting for politicians, but it is not necessarily the impetus behind PRSTV, whether in my bill or anywhere else.

It is important that people should know that their vote counts. There should not be the kind of disparity that there is in Angus, where the SNP has 72 per cent of council seats with 47 per cent of the vote. Currently, we have a system in which those who received a minority of the votes cast—never mind votes cast by a minority of the electorate—can hold sway and be on a council for generations. That is wrong.

The Convener: I remind the committee that we are here to discuss local government elections and not Scottish or Westminster parliamentary elections.

Elaine Thomson: I want to return to multimember wards. Earlier, Tricia Marwick said that she thought that most people favour PR of some sort. Has not the additional member system in the Scottish Parliament shown us that people can be philosophically in favour of PR but unhappy about its practical application?

To pick up on a point that Sylvia Jackson made, a feature of the Parliament is that we try hard to consult when we build legislation—I would argue that that is one of the Scottish Parliament's good features. However, in discussing the bill, we do not have a clear view of what would happen if there were multimember wards, what they would look like or how they would work, as there has not been any consultation on such matters.

Tricia Marwick: I will deal with your final point first. The bill would be enabling legislation for STVPR—it would work in exactly the same way as a number of pieces of enabling legislation that the Executive has put through the Parliament work. Not all the details are in the bill. The Executive and I recognise that more consultation on specifics, rather than on the principles, needs to be done. Members are being asked to vote on the principle of STVPR. Politicians must have a debate. Consultation with communities can take place later. For politicians to get into the minutiae of drawing council boundaries and wards is unhelpful, which is why such matters are not in the bill.

You mentioned the experience of the Scottish Parliament. I have repeatedly said that the bill is about STVPR. It is not about the Scottish Parliament system, which is not good enough. I am sure that you will correct me if I am wrong, but you are suggesting that the electorate are not

sophisticated enough to understand how they can use the system to best effect. That is wrong. With STVPR, people would go to the councillor who they think will best serve their needs. Perhaps someone would want to go to a woman about a housing or social work issue. With STVPR, at least they would have the opportunity to do so. Under the first-past-the-post system, if one has a sensitive issue and is unfortunate enough to be represented by a male, one cannot go to anyone else. STVPR means that there are a number of councillors in a ward and it allows the electorate to choose whom they want to vote for. More important, it gives the electorate the opportunity to go to the councillor who they think will best serve their needs.

Ms White: As the convener pointed out, we are talking about the Scottish local government elections. However, given all the different voting systems for Westminster, the Scottish Parliament and local government, it has been suggested to us that people will not be sophisticated enough to comprehend STV. Do you agree?

Tricia Marwick: I certainly do not believe that our electorate are stupid—they are very sophisticated. However, I believe that PRSTV is the best system. I am quite sure that the electorate can see through all the various systems currently on offer.

We need to ensure that whatever electoral system we have is the best system for the institution. For local government, which we are discussing, I firmly believe that the best system is PRSTV. I am quite sure that the electorate are more than sophisticated enough to make their voice heard and to mark the crosses or 1, 2 and 3 in the right place. That is not difficult and will present no difficulty to the Scottish electorate, just as it poses absolutely no difficulty to the voters in Northern Ireland, the south of Ireland or any other countries that use that system.

Dr Jackson: Elaine Thomson and I asked for evidence that PR can be an efficient voting system in local government. What evidence is there to suggest that PRSTV can be?

Tricia Marwick: You need to examine areas where PRSTV is already working. We have already discussed Northern Ireland and it is also working in southern Ireland and elsewhere.

My motivation for introducing the bill was twofold. It was not simply because STVPR is a better system, which I think it is, but because the current system of first past the post is absolutely discredited, for the reasons that I have outlined. The committee must decide whether it is prepared to prop up a system that frankly does not work or whether it will think anew and examine a system that works effectively elsewhere and that could transform local government in Scotland.

Dr Jackson: You did not really answer my question about where we could find evidence that the PRSTV system is an efficient way of governing locally. That picks up on the point that Elaine Thomson and I made about the practicalities. We all agree that PRSTV is a good idea in theory, but we are concerned about the practicalities of it. As I keep asking, where is the evidence that PRSTV will give rise to an efficient form of local government?

Tricia Marwick: You asked that question last week and representatives from Fairshare said that they would send you information about where PRSTV works, and works well. My view is that the system of first past the post is discredited. If the present system is to be maintained, it must be argued in some way that that system is acceptable. I do not think that it is. PRSTV is more acceptable than the present system.

Dr Jackson: In fairness, Professor Miller was right to say that, if we are to adopt a new system, we must be sure that the changeover is correct, because of the upheaval that it will create. You must show that PRSTV will work on the ground.

17:15

Tricia Marwick: Professor Miller made several comments, some of which were clearly not quite accurate. His admission that he had not read my bill and was misrepresenting it called into question the veracity of some of the rest of his evidence. He made it clear that he was speaking as an individual. He has opposed PR for about 30 years. I wonder whether the committee heard an unbiased view. He spoke as an individual and he in no way represented academia.

Sylvia Jackson wishes to satisfy herself about whether STV is a better system, but my view is that enough consultation has been held on STVPR and the first-past-the-post system by the McIntosh commission and the Kerley working group. After all that consultation, PRSTV was said to be the better system. I am prepared to accept that.

Alyn Smith: I call an even more weighty source to back us. Paragraph 9.1 of the Executive's memorandum to the committee says:

"The Bill cuts across the work which is already in hand on the issue of electoral reform: The Executive has already consulted on options for electoral reform".

The Executive says that it will propose the measure, so it has taken all that on board. In saying that the bill is unnecessary, the Executive accepts our case.

Dr Jackson: I remind you that the Executive says that it will provide us with the information, but we have not yet seen it.

Alyn Smith: We have not seen a variety of information.

The Convener: I remind you that the committee might not agree with the Executive's bill. It would not be the first time that we have done that.

I am not absolutely sure whether Professor Bill Miller said that he had not read Tricia Marwick's bill. We will need to read the *Official Report* on that. I think that he said that he had read the bill.

We have exhausted all the questions. I thank both witnesses for attending. We will proceed to deal with the bill next week.

We now go into private to discuss a draft report.

17:17

Meeting continued in private until 17:25.

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