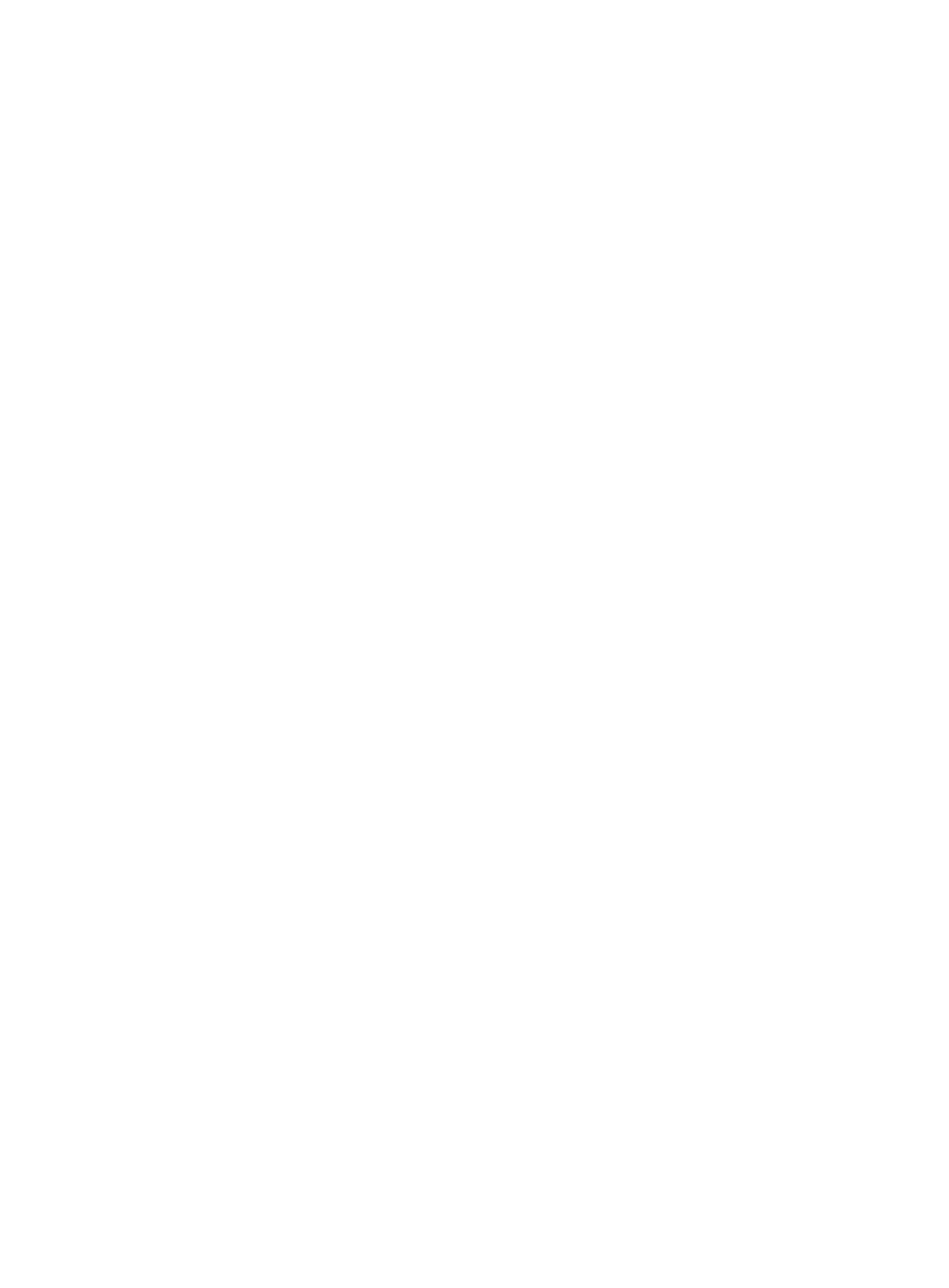


A wooden signpost stands in a lush green field. The sign is white with the words "POLLING STATION" in large, bold, black capital letters. Below the text is a black arrow pointing to the left. The sign is mounted on a weathered wooden post. The background shows a grassy area with trees in the distance under bright sunlight.

**POLLING  
STATION**

# Putting Citizens First: Boundaries, Voting and Representation in Scotland

Commission on Boundary Differences and Voting Systems



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Commission on Boundary Differences and Voting Systems  
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Secretary of State for Scotland  
First Minister

I am pleased to submit this report "Putting Citizens First: Boundaries, Voting and Representation in Scotland" on behalf of the Commission on Boundary Differences and Voting Systems.

Over the past 18 months, the Commission has consulted widely, has had dialogue with elected representatives and has received wide ranging evidence.

Our work has been independent and open throughout, with consultation responses and evidence lodged on our website. There have been numerous public meetings and a number of issues have surfaced through, and been debated in, the media.

By its very nature our work has been multi-faceted, combining to produce almost a "cat's cradle" of closely interlinked issues.

No matter the varied nature of our task, we have adhered throughout to a clear set of principles and have tested all the evidence against these. Pre-eminent has been our desire to ensure that Scotland's system of elected representation ensures service and equality for all its citizens.

Accepting that devolution and the establishment of the Scottish Parliament was bound to bring a degree of complexity, the Commission gave the need to clarify and explain Scotland's modern democratic arrangements a very high priority.

We also concluded that any system of election for the Scottish Parliament must combine diversity and proportionality with the ability to meet the real needs of individuals within constituencies and regions.

I would like to thank all those who have assisted the Commission in preparing this report.

Sir John Arbuthnott  
Chairman





# 1 Background

- 1.1 In 2004 the Westminster Parliament resolved to keep the size of the Scottish Parliament at 129 MSPs, replacing the requirement in the Scotland Act 1998 to make a concomitant reduction in the number of MSPs when the number of Scottish Westminster MPs was reduced by the Boundary Commission for Scotland at its next review.
- 1.2 In a separate move, in the preceding year the Scottish Parliament approved a new voting system – the single transferable vote – for Scottish local government elections from 2007 which will require new ward boundaries in each local authority.
- 1.3 These two factors taken together mean that there are now different constituency boundaries for the Westminster and Holyrood parliaments, and that there will be different voting systems from 2007 for local councils, the Scottish Parliament, the House of Commons and the European Parliament.
- 1.4 As these reflect significant developments in the democratic process, the Secretary of State for Scotland concluded that it would be important to assess the extent to which these changes might create confusion for voters, electoral administrators and public bodies.
- 1.5 For this reason, the Commission on Boundary Differences and Voting Systems was set up in the summer of 2004 to take an independent view on the impact of these decisions. (We are quite separate from the Boundary Commission for Scotland, which keeps under review the boundaries of Westminster Parliamentary constituencies, and the Electoral Commission, which works towards increasing confidence in the democratic process and modernising the electoral system.)
- 1.6 Specifically, we were asked to look at the possible impact of boundary differences and multiple voting systems on voter participation, relationships with and between MPs and MSPs, and the service provided to constituents by their elected representatives. In making recommendations, we were also asked to look at whether action was required in any of these areas and particularly in respect of the method of voting for the Scottish Parliament.
- 1.7 The members of the Commission are listed at Annex A and our remit is set out in full at Annex B.
- 1.8 Although reporting to the Secretary of State for Scotland and the First Minister, the Commission has been independent of government and throughout our

review has been committed to ensuring that we conducted a wide-ranging and open public inquiry. As well as our written public consultation, we commissioned original research, held meetings in communities across Scotland to take evidence, met with elected representatives and interviewed a wide range of experts. Our programme of work, and lists of those whom we consulted and who responded to our written consultation, are set out in Annexes C and D.

## 2 Overview

- 2.1 In our consultation document, issued in January 2005, we clearly stated the principles which would underpin our work and guide us in judging the evidence presented to us.
- 2.2 In summary, we sought to make recommendations which would –
- Place the citizen at the centre of our concerns.
  - Remain true to the principles of the devolved settlement, including proportionality, and to the benefits of the plurality and diversity of views that are inherent within it.
  - Increase confidence in voting systems and encourage participation.
  - Ensure that voting systems are transparent, readily understandable, easy to operate and guarantee that the views of Scotland’s voters are represented as fairly and accurately as possible.
  - Help each voter to understand who his or her representatives are at each level of government, how they are chosen, and what their responsibilities are.
  - Maintain and develop the primacy of the ward or constituency link between voters and their representatives.
  - Outline the proper relationships between elected members at each tier of government.
  - Make recommendations that strengthen communities and traditional and emerging patterns of population.
- 2.3 During our consultations we heard a great deal of evidence which indicated that we were largely right in our early assessment of what our work should seek to achieve. This report is founded upon those principles and our conclusions have been judged by them. However, we also recognised as our deliberations proceeded that ensuring these aims were applied across the three main areas of our remit – boundaries, voting systems and representation – could at times be difficult. One of our members likened the task to solving the puzzle presented by a Rubik’s Cube, and indeed it sometimes seemed as if the strict application of these principles to a single area of concern automatically led to a weakening of them in another. For example, a voting system which would increase proportionality could distance voters from elected representatives and break the ward or constituency link, while a system which made that link paramount could work against plurality and diversity. Consequently, we moved carefully and methodically to try to ensure that the areas of our remit could properly relate to each other, without diminishing our overall aims.

- 2.4 We are convinced that the Scottish Parliament, as established in 1999, is a major step in improving government in Scotland. It has certainly brought politics and politicians closer to people by the collective and individual actions of its members. As time goes on, we expect the Parliament to overcome its early difficulties and embed itself positively in the life of the nation.
- 2.5 Our remit required us to respect the principles of the devolution settlement and this we have been determined to do. That settlement was endorsed by the people of Scotland in the 1997 referendum and has created new opportunities for citizens to engage with, and benefit from, the political process. We intend that nothing in our recommendations should significantly reduce the present plurality of the Scottish Parliament nor diminish the opportunity of voters to choose the representatives they wish.
- 2.6 We are concerned by the perceptions of some voters about the Parliament and the role and function of regional MSPs in particular. Fewer people voted in the 2003 election, and some have found it hard to get used to a proportional electoral system, seeming to regard those elected by first past the post as more important and relevant than those elected otherwise. We believe such a misunderstanding is not helping Scottish democracy. We are also aware of confusions and difficulties felt by public bodies when faced with a multiplicity of elected representatives, and a confusion too amongst elected representatives themselves. There are elements of the present electoral system which can be improved in order to clarify what all MSPs do and how they should relate to the people they represent. That can only help to enhance the effectiveness of the Scottish Parliament. We believe it would be better if the so-called additional or list members were to be referred to as regional members and the electoral system was described as the mixed member system rather than the additional member system.
- 2.7 We are also concerned that the relationship between various types of elected representative is not as clearly defined as it might be, and that this had led to overlaps and sometimes to tensions. Any attempt to establish what might be seen as a hierarchy of representation or to embed this in Parliamentary boundaries seemed to us to exacerbate this tension; another concern is the continuing, if now somewhat reduced, friction between some constituency MSPs and their regional counterparts. We also observed that the purpose and actions of MEPs were very poorly known, partly because of their work furth of Scotland and partly because of the nature of the system that elects them. In relation to these matters, we make recommendations on improving voter information before and after each election.
- 2.8 Our approach to suggesting solutions to the problems we observed has been evolutionary. While we believe some of the issues might well resolve themselves in time – we received evidence to that effect both from within Scotland and from

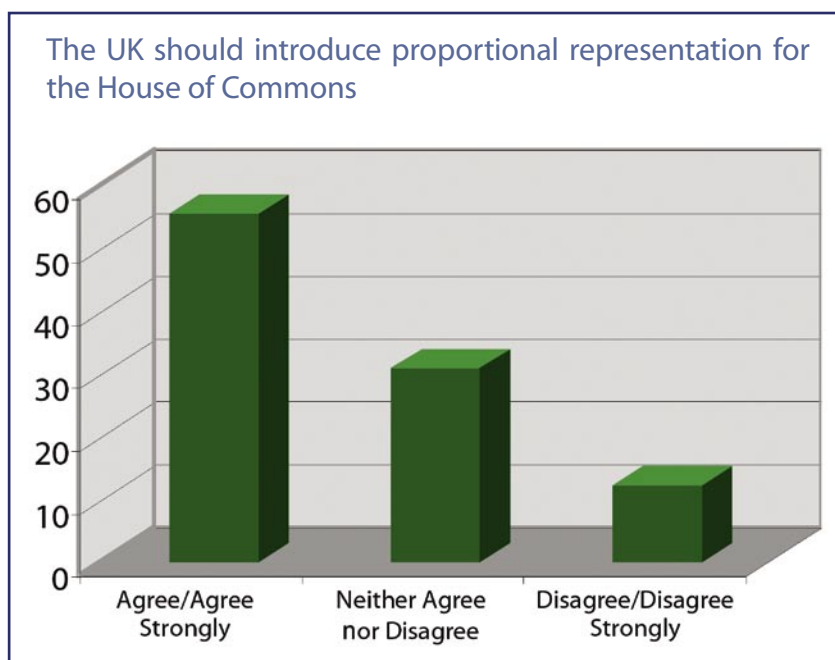
other places, such as New Zealand – we also consider that some changes are necessary, so that the Parliament engages more positively with citizens and its work is more clearly understood.

- 2.9 We also believe that the present system of electing the Scottish Parliament can be made to work better. We therefore recommend some significant alterations. We hope our proposals will create a system more open, more transparent and more accountable, fully honouring the Parliament's key founding principles. We suggest the introduction of a new ballot paper for Scottish Parliament elections which would help to reduce confusion and we endorse a rapid move to electronic counting and then to electronic voting. We also recommend strongly that open lists should replace closed ones, which would allow voters to have a more direct and active role in the selection of regional members, if they choose to do so, thereby establishing a better democratic balance.
- 2.10 We suggest that the code of conduct for MSPs should be developed to encourage constituency and regional members to recognise differences in their roles and act accordingly, but we reject any move to constrain the ability of citizens to approach any of their representatives about any subject. We also firmly reject limiting the opportunity of parties or individuals to stand in both constituencies and regions, as it appears to us that such a restriction would be undemocratic. We see our proposed new arrangements as delivering, in terms of the work of MSPs in particular, the potential for a new balance between direct citizen advocacy and strategic overview of constituencies and regions.
- 2.11 As well as reviewing the existing mixed member system, we also looked closely at the single transferable vote. However, we have concluded – with one member recording his dissent – that on balance introducing the single transferable voting system, at least at this time, would not be the answer to the present perceived difficulties. Our detailed consideration of this issue is set out in chapter 4.
- 2.12 Recognising that the Scottish Parliament is at an early stage of development, we recommend that the changes proposed in this report should be reviewed following experience and that, if they have not achieved our aims, further consideration should be given to the introduction of the single transferable vote. We suggest that there should be two elections under our modified version of the mixed member system before any judgement is reached and recommend that a mechanism should be put in place to allow such a review at the appropriate time.
- 2.13 We have concluded that different electoral systems are appropriate for different institutions, depending on the powers and responsibilities of these bodies and their elected members. Accordingly, we recognise that the single transferable vote may be an appropriate system of proportional representation for local elections,

though we have yet to see how it will work out in practice, and we also believe that the single transferable voting system should be introduced for Scottish elections to the European Parliament. It is already in use in Northern Ireland for such elections, and we recommend it should be introduced here for the 2009 European contests. The Scotland wide constituency and the small number of members elected make it ideal for widening public choice, enhancing the profile and accountability of MEPs and placing citizens, rather than the political parties, in the lead role.

- 2.14 We have heard no convincing argument that the boundaries for all Parliamentary contests in Scotland need to be the same. However, we do think there is a strong case for rationalising the very wide range of boundaries that apply to elections, to the delivery of services, and to the organisation of public bodies. We recommend therefore that the boundaries of all electoral divisions should be based on local authority areas, which should enable people to understand who represents them at every level of government. In addition, we want to see changes in the way constituency and regional MSPs operate. In particular, the existing Scottish Parliament regions need to be redrawn to provide a new basis for electing regional members in more relevant and serviceable areas. We recommend that a similar exercise should also be undertaken to redraw the boundaries of the existing Scottish Parliament constituencies. We expect this to provide a clearer service to people and to be in the interests of constituency and regional development.
- 2.15 We also commend this approach for other public bodies and are keen to see a coming together of the arrangements to improve service delivery and accountability within the local authority areas and the constituencies of the Scottish Parliament and Westminster. We believe that the Scottish Executive should look to base the boundaries of existing and future regional and national departmental, non-departmental and co-operative bodies on such a logical and effective foundation.
- 2.16 Part of our work has been to examine the unintended but adverse consequences of the new Scottish Parliament electoral system, and to see if we can eliminate these or at least mollify them. We have also been aware that any proposed changes should aim to simplify the system. We accept that some of the problems that exist are the inevitable consequence of change, and a period of bedding in is required before new arrangements are fully and effectively operating. But some problems are also a result of understandable failures to anticipate difficulties and devise means to avoid them. We argue all these matters on the basis of our interpretation of the extensive evidence we have received and on the research undertaken for us and also provided by a number of distinguished academics.

2.17 During the course of our work, the Westminster Election in May 2005 illustrated continuing voter disengagement. The relatively low turnout and the consequent low percentage of the overall population who voted for the winning party are causes for concern. We have not directly addressed the question of voting systems for the Westminster Parliament but do believe that the case for introducing a more proportional system for those elections is now very strong, since after 2007 they will be the only ones held in Scotland which do not involve a significant degree of proportionality. We note the research which suggests that the Scottish public shares this view.



Source: *Scottish Social Attitudes Survey, 2003*

Note: The question explained proportional representation in the following way: "so that the number of MPs each party gets in the House of Commons matches more closely the number of votes each party gets"

- 2.18 We have found no evidence to suggest that having multiple voting systems or different boundaries confuse citizens to such an extent that they act as barriers to electoral involvement. Lack of public engagement is the product of several factors and changing systems and boundaries is not a complete answer by any means. Nonetheless, there is a strong purpose in endeavouring to present to the public the most easily understood and clearly operated electoral system, and to ensure that the public know how to approach, and why to approach, those who emerge as a result of it.
- 2.19 All our recommendations seek to re-establish confidence in the electoral process and the representatives who come out of this. While we appreciate that not everything proposed in this report will find favour with all sections of Scottish opinion, we hope that our work will be the basis on which an improved Scottish democracy can evolve.





## 3 Boundaries

- 3.1 In 2005 the number of constituencies in Scotland returning members to the United Kingdom Parliament was reduced from 72 to 59, as a consequence of the introduction of devolution and, following this, a review by the Boundary Commission for Scotland. The original provisions of the Scotland Act would have led to a reduction in the number of seats in the Scottish Parliament, since its constituencies – except for Orkney and Shetland – were the same as Westminster’s. However, following a consultation which showed that there was strong support for keeping 129 MSPs (these would otherwise have been reduced to about 106), the UK Parliament passed amending legislation to keep the Scottish Parliament as it was. Consequently, the Scottish Parliament retains 73 constituencies, against Westminster’s 59. As a result, virtually all Westminster and Holyrood boundaries, having been the same, are now different.
- 3.2 The Commission was asked to examine the likely consequences of having different boundaries between Westminster and Scottish Parliament constituencies for voter participation; any outcomes that would impact on the relationship between public bodies and authorities in Scotland and MPs/MSPs; and any effect that might be felt on representation of constituents by different elected members.
- 3.3 In considering these issues, we developed from our principles the following tests to gauge the evidence presented to us, and against which we have measured our conclusions and recommendations:
- Regard should be had to community boundaries and emerging patterns of population.
  - Elected representatives should be accessible to voters.
  - Boundaries should be clearly drawn to ensure that voters can easily identify their constituency or region.
  - The desirability of having coterminous boundaries should be considered in light of the impact on representation, proportionality and service delivery.
  - Boundaries should be appropriate for the institution in which elected members serve.

### Consultation Responses and Research

- 3.4 We invited views on the consequences of having different boundaries between Westminster and Scottish Parliament constituencies in our consultation, and asked

more specifically how important it was thought to be, for voting and dealing with political representatives, to have common boundaries. We also asked whether it would be useful if other public bodies, such as health boards, fitted in with constituency and ward boundaries.

3.5 There was a range of opinions in the responses from the political parties on the importance of coterminous boundaries. Most agreed that these were desirable or preferable. However, there was also some concern that if Holyrood boundaries were to be relinked, the Scottish Parliament constituencies would change every time adjustments were made to the Westminster ones. There was some support instead for Scottish Parliament constituencies to be constructed in relation to local government boundaries, which were seen as better corresponding to people's lives. We address these issues later in this chapter.

3.6 There were also split views from elected representatives on the importance of coterminosity, with MPs generally much more concerned than MSPs about not having the same boundaries for Westminster and Holyrood. One MP argued that non-coterminous boundaries would cause "*utter mayhem*" and be "*totally unworkable*";<sup>1</sup> while an MSP suggested it was not particularly important and would be a "*minor complication for elected members*"<sup>2</sup>. Another MSP argued that even if coterminosity between MPs and MSPs were shown to matter, achieving this was "*unlikely to outweigh the disadvantages for MSPs of a move away from coterminosity with other bodies*,"<sup>3</sup> such as local authorities and health boards.

3.7 Complementing these views, the research undertaken for the Commission by Bradbury and Russell concluded that –

*"There was strong opposition amongst MPs to the ending of coterminosity, although MSPs were more accepting of this change. However, it should be noted that it is MPs who will feel the change most, as all but two of them now share their constituency with more than one MSP, whereas one third of MSPs continue to share with only one MP."*<sup>4</sup>

3.8 They also suggested that the ending of coterminosity would increase the complexity in the relationship between MPs and MSPs, and might generate tensions and confusion at local level, especially where members were drawn from competing political parties. Following the 2005 General Election, there are 30 Westminster constituencies in which the MP and at least one MSP representing part of that constituency in the Scottish Parliament are from competing political parties.<sup>5</sup>

3.9 The Association of Electoral Administrators (AEA) – Scotland Branch, and the Scottish Assessors Association (SAA), who submitted a joint response to our inquiry, and also the Society of Local Authority Lawyers and Administrators,

supported having common boundaries, as did some councils. Otherwise, they believed, there would be an increase in voter confusion and practical implications for the organisation of elections. The AEA/SAA did indicate, however, that difficulties probably arose for the public more from a lack of knowledge of the remits and areas of responsibility of the various levels of government, rather than from boundary issues.

- 3.10 Most of those who suggested that coterminous boundaries were desirable or convenient, either in their consultation response or at one of our public meetings, argued that this would avoid confusion for electors.
- 3.11 However, the issue of boundaries did not appear to be a concern for those individuals interviewed in our focus groups –
- Respondents tended to be unsure about where the constituency boundaries lay for Westminster and the Scottish Parliament.
  - The level of interest in where boundaries were located was low. Although some thought this was important, most claimed not to care.
  - The location of the boundaries was not an issue which would dissuade them from voting.
  - Where there was a preference for having the same boundaries, this was mostly based on a gut feel of “it just makes sense” rather than any strongly held opinion.

*“It doesn’t mean anything to me... I don’t think it matters to us”*

Male, Brechin focus group, ABC1, Aged 35+, Voter

- 3.12 We were also aware of the views on the possible consequences of having different boundaries which were raised in response to the Scotland Office’s consultation in early 2002 on whether the number of MSPs in the Scottish Parliament should be retained at 129.<sup>6</sup> While some respondents to that consultation claimed that the electorate would be confused and administration made much more difficult, the majority did not believe this would be the case, or thought that any difficulties could be overcome – although some could also see the benefits of keeping the same boundaries if this were possible.
- 3.13 The Electoral Commission also advised us that there was no Scottish evidence to suggest that boundary issues had an impact on why people did not vote. Although sometimes voters did not like discovering at election time that they were in a constituency different from their previous one, this was an irritant rather than a serious issue.

- 3.14 The international evidence which we studied also suggested that having non-coterminous boundaries, or making major changes in boundaries, had no significant impact on voter turnout or confusion.<sup>7</sup> Non-coterminosity is the norm in most countries which have multi-level government.<sup>8</sup>

## Options for Achieving Coterminosity

- 3.15 Although the main evidence (rather than speculation) suggested to us that having different boundaries was not a critical issue, in view of there being some strong support for aligning these, the Commission thought it important to look at various options for achieving this.

### 2 MSPs for each new Westminster constituency (2 x 59), with 11 additional MSPs

It has been suggested, especially by the Scottish Affairs Committee<sup>9</sup> and in responses we received from some MPs, that two MSPs should be elected in each of the 59 Westminster constituencies, with 11 additional members.

Under this proposal, each Westminster constituency would return two representatives (possibly one man and one woman), both elected by first past the post, with a small element of proportionality being secured by additional members, chosen from a national party list. These list members would be allocated on the basis of the votes for the constituency members, with no separate party vote. It was argued that this would have the advantage of retaining coterminous boundaries for the Westminster and Scottish Parliaments, while securing a roughly equal gender balance of MSPs, largely eliminating the conflict between constituency and list MSPs, and ensuring an element of proportionality in the Parliament.

The Commission examined four possible structures for implementing this option -

- a) Westminster constituencies each returning two members by first past the post<sup>10</sup>.
- b) Westminster constituencies sub-divided into two Scottish Parliament constituencies, both returning one member by first past the post<sup>11</sup>.
- c) Westminster constituencies returning two members, the first being the one with most votes and the second chosen using the same method (d'Hondt) as for allocating regional seats<sup>12</sup>.
- d) Westminster constituencies returning two members each by the single transferable vote<sup>13</sup>.

However, it was very clear to us from our detailed calculations set out in the endnotes that, whatever benefits might be gained, none of these four structures would achieve anything like the degree of proportionality that the Commission could recommend, either on the basis of our terms of reference or in light of the submissions we received. We therefore cannot commend this proposal in any way and would urge that it cease to be considered as a viable method of electing the Scottish Parliament.

### 60 constituency members and 60 (or 69) members from a regional or a national list

A possible solution which had some support in submissions made to us was to balance the reduction in the number of constituencies with an increase in the number of regional members. This could either be achieved by having an equal number of constituency and regional MSPs (60 each) and a consequent reduction of nine in the size of the Parliament, or by having 60 constituency and 69 regional MSPs.

This would have some advantages: the constituencies would be the same for both parliaments (but with separate representation in the Scottish Parliament for Shetland and Orkney, as now); a more precisely proportional result would be likely; the regions could be smaller and more coherent without risk to proportionality; and with 60+60, a variation in the size of the regions would matter less, since in any region the number of regional members would be the same as the number of constituencies.

The Commission, however, considered that these factors were outweighed by some significant disadvantages.

- Any subsequent change in the number of Scottish constituencies at Westminster would have consequences for either the size or the composition of the Scottish Parliament. The Commission believes that it would be unhealthy for the composition of one parliament to be dependent on and determined by factors that were relevant only to another.
- The balance between constituency and regional membership was the result of much discussion in the Scottish Constitutional Convention and the Scottish Constitutional Commission, whose considered views were reflected in the Scotland Act. Given that there are already tensions between constituency and regional members, a change in that balance might exacerbate the situation. The Commission received some representations against an increase in the proportion of regional MSPs, and particularly against the proposition that they might outnumber constituency members.

- Although the Commission did not believe that the number of members in the Parliament had to be precisely 129, a reduction of nine must be at the limit of what would be acceptable.
- In the light of widely expressed suspicion of the existing “list system”, it is unlikely that a change of this nature would enjoy public support. This might be particularly true if, in order to maintain the size of the Parliament, the regional members were in a majority.

### A hybrid system, with single member rural constituencies and multi-member seats in the cities and urban areas

While in the more rural focus groups there was some attraction to this option, as it would allow retention of a more local MSP who might better reflect rural needs, this structure would be complicated and could be unfair and biased as it would be likely to disadvantage parties that do not poll strongly in rural areas. It may also have an adverse effect on the degree of proportionality currently achieved by the Scottish Parliament electoral system.

## Conclusions on Coterminosity

- 3.16 Having reviewed the possible alternative structures, the Commission concluded that, even if having coterminous boundaries between Westminster and Holyrood constituencies were to be accepted as a desirable objective, none of the options considered above could provide an appropriate or positive solution to the range of concerns which we had been asked to address. In particular, they would either reduce proportionality in the Parliament to an unacceptable extent, lead to an unacceptable reduction in the number of MSPs, or potentially increase tensions between constituency and regional members. They would also all lead to subsequent changes to the Scottish Parliament constituencies being inevitably and, as we argue below, inappropriately Westminster-led. We therefore rejected them all.
- 3.17 The Commission also came to the conclusion that no convincing case had been made that having the same boundaries for Scottish Parliament and Westminster constituencies was of such importance that there was a need to realign them, or that this concern should be the driving force behind change to the present electoral system for the Scottish Parliament.

- 3.18 In particular, there is no convincing case that having different sets of boundaries, as such, lead to any significant confusion for voters during elections, or to constituents being unclear when seeking advice and support from their elected representatives. (So far as representation is concerned, whether in constituencies with or without the same boundaries, each constituent still has one MP, one constituency MSP and the choice of 7 regional MSPs to represent him or her.)
- 3.19 While we acknowledge that having the same boundaries for Holyrood and Westminster would avoid some difficulties for political parties, party workers and electoral administrators – who we certainly see as important to the proper operation of the democratic process – we do not accept that issues of administrative convenience should be a determining factor in deciding on the appropriate electoral system and structure for our nation’s democracy. In any event, the evidence considered by the Commission persuaded us that whatever additional difficulties might arise from having different sets of Westminster and Holyrood boundaries should not be insurmountable and could be addressed through improved voter education, training, and restructuring of electoral administration and organisation.
- 3.20 However, we do strongly believe, in agreement with many who gave evidence to us, that having a more coherent approach to the overall structuring of boundaries could lead to significant benefits. But we do not accept that Westminster constituencies are the best basis for delivering these improvements as they are the least likely to reflect communities and their needs.

## Boundaries, Community and Identity

- 3.21 Good boundaries have the effect of grouping people together in natural communities, where people feel a sense of shared identity and interests and a sense of belonging. Indeed, a vital basis of representation is that the electors who are banded together should have something in common with each other that they do not share with the population generally. As John Stuart Mill observed -
- “The very object of having a local representation is in order that those who have any interest in common which they do not share with the general body of their countrymen may manage that joint interest by themselves, and the purpose is contradicted if the distribution of the local representation follows any other rule than the grouping of those joint interests.”<sup>14</sup>*
- 3.22 There is a conflict, well-recognised by those who have responsibility for drawing boundaries, between the fair representation of people and the fair representation of communities. This featured in the debates in the House of Commons in 1947 that preceded the establishment of the Parliamentary Boundary Commissions,



but had been a factor even in re-distributions of seats in the nineteenth century. The third side to the issue is the fair representation of parties. The purpose of the mixed member voting system in the Scottish Parliament (and, indeed, of the single transferable vote for local government) is to ensure a fair representation of parties.

- 3.23 In this section of the report we are concerned about the balance between the representation of people and of communities. The fair representation of people requires the division of the population into roughly equal numbers. The fair representation of communities requires observance of John Stuart Mill's principle. The two are often in conflict. As Butler and McLean have observed:

*"The most basic difficulty in the statutory rules under which the boundary commissioners operate stems from its conflicting obligations: on the one hand, to produce equal-sized electorates, and on the other, to preserve the coincidence of parliamentary constituencies with local communities (usually defined by local authority boundaries). The two goals can never be fully reconciled."*<sup>15</sup>

- 3.24 It is this Commission's view that the balance has swung too far in favour of parity of numbers at the expense of community. This would be exacerbated by the use of Westminster constituencies as the basis for representation in the Scottish Parliament, since they are not even of the right size to be helpful as building blocks. Parity is of course still a desirable objective, but we note that in a mixed member system voters effectively have two levels of representation. As a consequence, the over-representation of a constituency with a small electorate (or the under-representation of a large one) is diluted since the individual elector in either constituency has the same influence on the regional vote, which determines the political composition of the Parliament. Tables 1 and 2 demonstrate that even with larger variations in the size of constituency electorates, each region of the country could still be represented roughly in proportion to the number of electors.
- 3.25 We note that in their successive reviews the Boundary Commissions have tended to tolerate progressively smaller deviations from the electoral quota.<sup>16</sup> This is even more marked in the work of the Local Government Boundary Commissioners who, in most places, have ruled out any deviation above 5% of the average. The unsatisfactory consequences of this in some areas were demonstrated to the Commission.
- 3.26 Over the years, public inquiries have frequently heard objections in relation to the split of natural communities (or the linking of unnatural ones), but rarely, if ever, that the departure from parity has been too great<sup>17</sup>. At our own public meetings and in the submissions we received in evidence, the importance of using boundaries that reflect natural communities and their interests were regularly raised. We also noted during our visit to the Republic of Ireland the importance that was placed there on using the counties as the basic units for developing constituencies which reflect natural communities.



- 3.27 In many places, the old Scottish counties are still recognisable and the focus of local identity, but in others they have been superseded. Nearly forty years ago, the Royal Commission on Local Government (the Wheatley Commission), examined the structure of local authorities, taking into account the patterns of population and the constraints on service delivery. Though they preserved historical boundaries where these were relevant, they also identified the natural groupings into which people could be combined. In the legislation that followed some amendments to their proposals were made and the 1993 revisions made further changes, but most of our council areas still reflect the thinking of the Wheatley report and help to define the identity of the community to which people belong. Most people know which is their local council, and some of the services for which it is responsible, such as schools, help to shape the nature of their local community.
- 3.28 We conclude, therefore, that the logical basis for creating constituencies is the local authority area, whatever the voting system and whether constituencies are single or multi-member. It applies equally to the areas for electing regional members in the mixed member system. At present, the regions are artificial and designed for the now redundant purpose of returning members to the European Parliament. Some are also cumbersome and too large. Arguably, this lack of coherent geography and community linkage may be one of the factors which has contributed to the tensions and limited co-operation between some constituency and regional MSPs.
- 3.29 Our conclusion should not be a surprising one. Counties and Burghs have always been the basis of Parliamentary representation and the Boundary Commission for Scotland still tries (as the rules require) to avoid crossing local authority boundaries when it can. But the primacy of the parity rule sometimes makes this impossible. By using only council areas as the building blocks for Scottish Parliamentary constituencies, boundaries coterminous with Westminster constituencies will in some places be achieved, but where that is not possible it is much better to use the original building block than something that has been derived from it.
- 3.30 The current parliamentary regions were designed to have roughly the same number of electors and each returns seven regional MSPs. In the same way as parity in numbers of electors can only be achieved at the expense of community in constituencies, sensibly constructed regions do not necessarily all have the same size of electorate. We believe that it is more important for regions to have a natural identity than that they all return the same number of MSPs and that Scotland divides naturally into more than the present eight regions. While we recognise that if some regions return fewer than seven members there may be some loss of proportionality, we consider that this difference is unlikely to be material.

## Parliamentary Boundaries and Service Delivery

There are at present in Scotland 32 councils, 15 health boards, 22 enterprise companies, 8 police boards and fire boards, and also bodies such as Scottish Water, Strathclyde Passenger Transport Authority (soon to be supplanted by the National Transport Agency and Regional Transport Partnerships), and various executive agencies and non-departmental public bodies.

3.31 We are aware of the drive by the Scottish Executive to transform the way public services are delivered. In particular, we have noted that-

*"The Executive is committed to help improve local public services by selectively reviewing the boundaries of appropriate public organisations to identify where the creation of coterminous boundaries would help them work together".<sup>18</sup>*

3.32 Our own discussions have led us to believe that the lack of a match-up in the public sector in Scotland, with bodies cutting across each others' boundaries, make arrangements more complex, cause duplication, and raise matters which need to be addressed.<sup>19</sup>

3.33 In relation to this, we also note that the Scottish Executive and the Convention of Scottish Local Authorities (COSLA) are exploring the potential for integrated public service delivery within local areas and the governance implications that may flow from this.

3.34 Further, just as we were finalising our report, the Minister for Finance and Public Service Reform, Tom McCabe MSP, indicated the Scottish Executive's intention to publish proposals for discussion early in 2006 on revision of public sector services which could mean radical changes to police and fire services, councils, health boards and enterprise companies. He said that the aim was *"to strengthen local democracy and to clarify and get organisations to work together better, demonstrating benefits for service users and with a tighter fiscal environment in future."*<sup>20</sup>

3.35 It may be that such reforms will have implications for our remit, including the integration of Scottish Parliament constituencies and the operation of MSPs in these new structures. We support the Executive's objective of strengthening opportunities for local councillors to hold public bodies to account and we also believe that MSPs have a role to play in this regard.

## Improving the Constituencies and Regions for the Scottish Parliament

3.36 A simple set of rules should enable the construction of Scottish Parliament constituency boundaries in the manner we have outlined. These would need to be altered less frequently than Westminster constituencies, especially in the smaller local authorities. As 24 of the 32 local authority areas would contain either one or two constituencies, the inconvenience of a redistribution would in many places be something of a rarity.

3.37 The Commission considered in some detail what the possible shape of constituencies and regions might be under a revised multi-member system which retained a ratio of constituency to regional seats not significantly less than at present.

3.38 We concluded that rules might be adopted for structuring boundaries in the way which we recommend -

Rule 1 Every local authority in Scotland should contain at least one constituency.

Rule 2 Every constituency should be contained wholly within one local authority.

Rule 3 Subject to Rule 1, the number of constituencies in each local authority should be such that their average electorate is as close as practicable to one seventieth\* of the total electorate for Scotland.

Rule 4 Scotland should be divided into parliamentary regions which so far as possible reflect natural communities.

Rule 5 Each Scottish parliamentary region should consist of a local authority or an aggregation of two or more local authorities, provided that no region contains less than five constituencies.

Rule 6 In a parliamentary region with eight or more constituencies, the number of regional members should be two less than the number of constituencies. In a region with between five and seven constituencies, the number of regional members should be one less than the number of constituencies.\*\*

\* The average of the electorate, excluding the reduced numbers caused by their special circumstances of Orkney, Shetland and the Western Isles.

\*\* This would minimise the impact of the proposed changes on the proportionality of the electoral system.

- 3.39 We used these rules to draw up possible Scottish Parliamentary regions, which include an allocation of constituency seats within each region (see end of chapter). Of course, the task of working out in detail the appropriate allocation of constituency seats and drawing regional boundaries properly belongs to the Boundary Commission. Consequently, tables 1 and 2 are only for the purpose of illustration, providing an example of how a new system might work to distribute regional and constituency seats which are closer to the pattern of actual communities in Scotland.
- 3.40 There might be as many as 17 instances of Westminster and Scottish constituencies being the same if our recommendations were to be adopted. While our aim is not to secure such coterminosity, this would obviously be a positive consequence.
- 3.41 Accepting our proposals for restructuring the Scottish Parliament constituencies and regions would also require some reconsideration of the review process carried out by the Boundary Commission and the Local Government Boundary Commission.
- 3.42 First, there would be a need to move away from the increasingly strict interpretation of the rules for redistribution of seats in terms of giving primacy to electoral parity.
- 3.43 Rule 1 in the provisions for reviewing the Scottish Parliament constituencies set out in the Scotland Act 1998<sup>21</sup> requires that so far as practicable “regard shall be had to the boundaries of local authority areas.” Under Rule 2, however, the electorate of any constituency must be as near the electoral quota as is practicable having regard to Rule 1, with the Boundary Commission only being able to depart from the strict application of Rules 1 and 2 if they think that special geographical considerations render it desirable to do so.
- 3.44 In order for the Scottish Parliament constituencies to be fitted into the local authority framework to the extent which we would wish to see, these Rules will need to be reviewed.
- 3.45 Secondly, the boundary review for the Scottish Parliament constituencies and local authority boundaries will need to be carried out and completed at the same time. If these reviews remain separate, it is easy to foresee that on a regular basis there will be long periods following an election when the boundaries will not fit together. It would seem therefore to be necessary for the Boundary Commission for Scotland’s functions (or those of the Electoral Commission in due course), at least so far as they relate to reviewing the constituencies of the Scottish Parliament, to be integrated with those of the Local Government Boundary Commission for Scotland.
- 3.46 We cannot see how this can effectively be achieved in practice so long as the two commissions remain separate. Either the Scottish Executive should transfer the

functions of the Local Government Boundary Commission, as they already have power to do, to the Electoral Commission, or that commission's functions should be given to the Local Government Boundary Commission, which would need in that circumstance to be reformed. We do fully appreciate that there are political difficulties regarding the devolved/reserved divide in either option, but this is a vital concern that will need to be resolved.

- 3.47 In addition, we recommend that consideration be given to integrating the review of Westminster constituencies in Scotland within our proposed amalgamated structure and whatever timescale it adopts, so that further divergence between Scottish communities and Westminster constituencies is avoided.

## Recommendations

- Having the same constituencies for the Scottish Parliament and Westminster is desirable but not essential and should not be a driver of change to the electoral system for the Scottish Parliament.
- The boundaries for Scottish Parliamentary constituencies should be within and respect local authority areas rather than Westminster constituencies.
- The Scottish Parliament regions should be revised to reflect natural local communities and identity and should be built on local authority areas.
- The functions of the Boundary Commission for Scotland and the Local Government Boundary Commission for Scotland should be combined to enable the constituencies and regions for the Scottish Parliament and local authorities to be reviewed together. Consideration should also be given to integrating the review of Westminster constituencies in Scotland into this process.

## Notes

- <sup>1</sup> Consultation response from Brian Donohoe MP
- <sup>2</sup> Consultation response from John Home Robertson MSP
- <sup>3</sup> Consultation response from Cathy Peattie MSP
- <sup>4</sup> Bradbury, J and Russell, M, 2005, *The Local Work of Scottish MPs and MSPs: Effects of Non-Coterminous Boundaries and AMS* (Report to the Commission), p5.
- <sup>5</sup> *Ibid*, p6.
- <sup>6</sup> Scotland Office, 2001 *The Size of the Scottish Parliament – a consultation*. ([www.scotlandoffice.gov.uk](http://www.scotlandoffice.gov.uk)) A summary of the responses dealing specifically with non-coterminous boundaries is also

available in the House of Commons Scottish Affairs Committee Report, 2003-04, *Coincidence of Parliamentary Constituency Boundaries in Scotland and the Consequences of Change*, (HC77).

- 7 Nicholson, S, 2005, *The Impact of Multiple Electoral Systems and Non-Coterminous Boundaries on Voter Turnout and Confusion*, p61. Research report prepared for the Commission by Ms Sarah Nicholson, Politics Student Placement Scheme, University of Edinburgh.
- 8 Evidence provided by visiting delegations of federal and provincial parliamentarians from Canada indicated that non-coterminous boundaries in that country did not create any discernible problems for parties or citizens – although in Ontario, where federal and provincial boundaries were recently made coterminous, elected representatives suggested that this did provide some benefits for communication between elected members.
- 9 *Op cit* House of Commons Scottish Affairs Committee 2003-04. The Scottish Affairs Committee argued that the significant reduction in list MSPs which this option would bring could “*resolve the perceived problem of regional list MSPs “muscling in” on the territory of constituency MSPs, and causing extra work for local government officials*”, p7.
- 10 Though increasing numbers of electors choose to split their votes, most still appear to vote for the party “ticket” and it is likely that in 1999 or 2003 most constituents would have voted for two members of the same party. Since the basis was then 72 constituencies, we cannot say precisely what the result would have been with 59, but if the Parliament had been proportionately larger (72 constituencies and 14 regional seats), Labour would have held 106 seats out of 158, or 67% of the total with 34% of the party vote, and in 2003 would have held 92 seats, 58% with just under 30% of votes.
- 11 The composition of the Parliament would depend on the extent to which the sub-division of Westminster constituencies enabled a party other than the leading party in that constituency to win the second seat. On any reasonable assumptions, the Labour Party’s majority would have been less, but not very much less than shown in note 10 above. Smaller parties would have been disadvantaged.
- 12 There could be variants of this method. For our exercise, it was assumed that electors had one constituency vote and a party vote. While a closer approximation to parity might be achieved, it is likely that either the largest party, or the second party (or both), would be over-represented. If the winning party in a constituency had a vote more than twice that of the party which came second, the winning party would get both seats.
- 13 Because we could not know how voters would have used their second and subsequent preferences, it was not possible to calculate precisely what would have been the outcome. In many constituencies, the two members returned would have been the same as in case (c). In some, it would have been harder for Labour to win two seats, but the consequence would have been most likely to help the party in second place in each case (generally the SNP in 1999 and 2003). It is questionable whether overall the result would have been much more proportional. In an analysis undertaken for the Centre for Scottish Public Policy, Professor John Curtice estimated that if, in 2003, every Scottish constituency had returned two members by the single transferable vote (but without 11 additional members), Labour and the SNP would have won 40% and 39% of the seats respectively with 29% and 21% of the party vote. In any case, using a hybrid system with the single transferable vote in two-member constituencies and with a small number of added members would appear unnecessarily complex and have all the disadvantages of both systems and the advantages of neither.
- 14 Mill, JS, 1861, *On liberty and other essays* (Oxford: John Gray), p451.

- <sup>15</sup> McLean, I and Butler, D, 1996 'The redrawing of parliamentary boundaries in Britain' in McLean, I and Butler, D (eds.), *Fixing the Boundaries: Defining and Redefining Single Member Electoral Districts*, (Aldershot: Dartmouth Publishing), p24.
- <sup>16</sup> Of the constituencies recommended by the Boundary Commission for Scotland in its fifth report in 2004, 49% were within 5% of the electoral quota (compared with 36% in its fourth report of 1994), and 85% were within 10% of the quota (compared with 69% in the fourth report and 57% in the third report of 1983).
- <sup>17</sup> Johnston, RJ, Rossiter, DJ and Pattie, CJ, McLean, 'How well did they do? The Boundary Commissions at the Third and Fourth Periodical Reviews' in McLean, I, Butler, D (eds), 1996 *op cit*.
- <sup>18</sup> McCabe, T , 11 March 2005, The Scotsman.
- <sup>19</sup> The Commission had the benefit of a very useful presentation from Tom Divers, Chief Executive, Greater Glasgow NHS Board, on public sector boundaries in Scotland, the particular issues faced by Greater Glasgow NHS Board, and Community Planning and Community Health Partnerships.
- <sup>20</sup> 2 December 2005, The Herald.
- <sup>21</sup> As amended by the Scottish Parliament (Constituencies) Act 2004.

## A Possible Structure for New Constituencies and Regions for the Scottish Parliament

The following tables show how the constituencies and regions might look if the rules we suggest in paragraph 3.38 were to be adopted. The first lists the number of constituencies which would be contained within each local authority (on the basis of the electorate in 2005) and the deviation from parity that this would give rise to.

Though these deviations are larger than the Boundary Commission for Scotland has proposed for Westminster constituencies in recent years, they would not have been thought unusual in earlier reviews. We believe that the three island groupings should each continue to be separately represented. We also acknowledge that the apparently favourable treatment accorded to Clackmannan might be hard to defend and there could be a case in that instance only for applying the rules to the combined area of Clackmannan and Stirling. Otherwise, no deviation from parity could be greater than one third.



Table 1: Possible model of new constituencies

Council area	Electorate 2005	Constituency element	Average electorate
Highland	167,406	3	55,802
Moray	66,261	1	66,261
Argyll and Bute	68,003	1	68,003
Orkney	15,954	1	15,954
Shetland	17,000	1	17,000
Western Isles	21,397	1	21,397
Aberdeen	155,805	3	51,935
Aberdeenshire	178,820	3	59,607
Angus	85,401	2	42,700
Dundee	108,744	2	54,372
Perth and Kinross	106,550	2	53,275
Fife	274,090	5	54,818
Stirling	64,578	1	64,578
Clackmannan	35,647	1	35,647
Falkirk	110,743	2	55,366
Edinburgh	334,109	6	55,685
West Lothian	120,106	2	60,058
Midlothian	60,844	1	60,844
East Lothian	71,139	1	71,139
Borders	86,411	2	43,205
North Lanarkshire	245,007	4	61,252
South Lanarkshire	237,104	4	59,276
North Ayrshire	106,800	2	53,400
East Ayrshire	92,862	2	46,431
South Ayrshire	90,499	2	45,249
Dumfries and Galloway	114,078	2	57,039
Glasgow	439,691	8	54,961
East Renfrewshire	65,900	1	65,900
Renfrewshire	123,308	2	61,654
Inverclyde	59,493	1	59,493
East Dunbartonshire	81,834	2	40,917
West Dunbartonshire	68,507	1	68,507
Total	3,874,091	72	55,344*

\* On quota of one seventieth – average of electorate excluding Orkney, Shetland and the Western Isles.

The second table illustrates how the regions could be made up. We stress that this is intended to be purely illustrative and is not the only way, or necessarily the best, for giving effect to the principles we outline. For example, Fife and Central Scotland might be better as two separate regions, rather than combined as one, but a Central Scotland region with four constituencies and only three regional members would be too small to ensure a sufficiently proportional outcome.

The total might not always work out at exactly 129, but the variation would not be more than two or three seats either way at most. There may also be a case for allotting an additional seat to a region whose component parts, such as both North and South Lanarkshire, are close to the upper limit for the number of constituencies. The opposite (reducing the number of regional seats in a theoretically over-represented region) would not be appropriate because it could undermine proportionality.

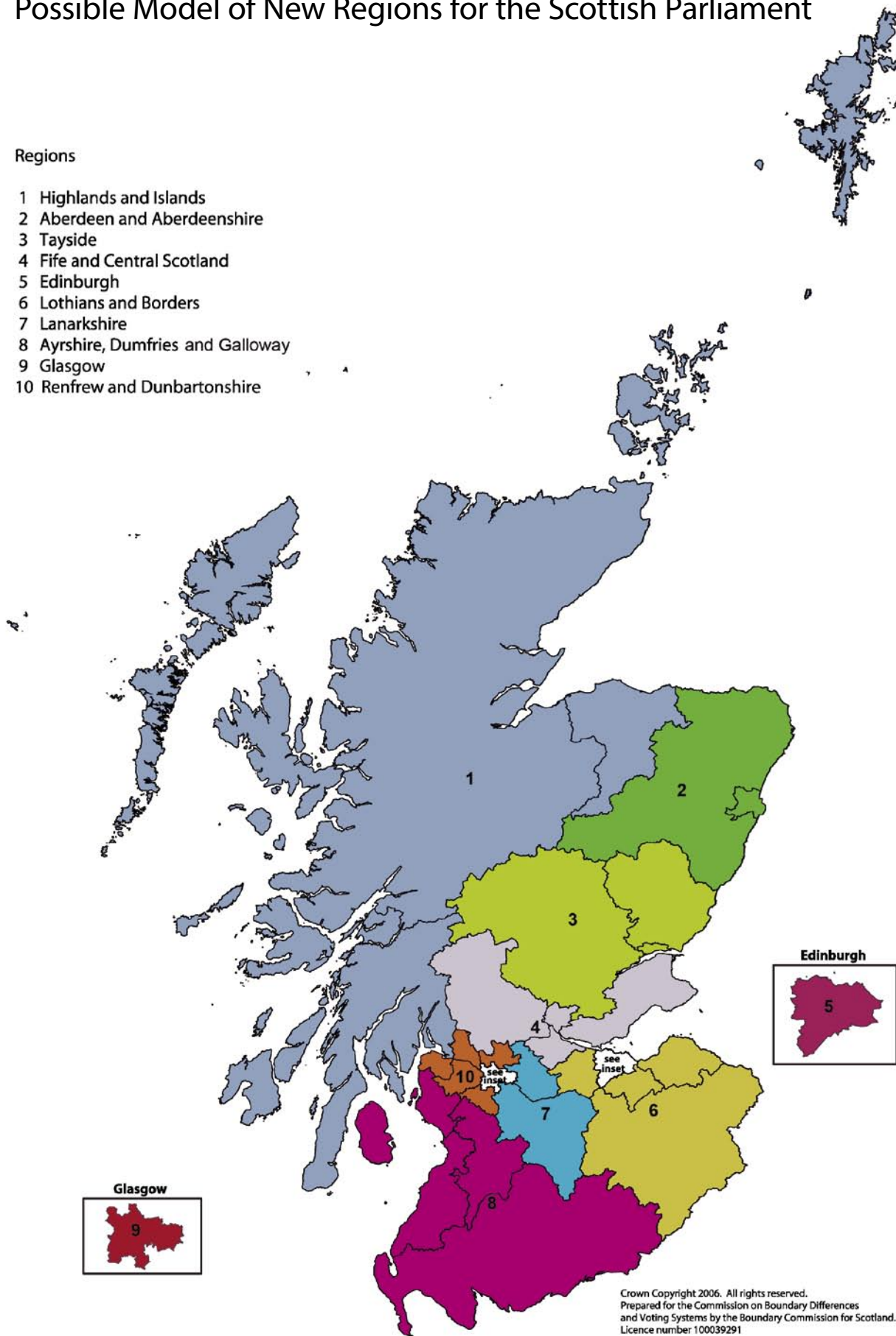
**Table 2: Possible model of new regions**

Region	Actual members			Theoretical Entitlement Total
	(a) Constituency members	(b) Regional members	Total	
Highlands and Islands	8	6	14	11.8
Aberdeen and Aberdeenshire	6	5	11	11.1
Tayside	6	5	11	10.0
Fife and Central Scotland	9	7	16	16.2
Edinburgh	6	5	11	11.1
Lothians and Borders	6	5	11	11.3
Lanarkshire	8	6	14	16.1
Ayrshire, Dumfries and Galloway	8	6	14	13.5
Glasgow	8	6	14	14.6
Renfrew and Dunbartonshire	7	6	13	13.3
<b>Total</b>	<b>72</b>	<b>57</b>	<b>129</b>	<b>129.0</b>

# Possible Model of New Regions for the Scottish Parliament

## Regions

- 1 Highlands and Islands
- 2 Aberdeen and Aberdeenshire
- 3 Tayside
- 4 Fife and Central Scotland
- 5 Edinburgh
- 6 Lothians and Borders
- 7 Lanarkshire
- 8 Ayrshire, Dumfries and Galloway
- 9 Glasgow
- 10 Renfrew and Dunbartonshire



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## 4 Voting

*“The electoral system we have adopted will be new and unique in its application and will require review in order to establish its success in fulfilling the objectives of the Convention, especially in achieving equality of representation between men and women and a more proportional result”*

Scottish Constitutional Convention 1995<sup>1</sup>

*“electoral systems are rarely designed, they are born kicking and screaming into the world out of a messy, incremental compromise between contending factions battling for survival, determined by power politics.”*

Pippa Norris<sup>2</sup>

### The Electoral System

- 4.1 Building on our principles, the Commission devised tests to guide our deliberations on the Scottish Parliament electoral system. These were that the system should:
- Be broadly as proportional as the current mixed member system.
  - Seek to enhance voter choice (i) in the election of local representatives and (ii) in the election of the government.
  - Facilitate both effective government and effective scrutiny of government.
  - Be transparent and easily understood, with the act of voting being as simple as possible.
  - Maintain and develop the link between community and electoral representation.
  - Permit diversity of representation.
- 4.2 While the Commission recognised that there was an inevitable tension between some of the aspirations embodied in these criteria, these were useful to us in testing options for reform and guiding us towards a system which would achieve the best balance between conflicting objectives.
- 4.3 The Commission gathered extensive evidence on the operation of the current Scottish Parliament electoral system. Some respondents to our consultation were content to see a continuing evolution of the present system and were against any changes at this stage. However, the majority raised concerns regarding the system’s operation which were seen as requiring attention. Having reviewed the

evidence, the Commission is of the view that the mixed member system, in the form in which it is currently used in Scotland, has given rise to some issues and perceived problems which were not foreseen at the time of its introduction.

- 4.4 These problems revolve around three main themes:
- voter confusion
  - legitimacy and voter choice
  - issues of representation
- 4.5 We had to decide whether these issues should be addressed through a revised form of the mixed member proportional system or whether they required a move to a different voting system. We came to the view, with one member dissenting, that a revised mixed member system offered the best way forward. The rest of this chapter sets out the evidence and considerations which brought us to this conclusion.

## The Electoral System in Context

- 4.6 The electoral system used for the Scottish Parliament is a form of mixed member proportional system which combines the election of constituency candidates with a vote for a party. The system allows electors to express a preference for a local candidate with one vote (the constituency vote), while giving them the opportunity to express a preference for a political party with another vote (the regional vote). In Scotland, the system also permits electors to give their regional vote to an independent candidate.
- 4.7 The current system for Scottish Parliament elections was proposed by the Scottish Constitutional Convention in 1995, with the details devised by a sub-group, the Scottish Constitutional Commission. This system was a compromise designed to satisfy the conflicting aspirations of different parties within the Convention.
- 4.8 Although official reports and other documentation describe the electoral system for the Scottish Parliament as the Additional Member System, we feel this is an unhelpful term which suggests that regional members are “added on”. A more accurate description is “mixed member proportional system”, as used in New Zealand.
- 4.9 The system used for electing the Scottish Parliament is not the only form of mixed member system.<sup>3</sup> The Commission has therefore looked at the operation of such systems around the world, with particular attention given to the experience in Germany, New Zealand and Wales, to see if any lessons could be learned.

Variations in the operation of mixed member systems include:

- different ratios of constituency to regional members
- one or two votes
- primacy of the constituency vote / regional vote
- permitting or preventing dual candidacy
- open or closed lists
- different arrangements for filling vacancies
- regional or national lists of candidates

4.10 In the knowledge that a different system might be required, we also considered at length the merits of the single transferable vote, which has been widely seen as the most obvious and acceptable alternative to the current mixed member system.<sup>4</sup> Because of the importance of this alternative, the Commission visited Northern Ireland and the Republic of Ireland to find out more about the operation of this system and took evidence there from political parties, academics, civil servants, electoral administrators and the Electoral Commission in Northern Ireland.

## Identifying the Problems

4.11 The Commission accepts that the evolution of the mixed member system in Scotland has given rise to problems concerning voter confusion, legitimacy and voter choice, and representation.

### Voter Confusion

4.12 One of the key concerns which emerged from our consultation was with public understanding of the electoral system used for the Scottish Parliament and, in particular, the purpose of the regional vote. Often presented as a “second vote”, many voters appear mistakenly to assume that the regional vote is intended as an expression of their second preference.

4.13 The Commission recognises that some political parties have developed effective strategies to appeal to what they describe as second votes and that this may contribute to a misunderstanding of the regional vote as a second preference. However, we also recognise that parties will work any electoral system to their best advantage by appealing to the electorate to vote in ways that will most benefit them and it was not our job to argue against such an entirely legitimate political strategy.

- 4.14 There is some evidence which suggests a lack of knowledge about the operation of the mixed member system, and of electoral systems in general. Our focus group research indicated a limited level of understanding of all electoral systems, especially the relationship between the casting of a vote, the election of members and the election of the government. The 1999 and 2003 Scottish Social Attitudes Surveys, conducted after the Scottish Parliament elections, found that 40% of respondents thought it “very” or “fairly” difficult to understand how seats were allocated in the Scottish Parliament.<sup>5</sup>
- 4.15 Voter understanding of the system was also tested in the Scottish Social Attitudes Surveys through the development of a knowledge quiz. The results of this suggest a lack of understanding of the electoral system, especially the purpose of the regional vote. In 2003, less than a quarter of respondents were able to identify correctly that regional list seats were allocated to try to ensure that parties had a fair share of seats in the Parliament. Of particular concern was an apparent decline in voter understanding of the system between the first election in 1999 and the second election in 2003.

Table 3: Knowledge quiz on the Scottish Parliament electoral system

	% answering correctly	
	1999	2003
You are allowed to vote for the same party on the first and second vote (TRUE)	78	64
People are given two votes so that they can show their first and second preferences (FALSE)	63	48
No candidate who stands in a constituency contest can be elected as a regional party list member (FALSE)	43	33
Regional party list seats are allocated to try to make sure each party has as fair a share of seats as is possible (TRUE)	31	24
The number of seats won by each party is decided by the number of first votes they get (FALSE)	30	42
Unless a party wins at least 5% of the second vote, it is unlikely to win any regional party lists seats (TRUE)	26	25
Average	45	39

Source: *Scottish Parliament Election Study, 1999 and Scottish Social Attitudes Survey, 2003.*

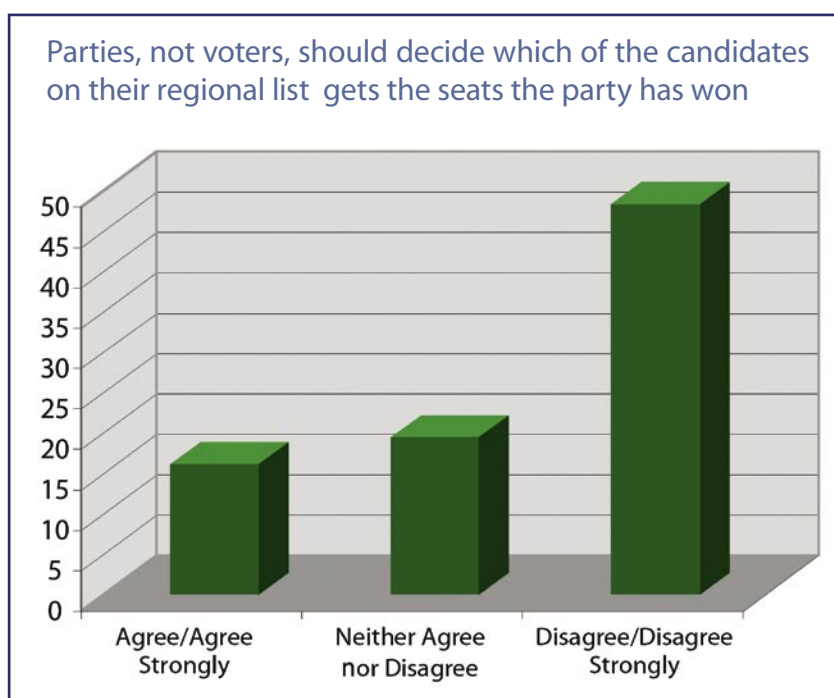
- 4.16 An increased proportion of people split their vote in the 2003 Scottish Parliament election, voting for a candidate from one party with their constituency vote and another party with their regional vote. This could either suggest a sophisticated understanding of the system or confusion about the purpose of the regional vote.
- 4.17 The evidence points to both suggestions being correct. Some people who split their votes did understand the system and took the opportunity of exercising the



choices available to them. This is supported by the incidence of ticket-splitting being greater among those who claimed to understand the voting system than among those who found it difficult to understand. However, there might also be a significant number of people who split their votes because they viewed the regional vote as a second preference. Fewer electors voted in the regional contests for the party that they said was their first preference in the Scottish Parliament election than did so in the constituency vote. Moreover, this was most marked among those who, in the knowledge quiz cited in table 3, incorrectly believed that the regional vote was designed to give them the chance to express a second preference.<sup>6</sup>

## Legitimacy and Voter Choice

- 4.18 In comparison to the first past the post system, the mixed member system enhances voter choice by allowing electors to choose between voting for a political party and voting for a constituency candidate.
- 4.19 However, currently the degree of choice regarding candidates, particularly those on the regional list, is restricted. The election of regional members is on the basis of closed party lists, with the political parties deciding the order of the candidates. In some cases this is on the basis of a ballot of all party members, while in others the order is decided by party delegates. Voters therefore have no opportunity to express their preference for or against those who appear on the list. A survey taken after the 2003 Scottish Parliament election showed a high degree of opposition to this level of party control.



Source: Scottish Social Attitudes Survey, 2003

4.20 Responses to our consultation were largely critical of the lack of voter choice in the closed list system. In particular, concern was expressed that regional MSPs were not elected by the people, but were imposed by a small group within their party. As a result, the loyalty of these MSPs was seen to be to their party rather than to their constituents. Criticising the way some parties selected the order of their regional party lists, Lord Steel of Aikwood, former Presiding Officer of the Scottish Parliament, said in his response to our consultation:

*“High-quality candidates, who would have made excellent MSPs, were beaten by others who lobbied effectively, or had higher local membership, or were rewarded for dishing out more leaflets over the years than less “activist” candidates”.*<sup>7</sup>

4.21 The lack of voter choice over the selection and election of regional list members seems for some to undermine the legitimacy these members can command, as well as their accountability to the electorate. It was argued to us that this concern was exacerbated when candidates who were beaten in the constituency contest were then elected via the regional party list. Referred to in Wales as the “Clywd West question”<sup>8</sup>, this might in Scotland be called the “Cunninghame South” question, following from two of the three defeated constituency candidates there in the 1999 election nonetheless being returned to the Scottish Parliament on the South of Scotland regional list along with the successful first past the post candidate. We note that in the 2003 elections, 88% of successful regional MSPs had fought, and lost, a constituency seat.<sup>9</sup>

## Issues of representation

4.22 Constituency work is recognised as an important role of elected members throughout the United Kingdom. Although it is only one of their responsibilities, it is seen by the public and the representatives themselves as a central service.

4.23 Members of the Scottish Parliament directly elected to represent a constituency have a clear responsibility to carry out constituency case work. However, the role of regional members in this area is less clear, and some constituency MSPs have accused regional members of “cherry-picking” individual cases and local issues and “shadowing” them, with a view to raising their profile or that of their party in the constituency, rather than serving the wider interests of electors across the region.

4.24 We accept that all mixed member systems produce two different categories of representatives – those elected directly in a constituency, and those elected (usually indirectly) via a party list. However, some responses to our consultation expressed concern that these two types of elected member produced two classes of MSP and that their respective roles were not understood.

4.25 This perceived problem is exacerbated in the Scottish context by the present party imbalance between constituency and regional members. In the 1999 and 2003 Scottish Parliament elections, MSPs of the governing parties were predominantly elected in constituencies, while those representing opposition parties were mainly elected from the regional lists. We cannot assume that this party balance will remain in future elections, but it has undoubtedly contributed to some of the tensions in the representative role of MSPs.

## Improving the Scottish Parliament Electoral System

4.26 In seeking to assess the problems associated with the existing Scottish Parliament electoral system, the Commission had to consider whether these might best be addressed by reforming the mixed member system or by replacing it with a different one.

4.27 The two main alternatives which were presented by us in our consultation were: (i) 2 MSPs for each Westminster constituency, plus 11 additional members; or (ii) the single transferable vote. These were considered, alongside the options of retaining and developing the mixed member system, against the tests set out in paragraph 4.1 above.

## Proportionality and Electoral Systems

4.28 The current electoral system for the Scottish Parliament is designed to allow a degree of proportionality without sacrificing the constituency-member link. The regional list vote is used to correct the disproportionality resulting from the constituency vote. As Table 4 demonstrates, this correctional element helps to achieve some proportionality. However, the system is not fully proportional, nor was it intended to be. In particular, under current voting patterns, the Labour Party's share of seats remains higher than its share of votes. Given the design of the system as it stands, this bias would go to any party that wins a disproportionate share of constituency seats in the first past the post constituency contests.

Table 4: Scottish Parliament Elections, 2003

	% constituency votes	% regional votes	Total no of seats	% total seats
Scottish Labour Party	34.6	29.3	50	38.8
Scottish National Party	23.8	20.9	27	20.9
Scottish Conservative and Unionist Party	16.6	15.5	18	14.0
Scottish Liberal Democrats	15.4	11.8	17	13.2
Scottish Green Party	0	6.9	7	5.4
Scottish Socialist Party	6.2	6.7	6	4.7
Scottish Senior Citizens Unity Party	0.1	1.5	1	0.8
Independents	2.3	1.8	3	2.3

Source: *The Electoral Commission, Scottish Elections 2003, The Official Report on the Scottish Parliament and Local Government Elections 1 May 2003, pp. 156-58.*

- 4.29 The disproportionality inherent in the existing system was rarely raised in the responses to our consultation, and we are satisfied that the system achieves the degree of proportionality that was intended. From the Commission's perspective, any reforms to the electoral system must not significantly reduce this proportionality.
- 4.30 As explained in chapter 3, none of the possible structures for having two MSPs for each Westminster constituency plus 11 additional members would come close to the proportionality of the current system. It therefore failed one of the central criteria we set out and, moreover, failed a requirement of our remit to respect the devolution settlement. Therefore, we do not see it as a viable alternative for electing the Scottish Parliament.
- 4.31 Proportionality in the single transferable vote system is dependent on the number of representatives elected per multi-member constituency. Testing the effect of a new system on proportionality is always difficult because we cannot be sure that the choices voters will make in future in casting their ballot would be the same as in the existing system. However, we can reasonably assume that a single transferable vote system with three or four member constituencies, such as that being introduced for Scottish local government elections in 2007, would be less proportional than the current system. A system with at least five members per constituency would be reasonably proportional and would not significantly disadvantage independent candidates or smaller parties.

4.32 The Commission has therefore concluded that a single transferable vote system would have the potential to be at least as proportional as the existing Scottish Parliament electoral system, provided there was a sufficient number of elected members per multi-member constituency.

## Should the Scottish Parliament be elected by the single transferable vote?

4.33 The Commission recognises that no electoral system is perfect, and each has its own set of potential problems. We therefore evaluated the single transferable vote against the current mixed member system, in light of the criteria we set out in paragraph 4.1. In seeking to estimate the effects the single transferable vote might have in Scotland, we examined its operation in other countries, particularly Northern Ireland and the Republic of Ireland, drew upon the literature on electoral systems,<sup>10</sup> and benefited from the knowledge and insight of academic experts.

4.34 The Commission has acknowledged that the single transferable vote has some advantages over a mixed member system, and that its introduction could go some way to addressing the problems associated with the existing Scottish Parliament electoral system:

- Under the single transferable vote, all members are elected in the same way, thus removing the problem evident within the existing system of having two categories of elected member.
- Electors casting votes in order of preference removes the potential for confusion over the use of a “second” vote to correct the disproportionality of the constituency vote, and would resolve the legitimacy problems associated with the ranking and election of regional members.
- Of all possible voting systems, the single transferable vote gives the maximum power to individual voters over the choice of their local representatives.
- It might strengthen the link between communities and electoral representation, as the existing local authority boundaries provide a sound basis for multi-member wards.

4.35 However, the single transferable vote also has a number of weaknesses when compared to a mixed member system:

- Casting votes for candidates in order of preference complicates the act of voting. The process by which votes are translated into seats would also be made more complex and lack transparency, potentially undermining confidence in the voting system.

- Although it enhances voter choice over the election of individual candidates, the link between an individual's vote and the election of the government is less clear than in a mixed member system.
- In some parts of Scotland, especially in the Highlands and Islands, the multi-member constituencies created by the system would be so large that elected representatives might not be accessible to voters, and the link between individuals, communities and elected representatives might be undermined.
- The single transferable vote makes it more difficult for political parties to use positive action policies to promote gender and ethnic minority representation.
- By making individual members entirely dependent on where they are placed in voters' order of preference, the single transferable vote might encourage localism, foster clientelist politics, and make it more difficult for parliamentarians to pass legislation for the benefit of the country as a whole.

4.36 Each democratically elected institution should have an electoral system most suited to the responsibilities its members are to undertake. We believe that it is entirely appropriate for institutions with different roles to have different electoral systems. As the Plant Report suggested:

*"A broad distinction can be drawn between institutions which have a central legislative role and those which are more concerned with revising and commenting on proposed legislation. ...there is a case for saying that institutions which are predominantly in one mode do not have to share the electoral system of those in another mode."*<sup>11</sup>

4.37 We note the forthcoming introduction of the single transferable vote in Scottish local government elections, and argue for its introduction for electing Scottish members to the European Parliament, as we discuss in detail in paragraphs 4.94–4.103. However, the view of all but one of the Commission members was that, on balance, the single transferable vote would not be the best system for the Scottish Parliament at this stage. We support instead developing and improving the existing mixed member system. The note of dissent from John Lawrie is set out at the end of this chapter.

## Revising the Mixed Member System

4.38 Having resolved to seek improvements to the existing electoral system, the Commission examined a variety of options for reform that emerged from our inquiry, and from independent study, to consider whether they might address the problems associated with the mixed member system in its current form.

## Addressing the Problem of Voter Confusion

### Voter Education

4.39 The Commission is strongly of the view that information should be provided to voters in advance of every Parliamentary and local government election. This should seek to explain clearly how ballot papers should be completed, how votes will be counted and translated into seats, and the relationship between the casting of a vote and the election of a government. The Commission notes with concern the decline in voter understanding of the Scottish Parliament electoral system between 1999 and 2003. This may have been a consequence of a lack of voter education in 2003 on the mechanics of the system. The Electoral Commission's campaign in 2003 focused on encouraging electors to turn out to vote. While this is a laudable objective, such campaigns in the future should be in addition to, not instead of, campaigns which provide information on the voting system itself.

### One vote or two?

4.40 The Scottish Labour Party's response to the Commission's consultation suggested that one way of simplifying the system to make it easier to understand would be to move from a two vote system to a one vote system.

*"There is potential to remove the need for a second vote and allocate the List MSPs on the basis of the constituency vote. This is a straight-forward measure that would simplify the voting system for those participating whilst still ensuring that the electoral system maintains significant proportionality."*<sup>12</sup>

Under such a system, voters would cast only one vote for a constituency candidate, with this vote assumed to represent a vote for their preferred party.

4.41 The Conservative Party also suggested in its consultation response that a one vote system was worth considering.

4.42 A revision of this proposal was also made to the Commission, with it being argued that the constituency vote should use the alternative vote, with first preferences used to allocate the regional member.

4.43 We recognise that these proposals have emerged from a genuine concern regarding the misunderstanding and potential manipulation of the regional list vote and that they might produce a simpler system. However, we have serious reservations about the impact such changes might have on the diversity of representation, the transparency of the voting system, and the legitimacy of the regional members.



- 4.44 One vote mixed systems are very rare,<sup>13</sup> and it is difficult to assess the consequences such a revised system would have for the Scottish Parliament, as we cannot predict whether people would change the way they vote. Survey evidence suggests that most votes for constituency candidates are actually votes for a preferred party. Using the 2003 election result as a guide, we estimate that removing the regional vote would have a negative impact on the electoral prospects of smaller parties and independents. Such a system would also introduce additional financial expense for small parties and independents, who would be compelled to stand in constituencies to have any prospect of gaining regional seats.
- 4.45 The Commission also has significant concerns about the likely impact of a one-vote system on the public perception of regional MSPs. Inasmuch as the legitimacy of regional members is already questioned by the lack of voter discretion in the ranking of party lists, we can expect that this would be further undermined if regional MSPs were elected purely as a consequence of votes secured by their fellow MSPs standing in constituency contests. We note that the Labour Party's response to our consultation recognised that the proposal to remove the regional list vote "*affects the mandate which list MSPs receive from the electorate*".<sup>14</sup>
- 4.46 The Commission endorses the strong preference indicated by the Scottish Constitutional Commission in 1994 for a mixed member system with two votes. We share the reservations expressed to us by its Chair, Joyce MacMillan, about removing a vote from the Scottish electorate:
- "It was the strong view of the Commission that voters should have the opportunity to cast two votes, rather than casting one and having it counted in two different ways. Much of the criticism of the Westminster system that was heard in Scotland in the 1990s concerned the ineffectiveness of a single first-past-the-post vote, cast once every four or five years, as a means of expressing political views; there is much to be said for giving voters a chance to say something more subtle and complex, and I think many voters would now strongly resent having that second vote taken away from them."*<sup>14</sup>
- 4.47 Enhancing voter choice is one of the tests the Commission set itself, and we cannot endorse a change which would so clearly reduce this. Whatever its merits, giving the public only one vote to elect both constituency and regional members would be likely to reduce the transparency of the system, undermine the legitimacy of regional MSPs, and erode the plurality and diversity of views which many have welcomed as a positive feature of the Scottish Parliament. It is the Commission's view that such consequences would be detrimental to the Scottish political system.



## Language used / Primacy of the Constituency Vote

- 4.48 Notwithstanding our objections to a one vote system, the Commission recognises the need to enhance voter understanding of the electoral system. Voter education is one way to realise that objective. Others include adapting the terminology we commonly use to describe the Scottish Parliament voting procedures and to redesigning the ballot paper to convey better the operation of the system.
- 4.49 We commonly refer to the constituency vote as the “first vote” and the regional vote as the “second vote”, with each given a separate ballot paper to allow voters to express their preferences. In our view, references to first and second votes fuel a misperception that the constituency vote should be a first preference and the regional vote a second one. This may also unwittingly suggest to voters that the first past the post element of the system is more important and is more legitimate than the proportional element. That impression is emphasised by the ways in which the overall system is sometimes described.
- 4.50 As the quotes below show, the Scottish Parliament electoral system is portrayed in official documentation as an adaptation of the first past the post system. We do not think this helps the public and elected representatives to understand or adjust to the new system. We commend instead the way in which it is described in New Zealand as a completely new system.

*“The electoral system used for the Scottish Parliament elections is a combination of first past the post and the Additional Member System. The first vote is for a constituency Member of the Scottish Parliament (MSP), where the candidate with the most votes wins the constituency seat. There are 73 constituency MSPs. The second vote is for a political party or an individual candidate standing for a seat in a Scottish Parliament Region. There are seven MSPs for each of the Scottish Parliament Regions. The way that the regional seats are allocated ensures that the overall number of seats allocated to each party better reflects the proportion of votes it received in the regional ballot.”*

UK Electoral Commission<sup>16</sup>

*New Zealand uses MMP, the Mixed Member Proportional electoral system, to elect our members of Parliament. We use two votes under MMP – one for a party and one for an electorate MP. Parties get a share of the 120 seats in parliament that is close to their share of all party votes. At the same time, each part of the country has a local representative in the form of an electorate MP.*

New Zealand Electoral Commission<sup>17</sup>

- 4.51 We recommend that all official documents refer instead to “constituency votes” and “regional votes” and that every effort is made to ensure equality of treatment

and esteem in the descriptions of both parts of the system. We commend the description of the mixed member system which is promulgated by the New Zealand Electoral Commission.

- 4.52 We also recommend redesigning the ballot papers to reflect more accurately the way mixed member systems work and to counter perceptions that the regional vote is less important. In mixed member systems it is the list vote, not the constituency one, which is key to deciding the overall share of seats in the Parliament and the election of the government. This is reflected in the design of the New Zealand ballot paper, which puts both votes on one paper, with the party list vote given primacy. The voter is also helpfully informed that *"This vote decides the share of the seats which each of the parties listed below will have in Parliament."*
- 4.53 While we recognise that such a ballot paper might be more complicated following our proposed change from closed to open lists, we believe a paper could be designed which incorporates the greater choice which open lists would provide, while conveying better the way the voting system operates.

## Enhancing Legitimacy and Voter Choice

- 4.54 Concerns have been raised over the lack of choice which closed lists give to voters in selecting and removing regional members. There has also been criticism of candidates being permitted to stand at the same election in both constituency and regional contests. This lack of choice raised questions about the legitimacy and accountability of regional members. The Commission therefore considered several proposals to address this perceived issue.

### Dual candidacy

- 4.55 One proposal put to us was to increase the accountability of regional members by preventing candidates from standing for election in both constituency and regional contests. We are also aware that the UK Government, in its White Paper, *Better Governance for Wales*, has proposed such a ban for the National Assembly for Wales and that, at the time of writing, this measure is included in the Government of Wales Bill.
- 4.56 As explained in paragraph 4.21, those who oppose dual candidacy argued that it allows constituency "failures" to come into the Scottish Parliament through the "back door" of the regional vote, with the implication that this is against the wishes of the electorate.

New Zealand sample ballot paper

YOU HAVE 2 VOTES

12345

PARTY VOTE

*Explanation*

This vote decides the share of seats which each of the parties listed below will have in parliament. Vote by putting a tick in the circle immediately after the party you choose.

OFFICIAL MARK

↓  
Vote Here

↓  
Vote Here

ELECTORATE VOTE

*Explanation*

This vote decides the candidate who will be elected Member of parliament for the TE TAI TONGA ELECTORATE. Vote by putting a tick in the circle immediately before the candidate you choose.

Vote for only one party

Vote for only one candidate

PEAR	<input type="checkbox"/>	<input type="checkbox"/> ANDREWS, Bill <small>PEAR</small>	
APPLE	<input type="checkbox"/>	<input type="checkbox"/> BAILEY, Mary <small>APPLE</small>	
CHERRY	<input type="checkbox"/>	<input type="checkbox"/> CARSON, John <small>INDEPENDENT</small>	
BANANA	<input type="checkbox"/>	<input type="checkbox"/> DENNIS, Sam <small>CHERRY</small>	
KIWIFRUIT	<input type="checkbox"/>	<input type="checkbox"/> FLAVELL, David <small>BANANA</small>	
TOMATO	<input type="checkbox"/>	<input type="checkbox"/> HOHNECK, Martin <small>KIWIFRUIT</small>	
LEEK	<input type="checkbox"/>	<input type="checkbox"/> MAREROA, Glenis <small>TOMATO</small>	
CELERY	<input type="checkbox"/>	<input type="checkbox"/> NATHAN, William <small>LEEK</small>	
LEMON PARTY	<input type="checkbox"/>	<input type="checkbox"/> PARK, Jenny <small>CELERY</small>	
POTATO	<input type="checkbox"/>	<input type="checkbox"/> ROSE, Hugh <small>LEMON PARTY</small>	
ASPARAGUS PARTY	<input type="checkbox"/>	<input type="checkbox"/> SMITH, Bob <small>INDEPENDENT</small>	
BROCCOLI PARTY	<input type="checkbox"/>	<input type="checkbox"/> TAWA, Stephen <small>POTATO</small>	
CARROT	<input type="checkbox"/>		
CABBAGE	<input type="checkbox"/>		
CORNCOB	<input type="checkbox"/>		
EGGPLANT	<input type="checkbox"/>		
GRAPE	<input type="checkbox"/>		
ORANGE	<input type="checkbox"/>		
PEACH	<input type="checkbox"/>		
PEA PARTY	<input type="checkbox"/>		
PEPPERS	<input type="checkbox"/>		
PUMPKIN	<input type="checkbox"/>		
SQUASH	<input type="checkbox"/>		
STRAWBERRY	<input type="checkbox"/>		
WATERMELLON	<input type="checkbox"/>		

*Final Directions*

1. If you spoil this ballot paper, return it to the officer who issued it and apply for a new ballot paper.
2. After voting, fold this ballot paper so that its contents cannot be seen and place it in the ballot box.
3. You must not take this ballot paper out of the polling place.

*“Voters are often surprised that candidates soundly beaten in the constituency votes are then elected on the list – a reward for failure”<sup>18</sup>*

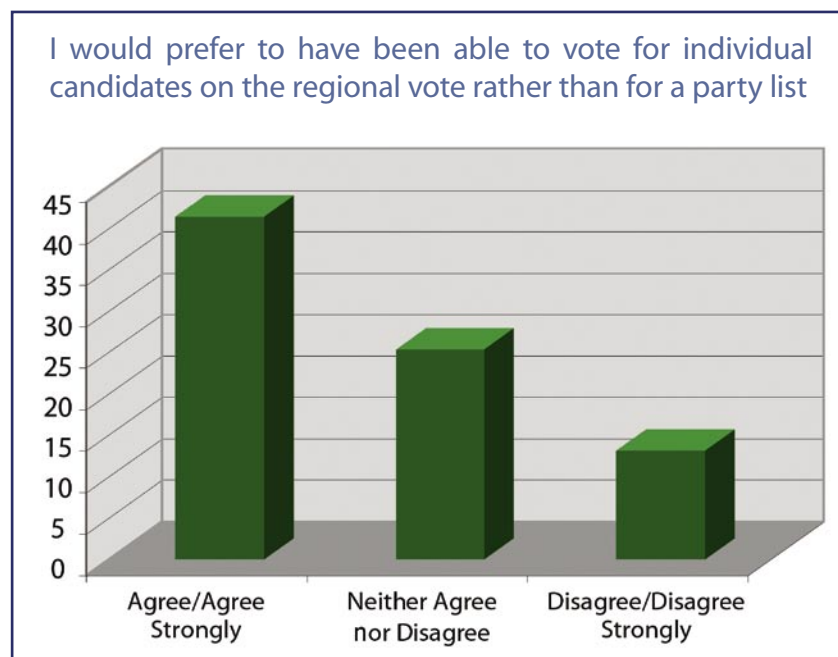
- 4.57 In the White Paper it was also argued that such a result “both devalues the integrity of the electoral system in the eyes of the public and acts as a disincentive to vote in constituency elections.”<sup>19</sup> However, the Commission is not convinced that there is any evidence to support the claims made regarding these perceived problems. There is no survey evidence to suggest that dual candidacy is an issue for voters, or a disincentive to their participation in the political process. Few of our consultation responses raised dual candidacy as an issue, nor was it raised spontaneously in our focus groups.
- 4.58 While we acknowledge that there is some misunderstanding about this aspect of the mixed member system, we have serious concerns about the impact such a ban would have. As the Commission on the Powers and Electoral Arrangements of the National Assembly for Wales (Richard Commission) noted, it may encourage parties, particularly small ones, not to field strong candidates in constituency seats, where they have less chance of success, keeping them instead for the region where they would be more likely to be elected. This could have a negative impact on the quality of constituency contests and unduly favour incumbent candidates.<sup>20</sup> Barring dual candidacy could also create tensions between constituency and regional candidates within the same party, since the chances of a regional candidate being elected would be enhanced when candidates from his or her party perform poorly in the constituency election. It might therefore be in the interests of a regional candidate of any party to see colleagues lose constituency elections.
- 4.59 Dual candidacy is a common and accepted feature of mixed member proportional systems across the world – indeed, in some cases candidates are expressly required to stand in both contests.<sup>21</sup> We suggest that dual candidacy only seems problematic to some people here because of the legacy of constituency representation within British political culture and the hegemony which this has secured for some parties. Candidates coming in second or third place who are then elected through the regional list are only “losers” in the context of a first past the post, “winner takes all”, electoral system. This logic does not sit well within a proportional system and introducing it devalues and undermines the concept of proportionality. The criticism, and the pejorative terms in which it is sometimes put, does little to enhance the legitimacy of regional MSPs.
- 4.60 The Commission believes that preventing dual candidacy would be undemocratic and agrees that it would place *“an unnecessary restriction on the democratic rights of potential candidates, parties and local electors to have as unrestricted a choice as possible in an election.”*<sup>22</sup>

4.61 The Commission has put the interests of the constituent at the centre of our concerns and we would not favour any action which might have a negative impact on these. While we acknowledge that there might be an issue regarding the accountability and legitimacy of regional members elected via closed party lists, we do not believe that barring dual candidacy would be an appropriate or democratic means of addressing it. Open lists present a better way forward for dealing with this concern.

## Open lists

4.62 Although rejecting the barring of dual candidacy, we do believe that the accountability of regional members could be increased and voter choice enhanced by replacing the closed list used for the regional vote with an open list.

4.63 The Commission has sought to enhance voter choice where possible. Surveys taken after the 1999 and 2003 elections show a high degree of support from respondents for being able to vote for individual candidates rather than a closed party list.<sup>23</sup>



Source: Scottish Social Attitudes Survey, 2003

4.64 The Commission acknowledges that open lists might increase the complexity of the ballot paper and complicate the act of voting, but these difficulties should be eradicated once electronic voting is introduced. In advance of e-voting, it will be important for the ballot paper design to be clear. We believe that in addition to the piloting of a new ballot paper, the Electoral Commission, the Scottish Executive and Scotland Office should aim to introduce e-voting in time for the 2011 elections to the Scottish Parliament.

- 4.65 Although the majority of electors appear to vote for parties rather than candidates, many people have used the current system to discriminate, at least to some extent, between candidates. In the 2003 Scottish Parliament election, 13% of voters claimed that they voted for the best candidate irrespective of party<sup>24</sup> and the proportion of electors who split their votes was larger than that. We believe that many voters will welcome the ability to exercise both a choice between parties and between candidates of the same party.
- 4.66 Many countries use open lists as part of their proportional system, although the specific form varies.<sup>25</sup> We suggest that the structure for open lists for Scottish Parliament elections would be one where, in addition to the option of expressing a preference for an individual, the voter is able to vote for a party without expressing any preferences for candidates.
- 4.67 We also believe that open lists will strengthen the extent to which regional members might be held to account by their electors. This should reduce the perception that the first loyalty of regional members is to their party, which controls where they appear on the list, rather than the constituents who elect them. It also addresses the view that regional members can be *"immune to public opinion and effectively cannot be voted out of office"*<sup>26</sup> by giving voters the opportunity to express their preferences for individual candidates. We believe that this will strengthen the legitimacy and status of regional members in the view of the Scottish electorate.
- 4.68 The Commission noted with concern that the number of people selecting candidates for both constituency and regional list elections has in some cases been very small,<sup>27</sup> particularly in the case of regional members, whose election is currently so dependent on their place in the rank order of candidates. We therefore support the steps taken by parties to move towards a democratic system of candidate selection and believe that under the open system which we propose the control of the party over who is elected would be significantly reduced.
- 4.69 The Scottish Constitutional Commission, which initially proposed the current mixed member system for electing the Scottish Parliament, recommended that consideration should be given to introducing open lists once the system had passed its introductory phase.<sup>28</sup> We believe that experience since the establishment of the Parliament has shown that open lists would bring about a considerable improvement to the operation of the mixed member system.

## Alternative vote for constituency elections

- 4.70 It was suggested to us by representatives of one of the political parties that the current mixed member system would be enhanced if first past the post was replaced by the alternative vote for electing constituency MSPs.



- 4.71 The Commission could not find any international examples of this mixed system. However, the Independent Commission on the Voting System (Jenkins Commission) recommended such a scheme for Westminster, because it would ensure that winning candidates were preferred by more than half of the voters, who would be allowed a greater subtlety of choice.<sup>29</sup>
- 4.72 Although we recognise that the alternative vote might enhance voter choice over the election of constituency candidates and potentially increase the legitimacy of constituency MSPs, we believe that these benefits would be outweighed by the additional complexity this change would bring to the voting system. With two votes, and our recommendation to introduce an open list for the election of regional members, the system would be complex enough without introducing a further innovation for the constituency elections. In addition, the first past the post element is the most familiar and easily understood aspect of the existing system.<sup>30</sup> Therefore we do not believe that introducing the alternative vote would be an appropriate innovation for the constituency contest.

## Arrangements for filling vacancies

- 4.73 Some of our consultation responses criticised the existing arrangements for filling vacancies in regional seats. Under the current system, if a constituency seat falls vacant, a by-election is held under first past the post, but if there is a vacancy for a regional seat there is no election and the next candidate from that party on the list fills the position.<sup>31</sup> If the regional member is an independent or there are no candidates left on the relevant party's list, the seat will lie empty until the next Scottish Parliament election.
- 4.74 We appreciate the concerns regarding the legitimacy of a regional member who was not elected being given the seat without the public having a chance to vote again. However, there are no clear alternative options. In other countries which use a mixed member proportional system, such as Germany and New Zealand, there are no by-elections for regional vacancies. In their evidence to the Jenkins Commission, a group of leading academics concluded that "there was no equitable way of holding by-elections under STV, or with AMS regional seats."<sup>32</sup>
- 4.75 However, concern over the legitimacy of replacing regional members might be alleviated by our proposal for introduction of an open list for the regional vote, as the next candidate on the party list would have had some personal endorsement from the voters.

## Addressing Representation Issues through Electoral Reform

4.76 Some of the perceived problems regarding the representation roles of regional and constituency members could, of course, be addressed without the need for electoral reform. MSPs' roles will be considered in full in the next chapter. This section considers only this aspect of representation which could be addressed by electoral reform.

### Regional versus national lists

4.77 Under current arrangements, regional members of the Scottish Parliament are elected on party lists in eight regions. Some of our consultation responses suggested that this regional structure should be replaced by a national list, such as used in New Zealand.

4.78 The main arguments in favour of a national list are that this would allow list MSPs to develop a wider strategic role for the whole of Scotland and make it less likely that these members would "shadow" constituency representatives and compete for constituency casework.

4.79 However, it is not clear to us that introducing a national list would reduce such behaviour where it occurs.<sup>33</sup> There are also some practical difficulties with having a national open list. It would require the ballot paper to be significantly larger than if the regions were maintained, particularly if combined with an open list which included the names of all candidates as well as parties. We are also concerned that it would add to the distance between list members and their electorate and make it difficult for them to provide an effective service across the whole of Scotland. There is an additional risk that MSPs elected from national party lists would come mainly from the central belt and would concentrate their efforts in this easily accessible area, providing less representation to more remote parts of the country.

4.80 In view of these potential detrimental impacts on the complexity of the ballot paper and the level of service and choice available to voters seeking the help of an MSP, we support the retention of the regions for electing list members, but restructured on the basis described in chapter 3.

### Combined Elections

4.81 At present, elections to the Scottish Parliament and local authorities are held every four years on the same day.<sup>34</sup> The principal motivation for this is to increase the level of voter participation in the local government elections.



- 4.82 In 1999, and again in 2003, electors used two separate voting systems – first past the post for the local government elections and a mixed member proportional system for the Scottish Parliament. Both systems require the voter to put a “X” on their ballot papers. However, as a consequence of the introduction of the single transferable vote for local government elections in 2007, voters in Scotland will in future be faced with two quite different systems, one of which will require candidates to be placed in order using 1,2,3 etc.
- 4.83 We have consulted widely on this issue and considered the evidence on whether Scottish Parliament and local government elections should be decoupled. The majority of those who provided views to us were in favour of decoupling, mainly because of the likelihood of increased voter confusion. The Scottish National Party, the Conservatives, the Scottish Socialist Party and the Scottish Green Party supported this. While the Labour Party recognised the potential for confusion, they favoured holding the elections on the same day as in their view this improved turnout for the local elections.
- 4.84 The Local Government Elections Bill, sponsored by David Mundell, when MSP for South of Scotland, proposed decoupling the two elections. The Commission has seen copies of the consultation responses to this and note that the majority of these favoured decoupling, with a clear preference for delaying the council elections until May 2008.
- 4.85 We considered whether the potential for confusion would be greater as a result of the introduction of the single transferable vote for local government elections, along with our recommendations for reforming the mixed member system for Scottish Parliament elections.
- 4.86 We acknowledge that decoupling would mean more frequent voting, and recognize that it might result in lower participation in local government elections as a result of voter apathy and voter fatigue. The main argument given by the Scottish Executive during the passage of the Scottish Local Government (Elections) Act in 2002 was that combining the elections would drive up the turnout for local government elections. However, while turnout did rise significantly when these elections were combined for the first time in 1999, it fell back in 2003.<sup>35</sup> This decrease has been used to suggest that coupling elections does not necessarily increase turnout.
- 4.87 We cannot be certain what the level of turnout would have been if these elections had been decoupled and can only speculate on whether the additional complexity to be introduced to the electoral systems might increase the number of invalid votes.
- 4.88 During the Commission’s visit to Northern Ireland, where elections using the single transferable vote and first past the post are combined, we did not hear

any compelling arguments in favour of decoupling. We also note that in recent Northern Ireland elections there was only a marginal increase in spoiled papers,<sup>36</sup> and electoral administrators seemed to be relaxed about the additional complexity involved in running multiple elections using different voting methods on the same day.

- 4.89 We also considered the recent experience in London of using multiple voting systems on the same day. In 2000, the Greater London Authority election and the Mayoral election combined a mixed member system and the supplementary vote. Four years later, these two elections were combined with the European Parliament elections, which used a list system. Thus, in 2004, people in London were asked to vote in three different elections using three different voting systems. This simultaneous operation of different electoral systems had no discernible effect on turnout, which in fact increased from the 2000 to 2004 elections, but the level of invalid votes was higher which suggests some voter confusion.<sup>37</sup> However, the design of the ballot paper seems to have been a significant factor in creating confusion, which emphasised to us the importance of clear ballot paper design.
- 4.90 As well as adding to the complexity of the act of voting, combining elections might also have a detrimental impact on voter understanding of the respective responsibilities of the different institutions. Moreover, the experience of combined elections in Scotland suggests that there has been a marginalization of the local government elections. As the Electoral Commission found in its study of the 2003 combined Scottish Parliament and local elections, the Scottish and regional media gave almost no coverage of the latter and there was little coverage of the campaign issues even in the local papers.<sup>38</sup>
- 4.91 In our view, decoupling the elections would reduce the complexity of voting, potentially reduce voter confusion and help keep the numbers of invalid votes to a minimum. It would also reduce administrative complexity in the planning, management and counting of the elections, and enhance the transparency of the electoral process, especially allowing attention to be focused on local issues.
- 4.92 On balance, we believe that the importance of strengthening local democracy and accountability and reducing voter confusion are persuasive concerns. We therefore recommend decoupling the Scottish Parliament and local government elections.
- 4.93 This recommendation is particularly focused on the 2011 elections, when reforms are most likely to be introduced to revise the mixed member system. Introducing an open list, and the possible added complexity this would bring is a key factor in this decision. However, we also have concerns about the combined elections proposed for 2007, when a relatively new system for the Scottish Parliament election will be combined with a completely new system for local government

elections. We therefore invite the Scottish Executive to consider the postponement of the 2007 local government elections. However, if the Scottish Parliament and local elections are held on the same day in 2007, the opportunity should be taken to conduct specific research on the impact of this combination.

## Elections to the European Parliament

- 4.94 In looking at the consequences of having four different electoral systems for voter participation and confusion, we considered whether our recommendations for the Scottish Parliament electoral system might have implications for the way in which Scottish MEPs are elected.
- 4.95 All countries represented in the European Parliament are required to use a proportional system to elect their MEPs, although the particular systems differ. Even in the United Kingdom there is some variation, with Scotland, Wales and England using closed party lists, while Northern Ireland uses the single transferable vote.
- 4.96 From the evidence gathered, we concluded that there was little general understanding of the role of MEPs and few constituents appeared to know who their European representatives are. Although this might not be caused by the electoral system, we do believe it is exacerbated by it. By requiring voters to select a party rather than an individual, the existing system makes it difficult for candidates to develop a profile among the electorate. The Commission therefore concluded that the status and legitimacy of Scotland's MEPs would be improved if the closed list was replaced with the single transferable vote for Scottish elections to the European Parliament.
- 4.97 The nature of the European Parliament also means that a vote for a party makes less sense than in other institutions. In carrying out their representative role, MEPs sit in broad pan-European party groups (for example, Labour MEPs join the Party of European Socialists; Liberal Democrats join the Alliance of Liberals and Democrats for Europe; Conservatives have on occasion joined the European Peoples Party). In these circumstances, a party vote makes less sense than a candidate vote. Nor do any of the parties compete for government office. Rather, they are competing to elect Scotland's seven Members of the European Parliament, to sit alongside 725 other MEPs from across the European Union.
- 4.98 Scotland's seven MEPs are ambassadors for Scotland – they are “Scotland's team” in the European Parliament, a role the MEPs themselves value.<sup>39</sup> We believe that introducing the single transferable vote to elect them would allow Scottish voters to select the best team of parliamentarians to represent the country.

- 4.99 If candidates for the European Parliament have to ensure that they are given sufficient first and second preferences from the Scottish electorate, they might be more likely to engage with the electorate and have a higher profile on the domestic stage. As a consequence, the public could be expected to have a better idea of who they are, what they do, and the relevance of the institution in which they serve.
- 4.100 The concerns we have about localism created under the single transferable vote and the impact this can have on the delivery of effective government is less relevant in the European context. MEPs are relatively detached from local issues. Their key roles include legislating, deciding and monitoring the EU budget and approving the appointment of the European Commission. They do not usually have a substantial role in constituency matters and we do not think that electing them using the single transferable vote would encourage them to acquire one.
- 4.101 With Scotland already treated as a single multi-member electoral district, the outcome of a European election under the single transferable vote should be as proportional as the current closed party list system. A candidate-based election would also provide an opportunity for talented individuals within and beyond the main parties to come to the fore.
- 4.102 Introduction of the single transferable vote for European elections would also reduce the number of electoral systems in use in Scotland from four to three. While we have found no evidence to suggest that multiple electoral systems are in themselves a deterrent to voter participation, and have concluded that concerns about multiple systems should not drive electoral reform, we recognise that reducing the number of systems could be beneficial.
- 4.103 Although we did not conclude that the single transferable vote was, on balance, the best system for the Scottish Parliament at this stage, we believe its use for European elections would have a positive impact on the profile, recognition and legitimacy of Scotland's MEPs, and should enhance the visibility and legitimacy of one of the key institutions of the European Union.

## Recommendations

- The mixed member proportional system for elections to the Scottish Parliament should be retained, but revised.
- The language used to describe the mixed member electoral system for the Scottish Parliament should clearly explain the "constituency vote" and "regional vote". The term "second vote" is misleading and should not be used. Where possible, the term "mixed member system" should be used

rather than “additional member system”. The voting system for the Scottish Parliament should also be presented as a system in its own right and not as an adaptation of first past the post.

- The Electoral Commission should clarify the purpose of the regional vote and in particular revise the design of the ballot papers used in Scottish Parliament elections with the aim of conveying better the way the voting system operates.
- In order to give voters more choice over the election of regional members, the closed list system should be replaced by open lists. The Electoral Commission should investigate how best to devise such a system, while minimising complexity for voters.
- Candidates for election to the Scottish Parliament should not be prohibited from standing in a constituency and on the regional list at the same election.
- Restricting voter choice by removing the regional vote and introducing a one-vote system is not acceptable. The two vote system should be retained for Scottish Parliament elections.
- The mixed member system should continue to be based on regional lists rather than a national list.
- Scottish Parliament and local government elections should not be held on the same day.
- The single transferable vote should be introduced for European Parliamentary elections in Scotland.
- Our revised electoral system, if implemented, should be reviewed following the experience of two elections. If further reform is judged necessary, consideration should be given at that time to introducing the single transferable vote for Scottish Parliament elections.
- E-counting and e-voting should be introduced as soon as possible, but before 2011.

## Notes

<sup>1</sup> Scottish Constitution Convention, 1995, *Scotland's Parliament. Scotland's Right*, p22.

<sup>2</sup> Norris, P, 1995, 'Introduction: the politics of electoral reform', *International Political Science Review*, vol.16, p4.

<sup>3</sup> Germany was the only example of a mixed member system until the 1990s, but there has been a rapid explosion of this type of system since. One study estimated that, by 1999, 29 different countries have used some form of mixed member system, covering half the world's population.

However, when only mixed member proportional systems are included, i.e. those which use the list to correct the disproportionality of the constituency first past the post vote, the number is much smaller. In addition to the Scottish Parliament and Welsh Assembly, only Germany, New Zealand, Bolivia and Venezuela currently operate a mixed member proportional system for national elections.

- 4 This system is used at national level in the Republic of Ireland and Malta, for Assembly, local and European elections in Northern Ireland, and for Senate elections in Australia.
- 5 Curtice J, 2004, 'Proportional representation in Scotland: public reaction and voter behaviour', *Representation* 40, p7.
- 6 *Ibid.* Whereas 83% of electors voted for their first preference party on the constituency vote, only 75% did so on the regional vote. Among those who incorrectly believed that the purpose of the regional vote was to give them the opportunity to express a second preference, only 72% voted for their first preference party, compared with 81% of those who correctly identified this as false.
- 7 Lord Steel of Aikwood, April 2005, consultation response.
- 8 In the Clwyd West constituency in 2003, four of the five constituency candidates were elected (one as the constituency member and three as regional members).
- 9 Independent Commission to Review Britain's Experience of PR Voting Systems, *Changed Voting Changed Politics: Lessons of Britain's Experience of PR since 1997*, (School of Public Policy, UCL, London), p91.
- 10 Farrell, D, *Electoral Systems: a comparative introduction*, (Houndmills: Palgrave), 2001; Bowler, S and B Grofman (eds), *Elections in Australia, Ireland and Malta under the Single Transferable Vote: reflections on an embedded institution* (Michigan: University of Michigan Press); Bowler, S, Farrell, D and Pettit, R 'Expert opinion on electoral systems: so which electoral system is "best"?' *Journal of Elections, Public Opinion and Parties*, vol. 15, no. 1, 2005, pp.3-20; Lijphart, A and B Grofman (eds), *Choosing and Electoral System: Issues and Alternatives*, (New York: Praeger), 1984.
- 11 National Executive Working Party on Electoral Systems, 1991, *The Plant Report* (Guardian Studies: Volume 3) p99.
- 12 Scottish Labour Party consultation response, March 2005.
- 13 It was first used in Germany between 1949-53 and is now used for Italian senate elections and lower house elections in Taiwan. This system has also been proposed by the Quebec Government to replace first past the post for their provincial elections.
- 14 Scottish Labour Party consultation response, March 2005.
- 15 Joyce MacMillan paper to the Commission, April 2005.
- 16 Electoral Commission, <http://www.electoralcommission.org.uk/election-data/index.cfm?epage=b&frmElectionID=2>.
- 17 New Zealand Electoral Commission, [http://www.elections.org.nz/uploads/two\\_ticks\\_english\\_script.doc](http://www.elections.org.nz/uploads/two_ticks_english_script.doc)
- 18 Perth and Kinross Council consultation response, March 2005, p4.
- 19 Government White Paper, 2005, *Better Governance for Wales*, (Cm6582) p29.

- 20 Dr Thomas Lundberg, of Keele University, suggested to the Commission that “banning dual candidacy ... could eliminate the benefits of better constituency service by reducing the competition that facilitates it.” Lundberg, T, consultation response, 3 April 2005, p2.
- 21 Electoral Commission, 2005, *The Electoral Commission's response to the Government White Paper: Better Governance for Wales*, Cm6582.
- 22 Winetrobe, BK, July 2005, *Comment on the Government White Paper: Better Governance for Wales*, Cm6582.
- 23 *Op cit* Independent Commission on PR, 2004, p151.
- 24 *Op cit* Curtice, J, 2004.
- 25 In Sweden, for example, the voter casts a party preference and can also indicate a preference for an individual candidate. In Finland, candidates are nominated but not ranked by the parties and the constituent votes for an individual candidate from a list.
- 26 Scottish Labour Party Consultation response, March 2005.
- 27 In some cases this may be a small percentage of party members for that constituency or region. However, for parties with a small membership, even if all the members vote, the overall numbers may still be small.
- 28 Scottish Constitutional Commission, 1994, *Further Steps towards a Scheme for Scotland's Parliament, A Report to the Scottish Constitutional Convention*.
- 29 The Report of the Independent Commission on the Voting System, 1998 (Cm 4090-1).
- 30 In our focus groups, first past the post was seen as the simplest and easiest voting system.
- 31 For example, when Keith Raffan resigned as MSP for Mid Scotland and Fife, he was replaced by Andrew Arbuckle, who had been the next candidate on the Liberal Democrat list in that region.
- 32 Report by a group of academics chaired by Dr David Butler, Nuffield College, Oxford to the Independent Commission on the Voting System, August 1998.
- 33 In New Zealand, national lists do not appear to have prevented parties from allocating members elected via the list to cover specific geographical areas. Donald, R *The role of a list MP*, (<http://greens.org.nz/searchdocs/other4873.html>).
- 34 This arrangement was instituted by the Scottish Local Government (Elections) Act 2002.
- 35 The Electoral Commission, *Scottish Elections 2003, The Official Report on the Scottish Parliament and local government elections*, 1 May 2003, p17.
- 36 A breakdown of spoiled ballot papers indicates the differences between intentionally spoiled ballot papers, and those invalidated as a result of voter error. We included only the latter in our considerations.
- 37 Elections Review Committee, *Greater London Authority Elections Report, 2004*; House of Commons Library, Research Paper 04/61, UK Election Statistics: 1918-2004, 28 July 2004.
- 38 *Op cit* The Electoral Commission, *Scottish Elections 2003*, p35
- 39 Farrell, D, Scully, R, 2003 (ESRC Award No. R0000239231) Electoral Reform, Proportional representation and the British MEP. In a 2003 survey Scottish MSPs reported that relations between them were good and that they co-operated on many issues for the benefit of Scotland, p17.



## Note of dissent by John Lawrie in relation to paragraphs 4.35 and 4.37

I share with other Commissioners the belief that no electoral system is perfect (paragraph 4.33) and I believe that the advantages of the single transferable vote set out in paragraph 4.34 all support a strong case for it.

With regard to the disadvantages cited in paragraph 4.35:

1. It would be a mistake to exaggerate the complexity of voting; the only difference is that voters could (but would not have to) rank candidates in order of preference. This is in any event no more than those who participate in council elections will become used to. The process by which votes are translated into seats is indeed more complex, but we heard no evidence in the Republic of Ireland that this undermined confidence in the system.
2. The geography of the Highlands and Islands can be a complicating factor under any electoral system (including first past the post). The difficulties are not unique to the single transferable vote; indeed, both the region and the individual constituencies in a mixed member system will cover a large area.
3. Irish electoral politics have often been tarred with the brush of excessive localism. I have seen no convincing evidence that this phenomenon is attributable to the single transferable vote. Localism can also occur in other systems: the sometimes uneasy relationship between regional and constituency members of the Scottish Parliament is no different from that which can exist between fellow members in an Irish multi-member constituency, and in both cases it is about competition to be seen as the best champion of local interests.

Taking account of all the points considered in paragraphs 4.34 and 4.35, I believe, that the balance of advantage lies clearly in favour of replacing the mixed member system with the single transferable vote for the Scottish Parliament. If, however, the mixed member system is retained, the improvements to it recommended in this report have my support.



## 5 Representation

- 5.1 As in the other chapters, we have also set out tests against which to measure and assess our recommendations on representation. We believe that:
- Reforms should seek to enhance the accountability of elected members to the electorate.
  - The roles and responsibilities of elected members should be clear to the public, who should have easy access to their representatives.
  - The advocacy role is part of the duty of all elected members and citizens should not be deterred from approaching any elected representative.
  - Clarifying the roles and responsibilities of elected members should not be at the expense of voter choice in accessing effective representation.

### Setting Representation in Context

- 5.2 Political representation and how it is carried out is shaped by tradition and the nature of our political culture. In Scotland, ideas on representation owe a great deal to the Westminster model, as might be expected, and within that model elected representatives fulfil a number of functions. We agree with the Scottish Parliament Procedures Committee which suggested that the three main roles of MSPs are to pass laws, keep a check on the activities of the Scottish Executive and act as a forum for national debate and for expressing the opinions of the Scottish people.<sup>1</sup>
- 5.3 Inevitably, there will be some variation in the way in which these roles are played out by different elected members. As the Jenkins Commission suggested, it has long been a practice for some Westminster MPs to seek a national role, while others wish to undertake a more local function.<sup>2</sup> We see such a variation in practice in the Scottish Parliament within the ranks of both constituency and regional members.
- 5.4 As we have discussed in the chapter on voting, the electoral system for the Scottish Parliament has an impact on these roles by creating two different types of member. There is clearly some public confusion about the roles and responsibilities of regional and constituency representatives. Accordingly, we have considered the impact of these matters on Scotland's citizens and whether action is needed to improve matters.

## Background

5.5 When the electoral system for the Scottish Parliament was proposed it was based on the expectation that the voting system would not produce two different types of MSP. Most commentators, and most politicians, assumed that all MSPs would perform broadly similar duties and tasks, although no analysis of how that might happen was undertaken.

5.6 In 1998, Henry McLeish, then the Scottish Office Minister taking the Scotland Bill through Westminster, rejected in evidence to the Scottish Affairs Committee the possibility that regional MSPs would be seen as an inferior category of members:

*“They have been elected by people, elected on a different basis but by the Scottish people and that is important... Everyone has got a role to play and everyone will be viewed positively; there will be no difference”.*<sup>3</sup>

5.7 However, it was clear from early in the first session of the Scottish Parliament that this expectation was not to be the reality. Tensions quickly arose between regional and constituency members and also between MSPs and MPs, which had the potential to have a detrimental impact on the service received by their constituents.

5.8 Based on the evidence we have gathered, the Commission has concluded that there remains a lack of understanding of the roles and responsibilities of constituency and regional MSPs. Improving this should assist public understanding of the job members are elected to do, while enhancing the opportunities for regional members to play a more strategic representative role.

## Roles and responsibilities

5.9 In terms of their daily work, all MSPs participate fully in the business of the chamber and the committees of the Parliament and are eligible for governmental and Parliamentary office. The main area of difference and conflict has been over the role of regional members and their involvement in constituency case work.

5.10 Research indicates that almost all MSPs see solving constituents’ problems as a very important part of their role. A higher percentage of MSPs ranked such work as “very important” than did so for their work on parliamentary committees or holding the Executive to account. The percentage of their time spent on such work reflects this view, with casework being the most time consuming activity for both constituency and regional members.<sup>4</sup>

- 5.11 The problem has been that in some areas regional and constituency members have attempted to fulfil similar constituency roles for the same geographical area, which has caused tensions between them. Some constituency members have accused regional members of “cherry picking” individual cases and local issues with a view to raising their profile or that of their party in the constituency. There have also been attempts by regional members to target specific constituencies in their region with a view to taking the constituency seat at the next Scottish Parliament election. This seems to be an accepted feature of the similar electoral system in New Zealand. However, if regional members represent themselves and their roles as being the same in terms of constituency function, creating resource duplication, the citizen has a right to question whether this is effective or efficient.
- 5.12 The view that the current mixed member system has created two types of MSP was a criticism raised frequently in our consultation responses. The comments made to the Commission, supported by other research, have led us to conclude that there is a lack of public understanding of the roles and responsibilities of these elected representatives.<sup>5</sup> While our focus groups cannot be assumed to be representative, they gave us an insight into the views of some of those not actively engaged with politics. Among those interviewed there was clearly a low level of awareness of local politicians and a limited understanding of the roles of elected representatives. Some expressed a feeling that a constituent should go to his or her MP for big issues and to the councillor for more local issues. There was also a widespread perception of a hierarchy of representatives, with MPs at the top.

*“Councillors are the wee cog that starts the wheel. If you have an issue you go to them first and they take it to your MP”*

(Male, Fort William focus group, C2DE, Aged 18-34, Voter)

- 5.13 Understanding of the role of MSPs was very limited among those interviewed; most felt they had a similar role to MPs but with a stronger focus on Scotland and Scottish issues. There was almost no spontaneous mention of regional MSPs and many appeared not to be aware of their existence. Even when prompted, most were unable to describe their role; only one or two interviewees knew that regional MSPs were there to provide proportionality in the Parliament.

*“Are they reserves in case someone dies?”*

(Female, Glasgow focus group, ABC1, Aged 18-34, Voter)

- 5.14 There is also confusion about the different responsibilities of the Westminster and Scottish Parliaments. This came across in our consultation responses and was supported by survey work, such as the Scottish Social Attitudes Survey.<sup>6</sup>

5.15 While there might be a lack of understanding, the public’s primary concern seems to be less with “constitutional niceties” than with whom they think will get the job done. Although some commentators have criticised MSPs for “interfering” in reserved matters and MPs in devolved ones, it would appear that elected representatives are generally expected by their constituents to campaign on matters of importance to them, regardless of which institution retains the competence to legislate. As Mitchell has observed:

*“The public may be confused as to which services are devolved and which retained from a constitutional-legal perspective but this confusion reflects the complexity of the system as it operates in practice and it is the practice of the system with which most members of the public are likely to be concerned.”*

5.16 The Scottish Social Attitudes Survey found that about half of those respondents who contacted their MP had also contacted their MSP.<sup>8</sup> One MP suggested to us that some of his constituents went to their MP irrespective of the issue, especially if they were not satisfied with the service they had received from their MSP or councillor. While we would not support any moves which limit the choice of individual constituents, we do think they should be enabled to make a more informed and better targeted approach to the most suitable representative to deal with their particular issue.

*“I wouldn’t write to the Scottish Parliament. I would write straight to my MP. He is the one sitting next to the Prime Minister.”*

(Female, Fort William focus group, ABC1, Aged 34+, Voter)

5.17 Even when approached about a matter which was the responsibility of another part of government, several elected members suggested to us that they had an important advocacy role on behalf of their constituents. One MP said that when constituents raised issues that were devolved or council matters, it was nonetheless appropriate for that MP, as one of their representatives, to try to resolve the problem.

5.18 This is different from having a direct role on an issue, where the MP has the power to influence the policy. Bradbury and Russell suggested that representatives who take up cases which lie outside the responsibility of their institution, such as MSPs taking up matters reserved to Westminster or vice versa, damaged the lines of democratic accountability<sup>9</sup> and provided a poor service to constituents. We do not accept this conclusion and believe there are many occasions when it is entirely appropriate for members to raise issues which are not strictly within the competence of their institution. However, we do believe that representatives should make every attempt to make it clear to their constituents the limit of their ability to influence policy on such matters.

## Relationships between elected representatives

- 5.19 Putting the citizen at the centre of our concerns means that our primary consideration in the relationships between elected representatives is their impact on the level of service constituents receive.
- 5.20 Devolution and the introduction of a proportional system for election of both regional and constituency members have challenged the established understanding of the relationships between elected members. It appears to have been difficult for some MPs to come to terms with these changes, particularly as their numbers have been reduced and much of their previous responsibilities devolved. The fact that constituency work is also seen by MPs as a “major and highly-valued part of the Scottish MP’s role”<sup>10</sup> means that an element of competition for such work has been introduced into the system. This was bound to create tensions.
- 5.21 While MPs and MSPs representing the same area report their relationships to be generally co-operative, there are exceptions, especially where the representatives belong to opposing political parties. Further, the ending of coterminous boundaries between Westminster and the Scottish Parliament since May 2005 has made these relations more complex, with almost all MPs now sharing their constituency with more than one constituency MSP.
- 5.22 Most representatives from the same party sharing an area seem to have developed a system for passing on correspondence or enquiries from their constituents, which are not the direct responsibility of their institution, and over time a decreasing number have taken up the matter themselves with the relevant Minister. Such a procedure is, however, still uncommon when MPs and MSPs are of different parties.<sup>11</sup>
- 5.23 We are also aware of tensions between some constituency and regional MSPs. While we were informed by some MSPs that this was a problem largely observed during the first session and has diminished since then, it was raised at several of the meetings which the Commission held with groups of MSPs. We believe that the pattern of party representation has been a key factor in the development of these tensions. Following the 1999 election, the governing parties held almost 90% of the constituency seats, while the four non-government parties, with a total of 55 seats, had only seven constituency members. This political split between constituency and regional members appears to have introduced an element of partisanship into their relationships which has made it difficult to reach agreements on their respective roles.

- 5.24 The 2003 election reduced the dependence on regional members for both the Scottish National Party and the Conservatives, though not by a huge margin and slightly increased the number of regional members for the Labour Party, but again not significantly. It also maintained the reliance on the regions for the Green Party and Scottish Socialist Party, and the number of members for each of those parties rose substantially.
- 5.25 Politics is by its nature combative and we do not think that competition in itself has a negative impact on constituency service. However, the mixed member system has clearly introduced an additional element of competition, with the two types of members creating new areas of potential tension. This is not unique to Scotland – competition between members of different parties is an accepted feature of mixed member systems in other countries, such as New Zealand and Germany.
- 5.26 We believe that whilst the situation is better than it was in the early years of the Scottish Parliament, there are improvements which could be made to provide greater clarity for the voter and create a more defined role for constituency and regional members.

## Improving the effectiveness of codes of conduct

- 5.27 The Guidance from the Presiding Officer on relationships between MSPs (often called the Reid Principles) is a code of conduct drawn up early in the first session of the Scottish Parliament by an internal working group under the chairmanship of then Deputy Presiding Officer George Reid.<sup>12</sup> It attempted to create a clearly understandable framework within which constituency and regional MSPs might be able to work in harmony in relation to constituency work.
- 5.28 This guidance provided for regional members to notify constituency members when they took up particular cases (largely to avoid duplication), indicated how regional members were allowed to describe themselves, introduced requirements for regional members to hold surgeries in more than one constituency (to avoid overt targeting of constituencies) and made some other small administrative changes. However, while they proved useful to the Presiding Officer in adjudicating in cases of difficulty, there is little evidence that they produced a major change in behaviour or atmosphere. In evidence to us, some regional members suggested that they continue to resent the way in which they are presented as second class MSPs – for example, regarding notification of constituency visits by Ministers, access to Ministers, and allowances.
- 5.29 While we recognize that some guidance is required to prevent MSPs misleading voters about the area they represent, the Reid Principles primarily discuss what

regional MSPs should not do, and define them only relative to constituency MSPs. We would like to see the current principles redefined into a code of conduct which creates a more positive role for both regional and constituency MSPs. As well as helping the public understand more clearly the role of their elected representatives, this should develop a more positive view of the role and the contribution which regional MSPs can make, and allow our proposed revision of the electoral system to enhance the level of service to communities and regions.

- 5.30 The application of the code of conduct could also be made more robust through strengthening the role of the Presiding Officer. Lessons no doubt can be learned from the way the authority of the Speaker in the House of Commons has been developed over time. The control which he has over the behaviour of members of the House of Commons has not yet been matched in the young Scottish Parliament and we feel it should be possible for the position of the Presiding Officer to be enhanced to ensure that the post has sufficient sanctions to ensure compliance with the code. This is a Parliamentary responsibility and we urge the Parliament to consider how this might be achieved.

## A more positive role for regional MSPs

- 5.31 Tensions have clearly been created because some constituency and regional MSPs have been competing for the same role in relation to constituency work. Despite conflict over roles, there has still been no attempt by any party or by the Parliament to define a distinctive role for constituency and regional members. Some discussion has mooted a few possible solutions, including giving regional members a more prominent role in the running of the Parliament, such as convening its committees. But, given the current party split of constituency and regional seats (with smaller and opposition parties having the vast majority of the latter seats), we doubt this would be acceptable to the Executive or the Parliament as a whole.
- 5.32 If the mixed member system is to be effective, clear and positive roles need to be developed for regional and constituency MSPs, while allowing some flexibility to account for different ways of working. Research suggests that regional members generally spend less time on constituency work and hold fewer surgeries, but they spend more time engaging with the local community. Also, some regional MSPs take on more issue specific or strategic roles, looking at matters across a wider geographical area. It is perhaps no coincidence that those who took this approach seemed to be less involved in conflict with other members.
- 5.33 We believe that constituents should be free to approach whichever member they wish on individual matters of importance to them. In addition, we do not



wish to restrict the ability of constituency or regional members to deal with any matter within their area. However, we would suggest that constituency work should primarily be undertaken by constituency MSPs, while regional members should take the opportunity to develop a more strategic role. As the boundaries chapter of this report sets out, public services such as health, police, transport, and water are delivered by a range of bodies whose boundaries often cut across constituencies and local authorities. It is critical that elected members should hold delivery bodies such as these to account for the services they provide and assist their constituents to engage with them. While councillors, constituency MSPs and MPs will, of course, continue to have such responsibilities, regional MSPs represent larger geographical areas and are particularly well placed to develop this role. This is less a matter of job demarcation and much more a question of striking a better and more effective balance in representation to the advantage of citizens.

- 5.34 We believe that public bodies should also be required to engage more actively with regional members. Some bodies already do this, but there is variation across the country. We appreciate that effective engagement can sometimes be difficult because the boundaries of some public bodies cut across the current electoral regions, requiring a large number of regional MSPs to be dealt with. However, our recommendations for revised regions based on local authorities should assist in this by providing for a clearer structure and greater coherence.
- 5.35 The reviews of public sector services which are presently being undertaken or planned by the Scottish Executive and local councils (which we referred to in paragraph 3.34) will no doubt be significant for improving representation and accountability.
- 5.36 Whether such balance and engagement is effectively achieved by MSPs should be an element of the review process that we have recommended.

## Voter education and access to information

- 5.37 The Commission firmly believes that if future voters are to value the democratic process, it is important to encourage a culture of participation and a habit of voting at an early age.<sup>13</sup> The Commission commends the educational work that is already being done, and especially the initiatives the Scottish Parliament has taken in this area. We recognise, however, that there are many competing pressures on the time available in schools. We are some way off from ensuring that no child leaves school without having had education for citizenship which includes some background to the operation of the Parliaments and the importance of participation. In the wider context of the National Priorities for Education, this should be a priority.



*“schools are not democratic organisations; we do not feel we can change things”*

(Executive Member, Highland Youth Voice)<sup>14</sup>

- 5.38 Members of Highland Youth Voice suggested that the school environment can have an important role to play in fostering a culture of participation by ensuring that young people leave school with an understanding of politics and the political process, but also at a practical level through participating in the running of their school, for example through pupil councils and youth parliament. The establishment of pupil councils is one of many proposals in the paper on Education for Citizenship produced by the national curricular body, Learning and Teaching Scotland.<sup>15</sup> These approaches not only encourage young people to vote, but may also promote a sense of empowerment within the school environment. We believe that if young people are empowered at an early stage they will be more likely to take part in the democratic process when they are older.
- 5.39 As well as clarifying roles and responsibilities, it is also important to inform the public of what these are. We recommend that information should be produced for distribution to all households before and after every Parliamentary and local government election. These should also be available electronically and in community locations such as schools and libraries and would require a high standard of presentation and design to encourage their retention and use.
- 5.40 The information distributed before the election should explain clearly the voting system for the election(s), how ballot papers should be completed, how votes will be counted and how these will be translated into seats. This should be done in conjunction with a well resourced media campaign.
- 5.41 The information distributed after the election should contain:
- The result of the election and detail on the newly elected representatives, along with a list of the constituent’s other elected representatives, including Councillors, MSPs, MPs and MEPs, with information on each of these representatives.
  - Contact details for the appropriate representatives, including their surgeries, office addresses, phone numbers and some central numbers for accessing the institutions to which they belong.
  - A definition of the responsibility of each level of government, including information on how the role of constituency and regional MSPs links with the members named in the pack.
- 5.42 We recommend, too, that there should be a publicly available national resource providing advice on how to contact public bodies, with a central web address and national free phone number which would refer enquirers to their appropriate representatives.

## Helping Elected Representatives to Improve Their Skills

- 5.43 The Commission notes that there are at best only limited opportunities for elected representatives to enhance their skills to assist in carrying out their duties. While some local authorities do provide a range of training opportunities for councillors (in finance, planning, computer skills and standards of conduct), the Arshad report on Widening Access to Council Membership noted that there was no consistent approach in the quality of that training and uptake is voluntary.<sup>16</sup>
- 5.44 Such opportunities for training and development should also be introduced or expanded for Parliamentary representatives. The duties carried out by our MPs, MSPs and MEPs are of great importance. Continuous professional development is now a normal feature in most types of employment and we would suggest that this should also be regarded as important for our members of Parliaments. This is particularly relevant in respect of the scrutiny role members carry out as well as their roles as legislators and advocates for their communities and constituents.
- 5.45 We do not suggest a compulsory programme but would encourage all institutions of government to consider how best to support their members through training and skills development. We also encourage all members to seek training to enhance their capacity to carry out their various roles.

### Recommendations

- Citizens should not be restricted in their freedom to access any of their elected representatives on any issue.
- The code of conduct for Members of the Scottish Parliament should be revised to provide a clear and positive role for both constituency and regional members to enhance representation for constituents and improve scrutiny of local and national services.
- The Scottish Parliament should consider how the role of the Presiding Officer could be strengthened to ensure compliance with the code of conduct.
- All MSPs should be entitled to deal with constituency work, but we expect this to be primarily undertaken by constituency MSPs. All MSPs should be entitled to deal with issues raised by constituents affecting a wider area, but these should primarily be dealt with by regional MSPs.
- The Parliaments and local authorities should consider how best to improve the provision of training and skills development for their members.

- No pupil should leave school without having had an introduction to the voting systems and the work of the Parliaments, in the context of Education for Citizenship.
- In advance of every election, information clearly describing the electoral system and voting arrangements should be provided to the electorate.
- After every election, information should be provided to every household which includes details of their representatives and their responsibilities.
- There should be a publicly accessible national resource providing advice on how to contact elected representatives and public bodies.

## Notes

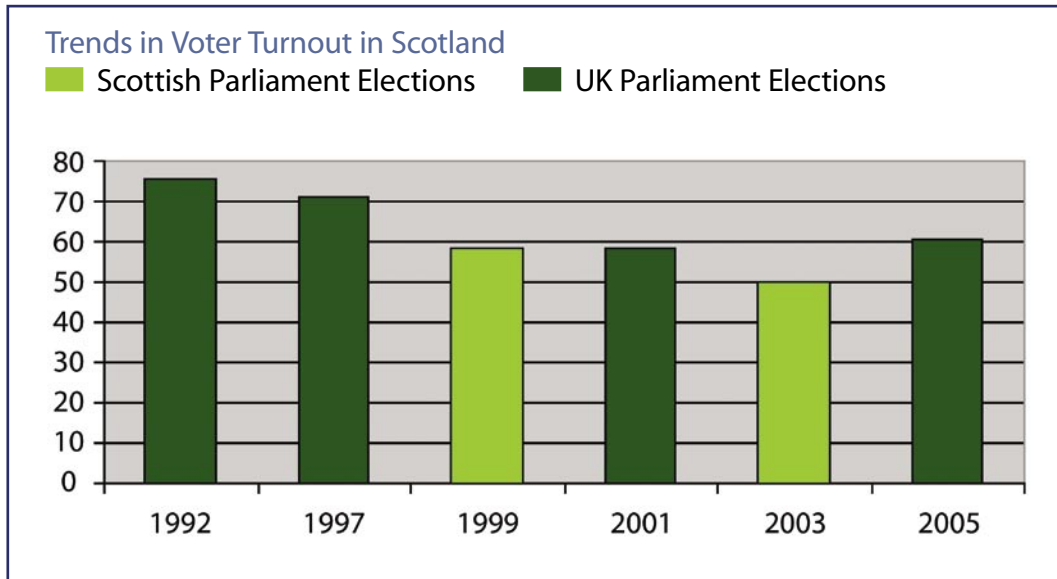
- <sup>1</sup> Scottish Parliament Procedures Committee, 2003, *The Founding Principles of the Scottish Parliament: the application of Access and Participation, Equal Opportunities, Accountability and Power Sharing in the work of the Parliament*, 3rd Report Session 1.
- <sup>2</sup> *Op cit* Independent Commission on the Voting System, p36.
- <sup>3</sup> McLeish, H, House of Commons, Scottish Affairs Committee, 1 July 1998.
- <sup>4</sup> Bradbury, J and Russell, M, May 2005, *The Local Work of Scottish MPs and MSPs: Effects of Non-coterminous Boundaries and AMS (Report to the Commission on Boundary Differences and Voting Systems)* p10.
- <sup>5</sup> Bromley, C, Curtice, J and Given, L, April 2004 *Public attitudes to devolution: the first four years. Report based on the 1999-2003 Scottish Social Attitudes surveys (Scottish Parliament Corporate Body)* p56.
- <sup>6</sup> When respondents were asked who they would contact about a problem with the NHS, which is the responsibility of the Scottish Parliament, 20% said MP, 37% said MSP and 38% said they would equally be able to help. When asked who they would contact about state benefits, which is reserved to Westminster, 24% said MP, 34% MSP and 37% said they would equally be able to help. *Ibid.* p56.
- <sup>7</sup> Mitchell, J, 6 June 2005, *Bringing the People Back In: Devolution, Electoral Systems and Representation*, p8.
- <sup>8</sup> *Op cit* Bromley, C, Curtice, J and Given, L, April 2004, p4.
- <sup>9</sup> *Op cit* Bradbury, J and Russell, M, May 2005, p30.
- <sup>10</sup> *Ibid* p12.
- <sup>11</sup> *Ibid* p19.
- <sup>12</sup> <http://www.scottish.parliament.uk/msp/conduct>.
- <sup>13</sup> Priority 4 of the Scottish Executive's National Priorities in Education requires schools to report on citizenship activities by 2005. Themes relating to living in a democracy are included in

the People in Society section of the 5-14 Environmental Studies curriculum and the working of Parliamentary democracy is part of the Modern Studies curriculum in the upper years of secondary school. We note however that, in 2005, only 22% of Standard Grade candidates took Modern Studies. The Scottish Parliament's Education Service has produced an impressive range of learning resources linking to these courses. It also encourages school visits to the Parliament and has a wide range of general resource packages about the operation of the Parliament aimed at all levels of pupils at primary and secondary school.

- 14 Evidence session with Executive Members of Highland Youth Voice, an elected body of young people drawn from all over the Highland Council area. The young people have a wide range of opportunities to 'have their say' and are also involved in taking forward their own agenda and tackling issues that are important to them.
- 15 <http://tscotland.org.uk/citizenship/planning/paper>.
- 16 Widening access to council membership progress group, November 2004, *Renewing Local Democracy*.

## 6 Looking Forward

- 6.1 Scottish democracy and its procedures do not exist in isolation. Politics, parties and the Parliamentary process must connect directly with citizens and underpin the many matters that are important to them and on which national life depends. People expect to be able to access and influence the decision making process and their expectations rightly need to be fulfilled. Therefore, in concluding this report, we consider some wider democratic issues which have operated as a significant background to our deliberations.
- 6.2 We live in a period in which there is a deep distrust amongst many citizens, particularly younger ones, of established politics and the relevance of voting. This concern is supported by a wealth of evidence including our focus group research<sup>1</sup> which indicated a high level of disengagement. Most of the participants in these groups claimed not to be interested in politics, including interviewees who voted regularly. Many talked about being disappointed by the political process with a general lack of enthusiasm for both politics and politicians. Alongside these feelings of disengagement there also existed a cynicism about the motivation of individual politicians.
- 6.3 There was also evidence throughout these groups of a feeling of inevitability regarding the outcome of any electoral contest. Some felt that their individual vote carried little weight and made little difference. Yet despite all of this, most still placed value on participating in our democracy. This was true even of those who did not themselves vote.
- 6.4 While our focus groups cannot be assumed to be representative of the wider population, similar levels of distrust and disengagement have been shown in numerous surveys, including research carried out for the Electoral Commission after the Scottish Parliament elections in May 2003. This found that “voter apathy, disinterest and dislike of politicians were the rationale provided by serial non-voters”.<sup>2</sup>
- 6.5 Non-voters are now regrettably a significant factor in Scottish democracy. Levels of voter participation can vary from one election to another, depending on the nature and closeness of the contest, but the table below suggests a downward trend in voter turnout in General Elections and Scottish Parliament elections in recent years. This trend is mirrored across mainland Britain and in many other countries. It is ironic that at a time when decision-making is being devolved in our country, with opportunities provided for extended participation, some voters appear to be turning their backs on their right to the franchise.



- 6.6 Levels of non-voting vary considerably across Scottish constituencies. In the 2003 Scottish Parliament election, for example, turnout ranged from 35% in Glasgow Shettleston to 59% in the Western Isles, with the regional vote ranging from 42% in Glasgow to 54% in the West of Scotland.<sup>3</sup> Socio-economic class, education and age are factors in explaining these differences. The Commission is concerned that differential turnout among social groups is likely to have negative consequences for democracy and the quality of representation they receive.
- 6.7 There are also other factors which help explain trends in voter participation, including changes in the nature of society and party politics, and issues such as the dissolution of communities and declining levels of trust, civic duty and engagement, which are reflected in decreasing support and confidence in all national institutions. We also accept that low voter turnout is not significantly influenced by electoral systems and therefore cannot be overcome by simply reforming the way we vote.
- 6.8 Other solutions therefore need to be found to make politics and elections more relevant and worthwhile, especially to the young. This is a challenge for democracy and for the political parties, and we appreciate that the UK government has acknowledged this –

*“Today we face some real challenges to our democracy. Above all there is a reluctance of so many to participate and engage with our democratic institutions, whether at the local or national level, as shown by the low turnout at recent elections.*

*We need to stem and reverse this decline in involvement and participation in the political process and government institutions. What governments do, needs to be meaningful to people, and people need equally to be able to have confidence*

*in those they have elected to office. Whilst an agenda for civic engagement must range far more widely than reforming our voting arrangements, the modernisation of our electoral process is an essential element of it.”<sup>4</sup>*

- 6.9 We are not pessimistic, however, and believe that there is a considerable potential for positive and radical renewal of participation. We believe that the reforms proposed in this report will help politicians and parties to engage more effectively with the electorate, and enhance the quality of service citizens have a right to receive from those elected to represent them.
- 6.10 Democracy in our country is in transition between the industrial age and the digital age. Our democracy is still one in which we send others away to do it – in other words, democracy is done for us, not by us. However, this needs to change to encompass a new world in which we are all better equipped to do things for ourselves, including participation in key decision making. The digital age offers significant opportunities to bring democracy closer to people. In turn, this should lead to more efficient and effective government, for it will be underpinned by stronger and wider participation from all its citizens. As has been noted -
- “The expansion of new information and communication technologies into every sphere of people’s lives offers the opportunity to progressively overhaul electoral processes and to realise the benefits that new technologies can offer this component of democracy.”<sup>5</sup>*
- 6.11 We therefore fully support the work being taken forward by the UK government and the Electoral Commission to develop an electoral modernisation programme, which is aiming in the next few years to deliver e-enabled, “multi-channel” elections to give people greater choice in the way they vote. In addition, we support the efforts being made to pilot innovations to improve access for electors – including early voting, mobile voting and alternative polling locations – and administrative efficiency, such as electronic counting of ballots.
- 6.12 The evidence we gathered has shown us that many people have only a superficial understanding of the operation of our Parliamentary democracy. This disengagement of so many from the democratic process underlines the need for continuous voter education and communication, and greater involvement of citizens in the decision making process. We especially need to engage with young, future voters.
- 6.13 The Commission commends what is already being done by the Electoral Commission to improve voter education and provide awareness material; through the Scottish Executive’s National Priorities in Education; and also the initiatives by the Scottish Parliament. We recognise, however, that there are many competing pressures on the time available in schools and that much still remains to be done to ensure that

no child should leave school without having an understanding of the operation of our Parliaments and the importance of participating in our democracy.

- 6.14 Communities need to be strengthened and developed. Boundaries – both physical and conceptual – have a role in this process.
- 6.15 It is also most important that steps are taken to ensure that citizens have a clearer understanding of responsibilities at all levels of the political process and are able readily to access representatives and services. The very real possibilities of substantial, wide-ranging e-democratic solutions to improve engagement and give the citizen a more direct voice in, and communication with, the political and civic apparatus is something which we believe can only bring improvements.
- 6.16 We are not at that stage yet. Our task was to focus on existing systems and to make recommendations to improve these. We believe that further improvement will always be possible, and we commend the thoughts in this chapter to any future commission or group established, as we have suggested, to revisit our remit after our proposed changes have been in operation for two elections.
- 6.17 We hope that such a review will build on our work, which has aimed to lay the foundation for a better functioning democracy in Scotland and put the rights of its citizens first.

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## Notes

- <sup>1</sup> George Street Research, August 2005, *Commission on Boundary Differences and Voting Systems – Final Report*, pp 7-9.
- <sup>2</sup> Booth, M and Curtice, J, *Scottish Elections Research, May-June 2003* (ICM/Electoral Commission), p22. In responding to why they did not vote – “one in five (22%) members of the Scottish electorate say they were working, had other things to do, or were simply too busy to vote. There is a clear age correlation, with younger people most likely to tell us this, older people less likely. The proportion rises to 30% among those who are working full time. A further 10-20% provide other circumstantial reasons for not turning out. One in 15 (7%) were too old or ill to get to their polling station; one in 20 (5%) was away, and small numbers either lost their polling card (4%) or thought their polling station was too far away (2%). Many people also gave deliberate reasons for not voting, the most important being a cynical impression of politics and politicians who are thought not to be trusted because they don’t keep their promises (19%). One in ten (11%) also say that voting is a waste of time, or makes no difference as the Scottish Parliament has no power.”
- <sup>3</sup> *Op cit* Electoral Commission “*Scottish Elections 2003*” (Edinburgh) pp 122-3.
- <sup>4</sup> The Government’s Response to the Electoral Commission’s Report: *The Shape of Elections to Come – A Strategic Evaluation of the 2003 Electoral Pilot Schemes*, Cm 5975, September 2003, p5.
- <sup>5</sup> Local Government Association, London, 2002, *The Implementation of Electronic Voting in the UK*, p4.



# 7 Summary of Recommendations

## Boundaries

1. Having the same constituencies for the Scottish Parliament and Westminster is desirable but not essential and should not be a driver of change to the electoral system for the Scottish Parliament.
2. The boundaries for Scottish Parliamentary constituencies should be within and respect local authority areas rather than Westminster constituencies.
3. Scottish Parliament regions should be revised to reflect natural local communities and identity and should be built on local authority areas.
4. The functions of the Boundary Commission for Scotland and the Local Government Boundary Commission for Scotland should be combined to enable the constituencies and regions for the Scottish Parliament and local authorities to be reviewed together. Consideration should also be given to integrating the review of Westminster constituencies in Scotland into this process.

## Voting

5. The mixed member proportional system for elections to the Scottish Parliament should be retained, but revised.
6. The language used to describe the mixed member electoral system for the Scottish Parliament should clearly explain the “constituency vote” and “regional vote”. The term “second vote” is misleading and should not be used. Where possible, the term “mixed member system” should be used rather than “additional member system”. The voting system for the Scottish Parliament should also be presented as a system in its own right and not as an adaptation of first past the post.
7. The Electoral Commission should clarify the purpose of the regional vote and in particular revise the design of the ballot papers used in Scottish Parliament elections with the aim of conveying better the way the voting system operates.
8. In order to give voters more choice over the election of regional members, the closed list system should be replaced by open lists. The Electoral Commission should investigate how best to devise such a system while minimising complexity for voters.
9. Candidates for election to the Scottish Parliament should not be prohibited from standing in a constituency and on the regional list at the same election.

10. Restricting voter choice by removing the regional vote and introducing a one-vote system is not acceptable. The two vote system should be retained for Scottish Parliament elections.
11. The mixed member system should continue to be based on regional lists rather than a national list.
12. The Scottish Parliament and local government elections should not be held on the same day.
13. The single transferable vote should be introduced for European parliamentary elections in Scotland.
14. Our revised electoral system, if implemented, should be reviewed following experience of two elections. If further reform is judged necessary, consideration should be given at that time to introducing the single transferable vote for Scottish Parliament elections.
15. E-counting and e-voting should be introduced as soon as possible but before 2011.

## Representation

16. Citizens should not be restricted in their freedom to access any of their elected representatives on any issue.
17. The code of conduct for Members of the Scottish Parliament should be revised to provide a clear and positive role for both constituency and regional members to enhance representation for constituents and improve scrutiny of local and national services.
18. The Scottish Parliament should consider how the role of the Presiding Officer could be strengthened to ensure compliance with the code of conduct.
19. All MSPs should be entitled to deal with constituency work, but we expect this to be primarily undertaken by constituency MSPs. All MSPs should be entitled to deal with issues raised by constituents affecting a wider area, but these should primarily be dealt with by regional MSPs.
20. The Parliaments and local authorities should consider how best to improve the provision of training and skills development for their members.
21. No pupil should leave school without having had an introduction to the voting systems and the work of the Parliaments, in the context of Education for Citizenship.
22. In advance of every election, information clearly describing the electoral system and voting arrangements should be provided to the electorate.

23. After every election, information should be provided to every household which includes details of their representatives and their responsibilities.
24. There should be a publicly accessible national resource providing advice on how to contact elected representatives and public bodies.

## Annex A

### Membership

The chairman of the Commission is Professor Sir John Arbuthnott, previously Principal and Vice-Chancellor of the University of Strathclyde and currently chairman of Greater Glasgow NHS Board.

#### The Commission's other members are –

Mr Adam Bruce	Director, McGrigors Public Policy, Edinburgh
Professor Mike Donnelly	Head of School of Business and Enterprise, Queen Margaret University College, Edinburgh
Mr Donal Dowds	Divisional Managing Director, BAA Scotland and USA
Mr John Keggie	Self employed businessman and former Deputy General Secretary, CWU Postal
Mr John Lawrie, OBE	Former investment manager and former Chairman of the Scottish Liberal Party
Councillor Alison Magee	Convenor, Highland Council
Mr John McCormick	Former Controller, BBC Scotland
Dr Nicola McEwen	Lecturer in Politics, University of Edinburgh
Ms Mary Pitcaithly, OBE	Chief Executive and Returning Officer, Falkirk Council
Mr Michael Russell	Freelance journalist and broadcaster and former MSP for South Scotland

#### The Commission's secretariat is

Dr Ewan MacLean	Secretary
Mrs Anne Aitken	Assistant Secretary

# Annex B

## Remit

The Commission's remit is to examine the consequences of having four different systems of voting in local and Parliamentary elections in Scotland and different boundaries between Westminster and Scottish Parliament constituencies for -

- voter participation;
- relationship between public bodies and authorities in Scotland and MPs/MSPs; and
- representation of constituents by different tiers of elected members.

The Commission is asked to make recommendations on whether these consequences require action to be taken in respect of -

- arrangements between elected representatives, to ensure that constituents and organisations receive the best possible service;
- pattern of electoral boundaries in Scotland;
- relationships with other public bodies and authorities in Scotland; and
- method of voting in Scottish Parliament elections;

and to make recommendations on the form of any action, while respecting the principles of the devolution settlement.

The Commission is required to be independent, transparent and consultative.

The Commission is asked to report to the Secretary of State for Scotland and the First Minister within 18 months of starting its inquiry. The Secretary of State will then decide on the Government's response, taking into account the Executive's views.

## Annex C

### Ways of Working

1. Following two preliminary meetings, the Commission held its first official meeting on 9 September 2004. Our programme of work was announced on 8 December 2004.
2. Our website – [www.arbuthnottcommission.gov.uk](http://www.arbuthnottcommission.gov.uk) – contains copies of the responses to our consultation; reports of our local public inquiries across Scotland; summaries of our monthly meetings; and the research reports which we commissioned.

### Consultation

3. We issued our consultation “Inquiry into Boundaries, Voting and Representation in Scotland”, on 18 January 2005. This set out our remit and the background to our inquiry, the principles and criteria to which we intended to work, and a number of key questions to which we sought responses.
4. Responses were received from 115 individuals, political parties, elected representatives, electoral administrators, councils and civic bodies and other organisations. All of these and a summary of them are on our website.

### Public meetings

5. We held public meetings during February and March 2005 in Glasgow, Aberdeen, Dundee, Galashiels, Stornoway and Edinburgh. These were organised on our behalf by Scottish Civic Forum. The attendance was mixed, and we recognise that many of those who came already had firm views on the issues which are of concern to us. For this reason, we also felt it necessary to carry out focus group research to reach less involved citizens.

### Research

6. In addition to referring to existing studies, we commissioned two pieces of original research. The first was by Dr Jonathan Bradbury (University of Swansea) and Dr Meg Russell (University College London) on “The local work of Scottish MPs and MSPs: Effects of non-coterminous boundaries and AMS”. This focussed on representation of constituents and was based on evidence from MPs and MSPs between 2000 and 2005, funded by the Leverhulme Trust’s “Nations and Regions” programme and the ESRC’s “Devolution and Constitutional Change” programme.

7. Our second study was focus group research carried out for us by George Street Research, Edinburgh. This gathered views and experiences on boundaries, voting and representation from a range of people who were less likely to respond directly to our consultation or attend our public meetings. Six groups were held in three locations – Glasgow, Fort William and Brechin – involving different social classes, ages and genders. The participants were screened to ensure that they were not actively engaged in politics.

## Evidence sessions

8. The Commission met monthly. At many of our meetings individuals and representatives were invited to give evidence. Members of the Commission also held separate meetings with civic groups and public bodies.

## Elected representatives

9. We met with the Speaker of the House of Commons and the Presiding Officer of the Scottish Parliament, with Scottish MPs and Scottish Peers, and held meetings with MSPs in their party groups. A number of MPs, MSPs, and one MEP also responded to our consultation, as did some local authorities.

## Academic seminars

10. The Commission held two academic seminars which were attended by many of the leading experts in Britain in the areas of voting behaviour and electoral systems. These were very useful for providing important background information and testing our emerging conclusions.
11. We also benefited from having a student placement from the University of Edinburgh who produced a report for us on “The impact of multiple electoral systems and non-coterminous boundaries on voter turnout and confusion.” We are very grateful to Ms Sarah Nicholson for carrying out this work.
12. We thank the University of Edinburgh for providing the facilities for hosting our academic seminars.

## International evidence

13. We looked at electoral systems in other countries to see if any lessons could be drawn for the operation of the Scottish system.
14. Members of the Commission visited Northern Ireland and the Republic of Ireland, where we met with the Northern Ireland Electoral Commission, political parties, academics, civil servants and electoral administrators. We found these visits very useful for analysing how the single transferable vote works in practice.

15. Members of the Commission also met with a delegation from the Canadian House of Commons, the New Zealand High Commissioner, and the Chief Executive of the New Zealand Electoral Commission.
16. Individual members of the Commission also took the opportunity of private visits to the USA and Canada to take evidence on aspects of our work.



# Annex D

## Meetings and Evidence

### Commission meetings

9 September 2004  
4 October 2004  
1 November 2004  
6 December 2004  
7 February 2005  
7 March 2005  
4 April 2005  
11 May 2005  
6 June 2005  
11 July 2005  
1 August 2005  
5 September 2005  
3 October 2005  
14 November 2005  
28 November 2005  
5 December 2005

### Evidence sessions

3 November 2004	Highland Council Select Committee on Renewing Democracy and Community Planning
17 December 2004	Academic seminar
18 January 2005	Reception for MSPs
25 January 2005	Scottish MPs Tony Travers, London School of Economics and Steve Watts, Greater London Authority
17 February 2005	Glasgow City Council
3 March 2005	Aberdeenshire Council
8 March 2005	Association of Electoral Administrators
18 March 2005	COSLA leaders and Local Authority Chief Executives
22 March 2005	Cumbernauld Community Council

29-31 March 2005	Academics, electoral administrators, political parties and civil servants in Belfast and Dublin.
12 July 2005	The Speaker of the House of Commons Scottish Peers Scottish MPs
8 September 2005	The Presiding Officer of the Scottish Parliament
13 September 2005	Green Party MSPs
14 September 2005	Independent group of MSPs Labour Party MSPs
15 September 2005	Liberal Democrat Party MSPs
16 September 2005	Academic seminar
20 September 2005	Conservative Party MSPs
5 October 2005	Scottish National Party MSPs
18 October 2005	Rt Hon Jonathan Hunt, New Zealand High Commissioner and Georgina Roberts, First Secretary
23 November 2005	Scottish Socialist Party MSPs

## Witnesses

Bob Smith	Secretary, Boundary Commission for Scotland
Dr Elspeth Graham	Commissioner, Boundary Commission for Scotland
Sir Neil McIntosh, CBE	Commissioner, Electoral Commission
Andy O'Neill	Head of Office in Scotland, Electoral Commission
Jeff Hawkins	Chair of the Society of Local Authority Lawyers and Administrators
Mike Lithgow	Chair, Electoral Registration Committee of the Scottish Assessors Association
June Nelson	Secretary, Electoral Registration Committee of the Scottish Assessors Association
Dr James Gilmour	Fairshare
Councillor Andrew Burns	
Amy Rogers	
Stewart Maxwell MSP	
David Mundell MSP	
Rt Hon Helen Liddell MP	
Struan Stevenson MEP	

Prof James Mitchell	Department of Government, University of Strathclyde
Prof John Curtice	Department of Government, University of Strathclyde
Dr Fiona Mackay	School of Social and Political Studies, University of Edinburgh
Tom Divers	Chief Executive, Greater Glasgow NHS Board
Dr Helena Catt	Chief Executive, New Zealand Electoral Commission

## Academic seminar – 17 December 2004

Dr Jonathan Bradbury  
 Dr David Butler  
 Prof John Curtice  
 Prof David Denver  
 Dr Sydney Elliot  
 Ms Oonagh Gay  
 Mr Jeff Hawkins  
 Mr Steven Herbert  
 Prof Charlie Jeffrey  
 Dr Fiona MacKay  
 Sir Neil McIntosh CBE  
 Dr Meg Russell  
 Prof Jonathan Tonge  
 Mr Barry Winetrobe

## Academic seminar – 16 September 2005

Dr Jonathan Bradbury  
 Dr David Butler  
 Prof John Curtice  
 Prof David Denver  
 Prof James Mitchell  
 Dr Meg Russell

## Meetings held by a commissioner during a personal visit to the USA

Michael Toner	Vice Chairman, Federal Election Commission
Paul DeGregorio	Vice Chairman, US Election Assistance Commission
Leslie D Reynolds	Executive Director, National Association of Secretaries of State
Jacqueline Malinak	Director, Guernsey County Board of Elections, Ohio

## Meetings in Belfast and Dublin

Patrick Reilly	First Secretary (Political), British Embassy, Dublin
Prof Michael Marsh Prof Richard Sinnott	Department of Political Science, Trinity College, Dublin School of Politics and International Relations, University College Dublin
Maurice Coughlan	Franchise Section, Department of the Environment, Heritage and David Walsh Local Government
Sean Sherwin	National Organiser, Fianna Fáil
Seamus Magee	Head of the Electoral Commission's Northern Ireland Office
Lynn Sheridan	UK Unionist Party
Peter Emerson	De Borda Institute
Dennis Stanley June Butler	Chief Electoral Officer for Northern Ireland Assistant Chief Electoral Officer for Northern Ireland
Peter Hawthorne	Northern Ireland Office
Prof Rick Wilford Dr Sydney Elliot	School of Politics and International Studies, Queens University, Belfast
Robin Wilson	Director, Democratic Dialogue
David Ford	Alliance Party
Steven Farry	
Denis Haughey	SDLP

## Public Meetings

8 February 2005	Glasgow
16 February 2005	Dundee
22 February 2005	Aberdeen
9 March 2005	Stornoway
16 March 2005	Galashiels
22 March 2005	Edinburgh

# Written Consultation Responses

## Civic organisations and bodies

British Association of Colliery Management/Technical Energy Administration  
Management  
Campaign for Further Education  
Convention of Scottish Local Authorities  
Democrats Action Group for Gaining Electoral Reform  
Education Institute of Scotland  
Electoral Reform Society  
Electoral Reform Society of Australia  
Fairshare  
Scottish Borders Elder Voice  
Scottish Human Rights Centre  
St Andrew's Community Council

## Local authorities

Aberdeen City Council  
Aberdeenshire Council  
Angus Council  
City of Edinburgh Council  
Clackmannanshire Council  
Comhairle nan Eilean Siar  
East Ayrshire Council  
East Dunbartonshire  
East Renfrewshire Council  
Falkirk Council  
Glasgow City Council  
Highland Council  
Midlothian Council  
North Lanarkshire Council  
Orkney Islands Council  
Perth and Kinross Council  
Renfrewshire Council  
Scottish Borders Council  
South Ayrshire Council  
West Dunbartonshire Council  
West Lothian Council

## Electoral administrators

Society of Local Authority Lawyers and Administrators (SOLAR)

Scottish Assessors Association  
Association of Electoral Administrators – Scotland Branch

## Constituency branches

Aberdeenshire Council Liberal Democrat Group  
City of Edinburgh Council Liberal Democrats  
Liberal Democrats of Tweeddale, Ettrick and Lauderdale – Penicuik Branch  
Scottish Labour Coatbridge and Chryston Scottish Parliament Forum

## Political parties

Scottish Conservative and Unionist Party  
Scottish Co-operative Party  
Scottish Green Party  
Scottish Labour Party  
Scottish Liberal Democrats  
Scottish National Party  
Scottish Socialist Party

## Parliamentarians

Bill Butler MSP  
Dennis Canavan MSP  
Phil Gallie MSP  
Karen Gillon MSP  
Duncan MacNeil MSP  
Cathy Peattie MSP  
John Home Robertson MSP  
Mike Rumbles MSP  
Stewart Stevenson MSP  
Jim Wallace MSP / Tavish Scott MSP / Alistair Carmichael MP  
Brian Donohoe MP  
George Foulkes MP  
John Robertson MP  
Bill Tynan MP  
John Purvis CBE MEP  
Lord Steel of Aikwood KT KBE DL

## Individuals

Nina Baker  
Una Bartley  
Ian Baxter

Dr Adrian Blau  
Gavin Corbett  
Dr Angela Dixon  
Charles Douglas  
R Hugh Drummond  
J R L Fraser  
John Blair-Fish  
P Flannery  
Archie Flockhart  
Maurice Frank  
K C Fraser  
Simon Gazeley  
Dr James Gilmour  
Professor Daryl Glaser  
Margaret Goudie  
Thomas G F Gray  
Jim Halcrow  
James Henderson  
Raymond Heyworth  
Dr I D Hill  
Louis Howson  
Robert P Ingram  
Dr Guy Johnson  
Philip Kestleman  
Isobel Lindsay  
Caroline Little  
Dr Thomas Lundberg  
Robin McCormick  
Donald MacLean  
Ronald MacLean  
Graham McKechnie  
James MacKenzie  
Lawrence Marshall  
Kingsley Matthews  
Councillor Joan McEwen  
Lynne Morris  
George Morton  
Cate and Stan Mowat  
Councillor Gordon Murray  
T G Napier  
Ray Newton  
Adam Palmer  
Russell Peggs  
Adam Ramsey

Andrew Ryle  
John Schofield  
Dr David Stevenson  
Jem Taylor  
Alistair Tibbett  
Adrian Turner  
Bill Waugh  
Gordon West

Two respondents wished to remain anonymous









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