



LOCAL GOVERNMENT COMMISSION

Determination

of the membership and basis of election for the
general election of the Wellington Regional Council to
be held on 13 October 2001

BACKGROUND

- 1 The Wellington Regional Council (hereafter referred to as “the Council”), as required by section 101H of the Local Government Act 1974 (hereafter referred to as “the Act”), considered its membership and the basis of the election of the Council to apply for the general election of the Council to be held in October 2001.
- 2 The Council elected at the 1998 general election comprises 14 members elected from 6 constituencies, as follows:

Kapiti Constituency	1 member
Porirua Constituency	2 members
Wellington Constituency	5 members
Lower Hutt Constituency	3 members
Upper Hutt Constituency	1 member
Wairarapa Constituency	2 members
- 3 The Council's initial proposal was for the retention of the existing arrangements except for the renaming of the Porirua Constituency as the Mana Constituency. The allocation of constituency representation was based on weighted factors – population: 80%, rateable value: 10%, land area: 10%.
- 4 The Council received seven objections from:
 - **Porirua City Council**, which objected to the renaming of the Porirua Constituency as Mana Constituency, and proposed the inclusion of the Tawa Community within the Porirua Constituency as a means of achieving more effective and fairer representation and to recognise the combined community of interest;

- **Kapiti Coast District Council**, which proposed a 10 member council to achieve fairer representation;
- **Richard Heedegen**, who proposed that members be allocated to constituencies by using a weighting of population (60%) and land area (40%);
- **Michael Mellor**, who proposed that:
 - * members be allocated to constituencies by rounding to nearest whole number rather than the highest remainder method adopted by the Council;
 - * the constituency representing Porirua City be called Porirua;
 - * there be two constituencies in the Wairarapa;
 - * to allow for more effective representation, Wellington City be divided into either 3 or 5 constituencies.
- **Wellington Labour Local Bodies Committee**, which proposed that Wellington City be divided into two constituencies to allow for more effective representation;
- **Upper Hutt City Council**, which sought an additional member for the Upper Hutt Constituency;
- **Hutt City Council**, which lodged a pro-forma objection in case any substantive issues are raised prior to the Regional Council's hearing of objections.

5 Following consideration of the objections, the Council decided to revert to a "Porirua" constituency and to divide the existing Wellington Constituency into three constituencies – Wellington (North-Western), Wellington (Lambton) and Wellington (South-Eastern).

6 Appeals were lodged by:

- Upper Hutt City Council; and
- Porirua City Council.

Porirua City Council subsequently withdrew its appeal.

7 Counter-objections were received from:

- Wellington City Council, on:
 - * the boundaries between the proposed Wellington (Lambton) and Wellington (South-Eastern) Constituencies;
 - * the disparity of population between the Porirua and Kapiti Constituencies; and
 - * the Porirua City Council's proposal for the inclusion of the Tawa Community in a Porirua-Tawa Constituency;
- Citizens and Ratepayers Association, which opposed the division of the Wellington Constituency into three constituencies;
- Andrew Taylor, who opposed the division of the Wellington Constituency into three constituencies and proposed combining firstly the Kapiti and Porirua Constituencies and secondly the Upper Hutt and Lower Hutt Constituencies; and
- Michael Gibson.

- 8 Mr Gibson's letter although entitled a counter-objection did not specify what was being objected to, nor did his response to a subsequent letter from the Chief Executive Officer of the Commission. He stated that he wished to present to the Commission the views of the Regional Council's Constituency Review Subcommittee which he had chaired. On this basis that there was no specific counter-objection involved the Commission could have declined to consider the counter-objection. However it noted that, under section 101K(2) of the Act, Mr Gibson could have requested to be heard by the Commission even he had not lodged an appeal or counter-objection. It should be noted, however, as a matter of record the opportunity to be heard under section 101K(2) is not an automatic right. It is at the discretion of the Commission.

Preliminary Matter for Determination

- 9 The Commission, on receiving advice of the appeals and counter-objections, resolved that before making a determination of the electoral arrangements of the Council that it would meet with the Council and the appellants and counter-objectors if they wished to be heard. The Commission resolved to meet the Council and the appellants and counter-objectors in Wellington on 19 December 2000.

The Hearing

- 10 The Commission met with representatives of the Council, and those appellants and counter-objectors who wished to be heard.

Those appearing were:

- for the Council: Stuart Macaskill (Chairman), Ted McGuire (Council Secretary), Lloyd Bezett (Policy Analyst);
- Wellington City Council: Ross Armstrong (Councillor), Ross Bly (Special Projects Officer and Returning Officer);
- Citizens and Ratepayers Association: Peter Isaacs; and
- Michael Gibson.

The Upper Hutt City Council and Andrew Taylor did not appear at the hearing. Mr Taylor did, however, forward a further written submission to the Commission.

The Council: Mr Macaskill's comments can be summarised as follows:

- The Chairman outlined the process the Regional Council had gone through in making its decisions. As part of the process a meeting had been held with the Mayors of Lower Hutt City, Porirua City, Kapiti Coast District and the South Wairarapa District. Other Mayors had also been invited;

- The Upper Hutt City Council had expressed a desire to have more than one member on the Regional Council. Taking into account the criteria for fair representation this was not able to be acceded to;
- he found the comments of the Citizens and Ratepayers Association about the quality of members that would be elected from smaller constituencies offensive;
- He disputed Andrew Taylor's assertion that smaller constituencies would lead to parochialism. Experience had given the Regional Council an opportunity to see two different constituency arrangements. Members elected from single member or smaller constituencies have just as broad a view as members elected from multi-member constituencies;
- a greater number of constituencies would contribute to:
 - * better geographic representation;
 - * a reduction in the cost of election for candidates; and
 - * voters being better informed about the qualities of candidates;
- he noted that in some other regions territorial authority districts were divided into two or more constituencies;
- he said was not quite certain about what Mr Gibson is objecting about;
- the question of the communities of interest within the region had been considered by the Constituency Review Subcommittee. Four regional functions had been considered to determine communities of interest;
- in relation to Wellington City there is a community of interest, but there are sub-communities of interest, and Tawa and Porirua do share a water catchment;
- although Wellington City continues to be a single community of interest three constituencies are required to provide effective representation;
- he did not consider that communities of interest differed appreciably between the Regional and City or District level;
- in Wellington City some distinctions can be made relating to regional functions: the northern and southern parts of the City contain different public passenger transport infrastructure, and different parts of the City have different water sources;
- in relation to harmonising the Regional Councils and the Wellington City Council's electoral boundaries, this would be a matter for the Commission to arrange;
- in response to questions about why the Porirua Constituency had been allocated an additional member to that what the statistics used would suggest, he said that the Regional Council works best with 14 members and the Regional Council had used its full entitlement of members by allocating the additional one to the constituency which would otherwise have a single member with the largest population;
- in response to a question as to whether there had been a clamour for the division of the Wellington Constituency into three constituencies, he said that, in addition to the objections on this issue, it was a response to feedback received by Councillors from members of the community.

Wellington City Council: The City Council's comments can be summarised as follows:

- the City Council's submission was limited in its nature and pro-forma because of the appeal lodged by the Porirua City Council. It noted that the Porirua City Council's appeal had since been withdrawn;
- in relation to the boundaries of the proposed three Wellington City constituencies the Council asked that they be consistent with any changes to the City's ward boundaries arising out of consideration of appeals against its review;
- there was about the level of representation of the Porirua Constituency and whether the transfer of Tawa to the Porirua Constituency would be a means of resolving this issue. The Council did not consider that this was the best solution to the problem. Since the inclusion of the Tawa Ward in a larger Northern Ward, Tawa's links with the City had increased;
- the Council recognised that Tawa shared a catchment with Porirua but so did other parts of Wellington City which had not been proposed for inclusion in a Porirua-Tawa Constituency; and
- it was acknowledged that Tawa and Porirua shared some transport issues (e.g. rail), but as far as Tawa is concerned the essential linkage is southwards with Wellington City rather northwards with Porirua City.

Citizens and Ratepayers Association: Mr Isaac's comments may be summarised as follows:

- the association opposed the Council's decision to divide Wellington City into three constituencies as it would encourage sectarian interests to the detriment of the broader objectives the Regional Council should be pursuing and would result in a decrease in the quality of councillors;
- there had been no clamour for such a change;
- Wellington City should be represented as a totality;
- the Regional Council was unwittingly being drawn into a trend for confusion of community and regional interests;
- in response to a question about the appeals comment that "the ward system creates mediocrity and little people" Mr Isaac stated that the view expressed by the Association's President had been idiosyncratic but also that he shared that view. The ward system encourages sector interests;
- it was a decision based on party politics within the Wellington City Council;
- he did not consider that the Regional Council should be elected at large but believed that it was not desirable to divide the City further into constituencies; and
- the other single member constituencies were acceptable because they contained whole territorial districts.

Michael Gibson: His comments may be summarised as follows:

- the Constituency Review Subcommittee had not set out to arrive at the status quo in carrying out the review. It undertook its task objectively;
- he disagreed with the Citizens and Ratepayers assertion that the “ward system creates mediocrity and little people”;
- he did not agree that the three proposed Wellington City constituencies were three communities of interest requiring separate representation on the Regional Council;
- in relation to suggestions that the southern area of Wellington Constituency is under-represented on the Regional Council he noted that other councillors had been effective in lobbying for the area. He cited an example of a Councillor from elsewhere in the Constituency being successful in having the Environment Committee on the marine reserve proposal for the south coast;
- the issue of the representation of the Kapiti and Porirua Constituencies and the relativity’s between the two was vexing. He believed they did constitute two distinct communities of interest;
- he could not identify any specific factors that would indicate that the Porirua Constituency should have membership additional to that what the statistics indicated it should have;
- the idea of combining the Kapiti and Porirua Constituencies had not been addressed. However the two Councils lobbied strongly for the retention of the status quo; and
- he believed the representation of Wellington City on the Regional Council had in the past three years been satisfactory

The Regional Council in reply: The Chairman’s comments may be summarised as followed:

- Mr Gibson’s views are a personal opinion and should not be taken as the Regional Council’s or the Subcommittee’s views. He was not speaking on behalf of either and the subcommittee no longer existed;
- the Regional Council supports the principle of two members per constituency but in some cases the need to recognise specific communities of interest overrides that desire. While the territorial authorities representing those constituencies with one member would wish additional membership they would be less happy with being combined with other constituencies merely for the purpose of forming two member constituencies. There would be a risk in such cases of people feeling themselves to have been disenfranchised;
- it was recognised that over time the population of the Kapiti Constituency would overtake that of the Porirua Constituency with the consequent affects that would have for the distribution of membership;
- in relation to the submissions of the Citizens and Ratepayers Association, he observed that local communities need to have a sense of contact with elected representatives. As far as the affects of smaller constituencies is concerned, experience had shown that moving from one to another did not affect the behaviour or performance of councillors;

- although the Regional Council's decision's had been made by small majorities, the outcomes had been arrived at democratically through the statutory process; and
- the decision to allocate two members to the Porirua Constituency had been a product of deciding to have a total of 14 members and the need to place the 14th member with a constituency. It would also allow more effective representation and an ability to achieve separation of regulatory and service delivery issues.

MATTERS FOR DETERMINATION

- 11 Section 101D(2) of the Act provides that “every region shall be divided into constituencies for electoral purposes”. That, therefore, is not a matter which must be determined by the Commission.
- 12 The statutory provisions in respect of this appeal are contained in sections 101K and 101L of the Act. Section 101K(1) states:

“(1) The Commission shall, before the 29th day of March of the year of each triennial general election,-

(a) Consider the resolutions, objections, appeals, counter-objections, and information forwarded to it under section 101J of this Act; and

(b) Subject to section 101L of this Act, determine the number of wards or constituencies and their names and boundaries, and the number of members to be elected by the electors of each ward or constituency or, as the case may be, by the electors of the district as a whole.”

- 13 The relevant provisions of section 101L are subsections (1) and (3) which state:

“(1) In determining the number and boundaries of constituencies, the regional council and, where appropriate, the Commission shall ensure-

(a) That the number and boundaries of constituencies will provide effective representation of communities of interest within the region; and

(b) That constituency boundaries coincide with the boundaries of current statistical meshblock areas determined by Statistics New Zealand and used for Parliamentary electoral purposes; and

(c) That, so far as is practicable, constituency boundaries coincide with the boundaries of one or more territorial authority districts or the boundaries of wards.”

“(3) In determining the number of members to be elected by the electors of any constituency or ward, the council and, where appropriate, the Commission shall ensure that the electors of the constituency or ward receive fair representation having regard to the population of every constituency or ward within the region or district and, if the circumstances so require, the rateable values, areas, or other relevant characteristics of the various constituencies or wards.”

Consideration by the Commission

- 14 The Commission considers that when deciding on the number of councillors to be elected by the electors of any constituency, the sole criterion to be met under section 101L(3) is the provision of fair representation of the electors of the various constituencies within the region. In deciding this fairness of representation, the Commission must have regard primarily to population, but if this factor alone does not, in the opinion of the Commission, achieve fairness then regard should be given to rateable value and area or other relevant characteristics of the various constituencies. In the opinion of the Commission population must remain the predominant factor, but if other factors are applied, different weightings can be applied to all factors as are appropriate in any given circumstances. The Commission does not consider that any particular formula must be applied, and consequently, any mathematical calculation should be seen only as indicative as to a level of fairness which can be achieved on the basis of the factors required to be taken into account under the provisions of the Act. The final decision must be that which, the Commission considers will, after having regard to the various criteria set out in the Act, provide fair representation for the electors of any constituency.
- 15 As noted above, the legislation requires the Commission to ensure that the boundaries of constituencies will provide effective representation for communities of interest within the region. It is not of course a requirement that each individual community of interest will receive separate representation by way of a separate constituency. The Commission must be convinced that the particular community of interest, or in some cases, groupings of communities of interest will require separate representation to ensure the effective representation of those communities of interest. The Commission also considers that inherent in the concept of effective representation for communities of interest is the ability of those communities to receive fair representation.
- 16 The first set of issues to be considered by the Commission are broadly:
- whether in general terms the constituencies proposed by the Regional Council equate with the communities of interest requiring separate representation to achieve effective representation; and
 - specifically whether the division of the Wellington Constituency into three constituencies is required to achieve the same end.
- 17 In relation to the first question the Commission concluded that, with the exception of the proposed three Wellington Constituencies, the proposed constituencies are appropriate. They appear to the Commission to represent distinct communities of interest. With the exception of the Wairarapa Constituency they comprise single territorial authority districts. In the case of the Wairarapa Constituency geography and topography combine to create a distinct community of interest and commonality of interest within the Wellington Region. With one exception the boundaries dividing the other constituencies are reinforced by clear distances between the urbanised

parts of each constituency. The one exception is the boundary between Wellington City and Porirua City at Tawa. However the Commission accepted the views put to it that the focus of Tawa the movement of people was predominantly southwards to the remainder of Wellington City rather than northwards to Porirua City.

- 18 In relation to the second question the Commission considered that, as the Regional Council is the body to which members are being elected, the communities of interest being represented need to be clearly identifiable as communities of interest within the regional context. The Commission heard some views about, for instance, the transport issues facing the northern part of Wellington City being related to rail services and therefore differing from the transport issues facing the remainder of the City. The Commission notes that the area served by rail is by no means identical to the area proposed for the Wellington (North-Western) Constituency. Based on the information put to it, the Commission is not satisfied that the three proposed constituencies delineate communities of interest in the regional context.
- 19 On the basis of the above consideration the Commission has decided that the constituencies of the Wellington Region should remain as they are currently determined.
- 20 The Commission next considered whether the division of the Wellington Region into the constituencies proposed by the Council would create a situation where fair representation is possible. The Regional Council had applied a formula with the following weightings - population 80%, area 10%, rateable value 10%. The Commission considers that set of weightings appropriate. Compared to many other regions it gives a higher weighting to population but given the more urbanised nature of the Wellington Region this is reasonable. On this set of weightings membership for the constituencies on a Council with membership ranging from 11 to 14 members would be as follows:

Table 1: Population 80%, Area 10%, Rateable value 10%

Constituencies	Factor	Members			
		11	12	13	14
Kapiti	9.51	1.05	1.14	1.24	1.33
Porirua	9.79	1.08	1.17	1.27	1.37
Upper Hutt	8.23	0.91	0.99	1.07	1.15
Lower Hutt	20.59	2.26	2.47	2.68	2.88
Wellington	36.53	4.02	4.38	4.75	5.11

Wairarapa	15.34	1.69	1.84	1.99	2.15
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- 21 The clear issue arising out of this table is the fact that on a 14 member Council the Porirua Constituency is statistically entitled to only one member. Its statistical entitlement at 1.37 members is in fact only marginally higher than that of the Kapiti Constituency at 1.33 members. The other issue arising out of the table is that a calculation based on a 14 member Council results in 13 members because of rounding membership entitlements to the nearest whole number.
- 22 The Commission heard at the hearing that the Regional Council had in effect determined that 14 members worked best for the Council overall and notwithstanding the statistics had decided to allocate the additional member to the Porirua Constituency because it was the largest of the small constituencies in population terms.
- 23 The Commission considered this matter further and examined what membership constituencies would be entitled to using other weightings. Set out below are 3 tables giving different weightings to the factors of population, area and rateable value.

Table 2: Population 100%

Constituencies	Population	Members			
		11	12	13	14
Kapiti	41200	1.06	1.15	1.25	1.34
Porirua	47600	1.22	1.33	1.44	1.55
Upper Hutt	37300	0.96	1.04	1.13	1.22
Lower Hutt	98100	2.51	2.74	2.97	3.20
Wellington	166700	4.27	4.66	5.05	5.44
Wairarapa	38260	0.98	1.07	1.16	1.25
Total	429160	11.00	12.00	13.00	14.00

Table 3: Population 90%, Area 5%, Rateable value 5%

Constituency	Factor Value	Members			
		11	12	13	14
Kapiti	9.56	1.05	1.15	1.24	1.34
Porirua	10.44	1.15	1.25	1.36	1.46
Upper Hutt	8.46	0.93	1.02	1.10	1.18
Lower Hutt	21.72	2.39	2.61	2.82	3.04
Wellington	37.69	4.15	4.52	4.90	5.28
Wairarapa	12.13	1.33	1.46	1.58	1.70

Table 4: Population 75%, Area 12.5%, Rateable value 12.5%

Constituencies	Factor Value	Members			
		11	12	13	14
Kapiti	9.49	1.04	1.14	1.23	1.33
Porirua	9.47	1.04	1.14	1.23	1.33
Upper Hutt	8.12	0.89	0.97	1.06	1.14
Lower Hutt	20.02	2.20	2.40	2.60	2.80
Wellington	35.95	3.96	4.31	4.67	5.03
Wairarapa	16.95	1.86	2.03	2.20	2.37

- 24 The only table in which the Porirua Constituency is entitled to two members is that using population only. Table 3 using only a 5% weighting for each of area and rateable capital value reduces the membership entitlement to one. As with table 1, because of rounding the total membership of the Council would reduce from 14 to 13. It also reduces the number of members to be elected from the Wairarapa Constituency from two to one.

- 25 Although the question of the Porirua Constituency's membership could be addressed by using a population only formula the Commission notes that the Regional Council made a clear decision to use factors other than population for reasons related to the characteristics of the Region. The Commission did not consider it should depart from that decision since it is appropriate that area and rateable value be taken into account in this case.
- 26 One question addressed by the Commission was whether Porirua should remain a separate constituency with one member or be combined with the Kapiti Coast Constituency to form a constituency collectively entitled to three members.
- 27 When considering this question the Commission took the following into consideration:
- Porirua has a larger population than Upper Hutt, Wairarapa and the existing Kapiti Coast constituencies (see Table 1). If Porirua and Kapiti were combined, Porirua could be perceived as having been treated differently from areas with smaller populations, particularly Upper Hutt, to preserve a total membership of 14;
 - there is a distinct geographic divide between Porirua and Kapiti which highlights the distinctiveness of Porirua as a community of interest; and
 - the feeling of the Commission is that the perception of the Porirua community might well be that a combined constituency would result in a diminution of representation for that community of interest and therefore less effective representation.
- 28 The conclusion of the Commission is that based on the criteria of community interest and effective representation the Porirua Constituency should remain a separate constituency. Based on the criteria of fairness of representation the Commission has decided that the Porirua Constituency should be represented by one member.
- 29 The Commission notes that the issue of the Porirua Constituency was addressed by the previous Commission in 1998. It referred to "the rather anomalous position of the Porirua Constituency whose electors may elect 2 members although, on a strictly mathematical basis, their entitlement should be 1 only." The Commission considered the possibility of combining the Porirua Constituency with the Kapiti Constituency but for similar reasons to those considered by this Commission decided against that course of action.
- 30 The Commission went on to say that it was:
- "prepared, on this occasion, to find that over-representation of Porirua is still reasonably fair in the current circumstances of the Wellington Region. However, it recommends the Council to consider the situation very carefully prior to the elections to be held in 2001."*

- 31 While the issue of the Porirua Constituency was certainly considered by the Regional Council in its 2000 review in the context of a possible Porirua-Tawa Constituency, the Commission does not feel the Council tackled the issue of over-representation head-on.
- 32 The method the Regional Council uses to apply its formula for allocating members to constituencies warrants some comment. The Council used a method it calls the “highest remainder” method. Under this system the Council determines at the beginning of the exercise the total number of members. The statistical membership entitlement for each constituency is then calculated. As the Commission understands the process, in the 1st allocation it allocates members on the basis of the whole numbers calculated. Fractions are ignored. In the 2nd and subsequent allocations members are allocated to the constituency with “highest number behind the decimal point” until all members are allocated. An example of this system in operation was included in the Regional Council’s discussion document issued at the beginning of its triennial review. Essentially this system resulted in the Porirua Constituency being allocated two members despite its statistical entitlement of 1.37 members.
- 33 This method departs significantly from the method used by the Commission which allocates members on the basis of rounding to the nearest whole number. It understands that this method is the one used by most local authorities. The fact that the Regional Council uses a different system is not in itself a bad thing. However the Commission does not believe that the particular method used results in fair representation between wards.
- 34 The Commission has decided that a Council with a total of 13 members would provide the fairest representation for the electors of each constituency. The members will be elected on the following basis:

Kapiti Constituency	1 member
Porirua Constituency	1 members
Wellington Constituency	5 members
Lower Hutt Constituency	3 members
Upper Hutt Constituency	1 member
Wairarapa Constituency	2 members

PROCEDURAL MATTER

- 35 On two occasions during the hearing the Chairman of the Commission was required to leave the hearing for short periods of time to attend to urgent telephone calls. The Commission records that the Chairman was fully briefed after the hearing as to the discussions that took place during those absences, and that his absence had no affect on the outcome of its deliberations.

DETERMINATION

- 36 Under section 101K of the Act, the Commission determines that for the general election of the Council to be held on 13 October 2001-
- (1) The Wellington Region, delineated on S.O. Plan No 35951 deposited with the Chief Surveyor of the Wellington Land District shall be divided into 6 constituencies;
 - (2) Those 6 constituencies shall be:
 - (a) The Kapiti Constituency comprising the area delineated on S.O. Plan No. 35952 deposited with the Chief Surveyor of the Wellington Land District;
 - (b) The Porirua Constituency comprising the area delineated on S.O. Plan No. 35953 deposited with the Chief Surveyor of the Wellington Land District;
 - (c) The Wellington Constituency comprising the area delineated on S.O. Plan No. 37891 deposited with the Chief Surveyor of the Wellington Land District;
 - (d) The Lower Hutt Constituency comprising the area delineated on S.O. Plan No. 35956 deposited with the Chief Surveyor of the Wellington Land District;
 - (e) The Upper Hutt Constituency comprising the area delineated on S.O. Plan No. 35957 deposited with the Chief Surveyor of the Wellington Land District;
 - (f) The Wairarapa Constituency comprising the area delineated on S.O. Plan No. 35958 deposited with the Chief Surveyor of the Wellington Land District;
 - (3) The Council shall comprise 13 members of whom -
 - (a) one member shall be elected by the electors of the Kapiti Constituency; and
 - (b) one member shall be elected by the electors of the Porirua Constituency; and
 - (c) five members shall be elected by the electors of the Wellington Constituency; and
 - (d) three members shall be elected by the electors of the Lower Hutt Constituency; and
 - (e) one member shall be elected by the electors of the Upper Hutt Constituency; and

- (f) two members shall be elected by the electors of the Wairarapa Constituency.

37 As required by section 101L(2) of the Act, the boundaries of the above constituencies coincide with the boundaries of current statistical meshblock areas determined by Statistics New Zealand and used for Parliamentary electoral purposes.

THE LOCAL GOVERNMENT COMMISSION

Sir Ross Jansen	(Chairman)
Barbara Durbin	(Commissioner)
Bruce Anderson	(Commissioner)

27 March 2001