



Parliamentary Voting System and Constituencies Bill 2010-11: Commons Stages

[Bill No 63 of 2010-11]

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This Paper summarises all Commons stages of the *Parliamentary Voting System and Constituencies Bill 2010-11*. It supplements Research Paper 10/55 which was produced for the Bill's second reading and replaces Standard Note 5697 *Parliamentary Voting System and Constituencies Bill: Progress of the Bill*. No major changes were made during the passage of the Bill in the Commons, however the text of the referendum question was altered and legislative provision was made for the combination of polls on 5 May 2011. The Bill is due a second reading in the Lords on Monday 15 November 2010. A Lord's Library Note also provides background: *Parliamentary Voting System and Constituencies Bill LLN 2010/028*. Library Standard Note 5690 *Number of Parliamentarians: International Comparisons* is also relevant.

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Contents

	Summary	1
1	Introduction	2
2	The Political and Constitutional Reform Committee's inquiry	2
	2.1 Political and Constitutional Reform Committee report	4
3	Second Reading Debate	5
	3.1 Reducing the number of MPs	6
	3.2 Alternative Vote	7
	3.3 Thresholds in the referendum	9
	3.4 Combination of polls on 5 May 2011	9
	3.5 Parish council elections on 5 May 2011	10
	3.6 Local inquiries	10
	3.7 Isle of Wight	11
	3.8 Electoral registration	11
	3.9 First Programme motion	12
4	Referendum Question: Electoral Commission report	12
5	Commons Committee stage	13
	5.1 12 October: Referendum on AV	13
	Programme Motion	13
	Day of the poll	14
	Wording of the question	15
	5.2 18 October: Referendum on AV	15
	Counting Officers for the referendum	15
	Conduct of the referendum	16
	Franchise for the referendum	16
	Notice of poll	16
	Queues at polling stations	17
	Recounts	17
	Effects of Programme motion	17
	5.3 19 October: the Alternative Vote System and Boundaries	17
	Alternative Vote	17
	Boundaries	18

5.4	20 October : Boundaries	18
5.5	25 October 2010 New clauses	19
	Referendums and the media	19
	Combination of polls	19
	Timing of the counts	20
	Number of Ministers	20
5.6	Select Committee evidence	21
	Lords Constitution Committee	21
	Scottish Affairs Committee	21
	Welsh Affairs Committee report	21
6	Report stage 1 and 2 November 2010	22
6.1	Boundaries	22
6.2	Local inquiries	24
6.3	Combination of polls	25
6.4	Thresholds in referendum	25
6.5	Third Reading	26

Summary

The *Parliamentary Voting System and Constituencies Bill* [Bill No 63 of 2010-11] was introduced on 22 July 2010 and had its Second Reading on 6 September 2010. The committee stage of the Bill was taken on the floor of the House and the report stage and third reading were on 1 and 2 November 2010. The Bill is due to have its second reading in the Lords on Monday 15 November 2010 and has been reprinted as [HL Bill 26 of 2010-11](#) together with a new set of [Explanatory Notes](#).

The Bill enables the next general election to be fought under the Alternative Vote (AV) electoral system, provided that the change is endorsed in a referendum to be held on 5 May 2011. The Bill also provides for the introduction of AV to be linked with the proposed reduction of the size of the House of Commons to 600. New Rules for the Redistribution of Seats are designed to give primacy to numerical equality in constituencies and regular redistributions would take place every five years. Library Research Paper 10/55, [The Parliamentary Voting System and Constituencies Bill](#), which was published before the Second Reading debate, gives more details about the Bill's provisions.

The Electoral Commission was required to report on the intelligibility of the referendum question. The Commission published its report on 30 September 2010 and recommended that the wording of the question should be changed.

There were five days for the Committee of the whole House to consider the Bill. Day 1 of the Committee stage took place on 12 October 2010 and three more days were taken on 18, 19 and 20 October 2010. The fifth and final day was 25 October. On Day 1 Government amendments to Clause 1 were passed to change the question according to the wording proposed by the Commission. There have been a number of Government amendments to deal with the conduct of the referendum, but the date of the poll remains 5 May 2011, combined with elections for the Scottish Parliament, National Assembly for Wales and the Northern Ireland Assembly and local elections, despite protests from a range of MPs.

There were a series of proposed amendments to alter the boundary review process, which were discussed and voted upon on 19 and 20 October, but no amendments were made. The Government amended the bill on 20 October to clarify the definition of local government boundaries for the purposes of the new Rules. On 25 October the Government added a new clause to ensure that media comment on the AV referendum was not caught by the regulation of campaign material. A considerable volume of Government amendments in the form of new schedules to deal with the detail of combining polls were also added

The Political and Constitutional Reform Committee published its substantive report on the [Parliamentary Voting System and Constituencies Bill](#) on 11 October 2010. The Welsh Affairs Committee published its report [The implications for Wales of the Government's proposals on constitutional reform](#) on 25 October 2010. The Scottish Affairs Committee continue to take evidence on the impact of the changes. The [Government have also responded](#) to the Lords Constitution Committee report on referendums, which it issued in April 2010.

On Report and Third Reading there were no major changes. There were a series of Government amendments on combination of polls and an amendment to ensure that the Secretary of State cannot amend recommendations from a boundary commission when laying the necessary Orders unless the commission itself requests the changes. Since its introduction in the Commons, four new schedules and two clauses have been added to the Bill.

1 Introduction

The *Parliamentary Voting System and Constituencies Bill* [Bill No 63 of 2010-11] was introduced in the House of Commons on 22 July 2010. The Bill enables the next general election to be fought under the Alternative Vote (AV) electoral system, provided that the change is endorsed in a referendum to be held on 5 May 2011. The referendum would therefore be held after the legislation has been enacted, but the legislation will not come into force unless there is a simple majority for a change among those voting in the referendum. The Bill also provides for the introduction of AV to be linked with the proposed reduction of the size of the House of Commons to 600. The Bill prevents the introduction of AV until boundary changes have taken place. However the boundary changes provided for in the Bill take effect, whatever the result of the referendum, at the time of the next election.

The Political and Constitutional Reform Committee conducted an inquiry into the Government's proposals for voting and Parliamentary reform. The Committee published a brief report on 2 August 2010 and a further report on 11 October 2010.

Full details of the Bill and background to the issues raised by its provisions can be found in the Library Research Paper 10/55, [The Parliamentary Voting System and Constituencies Bill](#).

2 The Political and Constitutional Reform Committee's inquiry

The Political and Constitutional Reform Committee took evidence on issues connected with the Bill on three occasions in July 2010. In its first session, before the Bill was published, the committee took evidence from the Deputy Prime Minister. The Committee published a brief [report](#) on 2 August 2010 in which it said that the timetable for the Bill meant that the Committee had been denied an adequate opportunity to scrutinise the Bill before Second Reading. The Committee took further evidence in September¹ and published a further report on 11 October 2010.²

Evidence from the Parliamentary Boundary Commissions

On 9 September 2010 the Secretaries to the Parliamentary Boundary Commissions gave evidence to the Committee and confirmed that the new Rules for Redistribution would mean that there would have to be a complete redrawing of constituency boundaries and that every constituency will be affected (apart from Orkney and Shetland). When asked whether the 5% variation that will be allowed from the electoral quota, which the Government estimated would be around 76,000, would give the Commissions sufficient flexibility, Bob Farrance, Secretary to the Boundary Commission for England, replied:

I would say that the more you screw down the electoral parity target the more difficult it becomes, particularly if you're using wards to build constituencies. At the fourth and fifth review the Commission, if you like, tightened its own screw and brought more constituencies closer to the electoral quota.³

Mr Farrance later added that a parity target also meant that the chances of having to cross local authority boundaries when constituency boundaries were redrawn became much greater.

¹ The transcripts of the evidence sessions held by the Committee in July are available on the Committee's web pages <http://www.publications.parliament.uk/pa/cm201011/cmselect/cmpolcon/uc396-i/uc39601.htm>

² Third report of the Political and Constitutional Reform Committee, *Parliamentary Voting system and Constituencies Bill*, HC 437, 2010-11

³ Evidence to the Political and Constitutional Reform Committee, HC 437 –i, 9 September 2010

The Committee asked the Boundary Commissions about the different building blocks that would be used to build up the new constituencies in the different countries of the United Kingdom. In Scotland the Boundary Commission will use post codes to count the number of electors and then look at the geography of the area and the major topographic features before dividing wards. Hugh Buchanan, for the Scottish Boundary Commission, said that wards would be divided in Scotland, as they had been in the recent review of the Scottish Parliament constituencies. The Secretary to the Boundary Commission for England said that it would appear possible to continue to use local government wards as the building blocks for constituencies but it might be necessary to use a geography below ward level; polling districts could be used if these were given a statutory basis. In Wales the principal authorities are divided into electoral divisions but Wales is also divided into community areas, some of which are subdivided into community wards for electoral purposes. In Northern Ireland rural wards are amalgamations of town lands which could be used as the sub ward unit if a ward had to be split. In urban areas the town lands do not have such significance so Liz Benson, Secretary to the Northern Ireland Boundary Commission, said that the Commission would look to use postcodes or census output areas when splitting wards.

The Committee asked whether the timetable for the reviews as set out in the Bill could be achieved. Bob Farrance replied that although the Commissions could not be sure how many representations about their proposals they were likely to receive, the initial view of the Boundary Commission for England was that the timetable was achievable. Mr Farrance also indicated that the Commission would want, in the first stage of the review, to allocate constituencies on a regional basis, he continued

Once it has done that I would expect it to try to allocate constituencies to authorities independently – counties, London boroughs. It's at that stage that the Commission may identify a need to pair, ie where it will create a constituency across the boundary. I would imagine that will be the process but that doesn't necessarily mean that you have to create constituencies across the regional boundary. But the Commission would not be blind to that possibility.⁴

Evidence from the Electoral Commission

The Committee took evidence from the Electoral Commission on 14 September 2010. The Chair of the Commission, Jenny Watson, told the Committee that amendments to the Bill were required to make provision for the combination of the referendum with other polls scheduled for 5 May 2011. If the Bill is not amended separate polling stations would be needed for each poll that day and postal ballot papers would need to be sent out separately instead of together in one envelope. Peter Wardle, the Chief Executive of the Commission, said that there needed to be six months notice of such changes so that the combination rules could be in place in good time for the electoral administrators to make the necessary preparations.

The Committee sought clarification of the Commission's position on the combination of the referendum with other polls; in 2002 the Commission had stated that 'referendums on fundamental issues of national importance should be considered in isolation.' Jenny Watson explained that the Commission had reconsidered this view and had decided that the evidence was not conclusive enough to support its earlier position that a referendum should never be combined with another poll. Ms Watson said that the Commission had decided that on balance there were definite benefits from combining the AV referendum with other polls, especially because there would not be so much 'voter fatigue, which would be the case if you didn't combine'.

⁴ Ibid

Jenny Watson was asked about the Commission's report on the intelligibility of the referendum question and when this would be published. The Committee were concerned that this might not be published in time for amendments about the question to be put down in time for the Bill's Committee stage, particularly as this would be considered on the first Committee day on 12 October 2010. The Commission stated that it had always planned to make its report on the question by Friday 2 October 2010.

The Committee asked how the Commission would identify the lead campaign groups for each side in the referendum and how it would take into account splits within political parties on the referendum question. The Commission outlined the three stage process for identifying the lead groups and noted that if it appointed on one side it had to appoint on the other, or not appoint at all. Lisa Klein, the Commission's Director of Party and Election Finance, continued:

With regard to political parties, you have to view that designation process alongside the point that to be a designated organisation you have first to register with us what is called a permitted participant. To be a participant, you have to be able to declare which side of the referendum you are campaigning for. Therefore, if a political party is unable to make that representation, it would not qualify as a permitted participant and hence, would not be eligible to be a designated organisation. The consequence of that is that the spending ceiling would be set at £10,000.⁵

2.1 Political and Constitutional Reform Committee report

The Political and Constitutional Reform Committee published its substantive [report](#) on the *Parliamentary Voting System and Constituencies Bill* on 11 October 2010.⁶ The Committee again criticised the Government for the lack of pre-legislative scrutiny of the Bill:

The Parliamentary Voting Systems and Constituencies Bill seeks fundamentally to change the political establishment in the UK. We regret that it is being pushed through Parliament in a manner that limits both legislative and external scrutiny of its impact, and may consequently undermine the Government's intention to restore the public's faith in Parliament. Given constraints of the legislative timetable we have conducted this inquiry with the aim of producing a report which we hope will assist the House at the Committee stage of the Bill.⁷

The summary of the Committee's recommendations continued:

For primarily political reasons, the Bill links two sets of provisions that could have been considered separately. The Bill does not include proposals on reforming the House of Lords which would have allowed the composition of Parliament to be developed in the round. While we welcome the decision to hold a referendum on the introduction of an alternative vote system rather than introducing such a fundamental change solely through legislation, we note that there is no clarity as to when this or future administrations will hold referendums on issues of constitutional importance.

The current timetable for the referendum is tight. If either House substantially amends the rules for holding the referendum the Government may have to reconsider the timing of the vote or run the risk of serious administrative difficulties which could undermine the outcome. This is a particular concern in the light of the facts that: the Bill will need amendment to allow the referendum and other elections to be held using the same facilities; the Bill is unclear whether funding restrictions apply to the media; and

⁵ Evidence to the Political and Constitutional Reform Committee, HC 437 –i, 14 September 2010

⁶ [HC 437](#), 2010-11

⁷ *Ibid*, summary

the Electoral Commission has expressed concern over both the wording of the referendum question and the design of the ballot papers.

While we agree there may be a case for reducing the number of MPs from 650 to 600, the Government has singularly failed to make it. We recommend the Government assesses and, if possible, mitigate through amendments, the likely impact of the wholesale redrawing of constituency boundaries on grassroots politics.

Members of the Committee have tabled an amendment which would ensure all four Boundary Commissions can utilise the full 5% variation in electoral quota according to clear and consistent rules. There is no alternative to using the December 2010 electoral roll to determine constituencies, whether the flaws in the register undermine the equalisation requirement is a matter for the House.

The proposed exceptions to the electoral quota requirement make sense but the House may wish to consider further exceptions where there is evidence that voters are prepared to be under-represented to preserve strong local ties. Public consultation on the boundary changes will be vital to the perceived legitimacy of the Boundary Commissions' decisions and we have tabled amendments we believe will enhance that process. We also recommend the Secretary of State's power to alter the recommendations of the independent Boundary Commissions be limited to the correction of errors, and that the "payroll vote" in the House of Commons be reduced in line with any reduction in the overall number of MPs.⁸

3 Second Reading Debate

The [Second Reading](#) debate took place on 6 September 2010. Introducing the Bill the Deputy Prime Minister said there were problems with the current electoral map:

Constituencies vary too much in size, they are based on information that is out of date, and there are too many of them.

[...]

Equally problematic is the cumbersome process by which boundaries are drawn. The review process is lengthy and time-consuming.⁹

Mr Clegg added that the Rules for Redistribution were 'in tension with each other' and that as a result 'the overall effect is that dozens of seats are far smaller or larger than others.'¹⁰ The new Rules in the Bill would require constituencies to be within 5% of an electoral quota which the Government estimated would be around 76,000. The two exceptions would be Orkney and Shetland, and the Western Isles. Mr Clegg said that there were no plans to exempt Ross, Skye and Lochaber as well; the Government had 'simply used its size in suggesting a ceiling for how large any constituency should be' and it was for the Boundary Commissions to decide how the boundaries should be drawn.¹¹

On the Bill's provision for a referendum on AV, Mr Clegg said that the Government was proposing an optional preferential Alternative Vote system and that the date for the referendum had been set for 5 May 2011 in order to combine it with other polls taking place that day. The Government estimated that such a combination would save around £30 million and that it was desirable to avoid asking the electorate to return to the ballot box more times

⁸ Ibid

⁹ HC Deb 6 September 2010 c36

¹⁰ Ibid, c37

¹¹ Ibid, c37

than was necessary.¹² Jack Straw asked the Government to consider the concerns expressed by people of all political parties about the combination of the referendum with local elections and the general elections to the devolved assemblies. Mr Straw called for the referendum to be held on a separate day and added:

That is not about whether the British public can cope with one or two issues at a time, but about ensuring that the issues are properly aired. There are all sorts of incredible complications about the funding limits for the parties and for the referendum campaigns when the polls take place on the same day.¹³

Graham Allen (Labour), Chair of the Political and Constitutional Reform Committee, criticised the Government for the lack of any pre-legislative scrutiny of the Bill:

This is not some small order or statutory instrument, but potentially the biggest Bill that the House will consider in five years, and my Committee has been given just two sessions in which to consider it.¹⁴

Peter Hain, speaking for the Opposition, said that ‘almost nobody, on either side of the House, spoke fully in favour of the Bill, with the exception of the Deputy Prime Minister.’¹⁵ He said that the Bill would ‘impose on Wales the most savage cut of all’ and criticised the way in which it ‘sweeps away local democracy’. The Minister, Mark Harper, responded that once the measures in the Bill came into force, Wales would be treated in exactly the same way as England, Scotland and Northern Ireland.¹⁶

3.1 Reducing the number of MPs

Caroline Flint (Labour) asked why the number of 600 MPs had been chosen. The Deputy Prime Minister said that this ‘relatively modest cut’ would save about £12 million a year but would create a House that was ‘sufficiently large enough to hold the Government to account’ whilst creating a ‘sensible average number of constituents.’¹⁷ Speaking later in the debate for the Opposition, Jack Straw said that the part of the Bill relating to boundaries was ‘one of the most partisan proposals we have seen in recent years.’¹⁸ He added that the Labour Party ‘never sought, and would never have sought, to change the laws relating to boundaries without cross-party agreement.’¹⁹ Mr Straw said that the Labour Party supported a referendum on AV but would not support the provisions about boundary reviews in the Bill.

Charles Walker (Conservative) commented that at any given time there were only 350 MPs to hold the Government to account because there were at least 300 MPs serving in the Executive or the shadow Executive.²⁰ Richard Shepherd (Conservative) said that this point was crucial:

Clearly, if we reduce the number of Members of the House of Commons, and not the size of the Administration, their control over the size of the House of Commons increases. That is the very thing that the House is struggling to address in the wider context of constitutional reform.²¹

¹² Ibid, c42

¹³ Ibid, c46

¹⁴ Ibid, c63

¹⁵ Ibid, c121

¹⁶ Ibid, c127

¹⁷ Ibid, c39

¹⁸ Ibid, c47

¹⁹ Ibid, c48

²⁰ Ibid, c49 and c99

²¹ Ibid, c49

Later in the debate Robert Syms (Conservative) said that if the number of backbenchers was reduced without a reduction in the number of Ministers 'it would change the balance of the House'.²² Austin Mitchell (Labour) agreed and said that the proposal would strengthen the Executive 'because the Executive will be bigger in a smaller pool of Members, and there will be a smaller pool of talent from which to choose the members of that Executive.'²³

The Minister, Mark Harper, said that the Government would look at the issue after the Public Administration Committee had reported following its current inquiry about Ministers.²⁴

3.2 Alternative Vote

Several Members said that electoral reform was not an issue that their constituents were concerned about. Gary Streeter (Conservative) opposed the Bill saying that there was 'no constituency interest or support for this measure.'²⁵ He argued that the proposals were not in any manifesto and that First Past the Post was the best system for elections to the House of Commons. John Robertson (Labour) agreed that there was no interest in changing the voting system and said he had not received a single letter about the issue.²⁶

Amongst the Labour Members who spoke during the debate, Margaret Beckett spoke against the introduction of AV and in support of the FPTP system:

Our current system has substantial strengths and virtues. It is simple and easy to understand, and the British people know exactly how to operate it to get the result that they want. For decades, I have listened to the most arrant rubbish about how our electoral system somehow cheats the British people of the Government whom they want. I have never believed that...²⁷

Emily Thornberry also opposed the introduction of AV and said that the current system 'is simplicity itself and it does not exclude anyone through being a complicated system or because people do not speak English as their first language.'²⁸ Michael McCann (Labour) also spoke in favour of the FPTP system but said that he backed a referendum on the issue.²⁹

Austin Mitchell said he was not a supporter of FPTP and was in favour of electoral reform, but AV was a system 'that no one particularly wants' and that the heart of the Labour Party was 'certainly not behind AV, as has been well demonstrated tonight.'³⁰

Most of the Conservatives who spoke in the debate were opposed to AV. Greg Hands said he would campaign for a no vote in the referendum³¹; Gary Streeter said he had 'long believed that first past the post is the best system for electing people to the House. It is simple, everyone understands it, and by and large, as the Right Hon. Member for Derby South (Margaret Beckett) said, it [FPTP] produces the right result.'³² Mr Streeter added that he feared that 'if we moved to an AV system, we would never have an outright Conservative Government again.'³³ David Davis said that AV 'acts to create a coalition of antagonists,

²² Ibid, c58

²³ Ibid, c105

²⁴ Ibid, c127

²⁵ Ibid, c61

²⁶ Ibid, c77

²⁷ Ibid, c56

²⁸ Ibid, c87

²⁹ Ibid, c117

³⁰ Ibid, c104

³¹ Ibid, c54

³² Ibid, c61

³³ Ibid, c62

picking the least unpopular rather than the most effective Member.³⁴ Mr Davis also said that the FPTP system had been very effective throughout history and that it had been ‘decisive, radically and ruthlessly so when it needed to be.’

Anne Main said she was unhappy about the linking of the two different elements of the Bill; although she agreed that the issue of constituency boundaries needed to be tackled she thought that ‘AV is probably the least sensible and least palatable solution – a solution that not even my Liberal Democrat opponents in St Albans were encouraging people to think of on the doorstep. I am surprised that the Liberal Democrats who are in the coalition with us are supportive of this measure. It delivers the worst of all options and I am deeply unhappy about it.’³⁵ Bernard Jenkin also spoke in favour of retaining the FPTP system and said that ‘AV does not get rid of safe seats; it institutionalises tactical voting.’³⁶ Daniel Kawczynski said that the AV system would help extremist parties; he added that the all party group for the promotion of FPTP, of which he is Chairman, had 90 members.³⁷ Andrea Leadsom supported FPTP and her reasons for doing so reflected many of the arguments of those Members who had also spoke in favour of its retention as the system for electing the House of Commons:

I am a huge advocate of first past the post, and there are three key reasons for that. First, only first past the post provides a clear choice of candidate. People clearly state their preference and get no other alternative, so somebody that they might quite like or have heard of does not end up with their second or third preference vote. They end up with a single Member of Parliament to whom they can relate in their own constituency. Any other system of voting introduces an element of lottery, in which some people vote for only one candidate and some vote for five. If enough vote for five, even when they do not know their fourth, third and second choices, a candidate can be elected to Parliament whom nobody really wanted but who was the lowest common denominator. That is a disaster, and first past the post does not deliver that.

A second reason why I am a strong advocate of first past the post is that we generally end up with a strong Government with a single manifesto. We have already seen, to the cost of many of us, and will no doubt see even more in future, what the downside of coalition government is. It is surely this Bill coming before Parliament, which is the price that has had to be paid to bring together a strong and workable Government. It was not in our manifestos and the people did not vote for it.

[...]

That leads me on to the third important point about first past the post, which is that we get the ability to sack a Government when they have reached the point when we no longer want them.³⁸

Jonathan Evans (Conservative) expressed his support for proportional representation and his disappointment that the referendum would be on AV rather than a proportional system.

Mark Williams (Liberal Democrat) said that AV, although not ideal, was preferable to FPTP: ‘it allows voters to express genuine preferences, and it removes most of the opportunities and

³⁴ Ibid, c71

³⁵ Ibid, c82

³⁶ Ibid, c85

³⁷ Ibid, c93

³⁸ Ibid, c115

the need for tactical voting.³⁹ He added that although AV was not a proportional system it 'will usually produce a more proportional outcome.'

Angus MacNeil (SNP) said he had agreed with the Liberal Democrats in the past in their support for the Single Transferable Vote; he urged the Government to allow the people a choice between FPTP, AV and STV in the referendum.⁴⁰

3.3 Thresholds in the referendum

Several Members called for a threshold; Eleanor Laing (Conservative) asked whether it was right 'to bring about constitutional change if only about 15% of the electorate votes for it?... The result of the referendum and the consequent constitutional change will not command respect unless a significant proportion of the electorate support it.'⁴¹ Iain Stewart (Conservative) agreed and said that he and Mrs Laing would seek to introduce a turnout threshold into the Bill at Committee Stage.⁴² The Minister, Mark Harper, said that a turnout threshold would 'make an abstention effectively a 'no' vote. It would give people an incentive to abstain from voting, and the Government do not believe that that can be right.'⁴³

3.4 Combination of polls on 5 May 2011

Bernard Jenkin (Conservative) asked why there was a rush to hold the referendum on 5 May 2011 and referred to the Electoral Commission's comments in 2003 on the combining of an election and referendum on the same day (the Commission had said that this could 'have a distorting effect on the conduct and outcome of both polls). Mr Jenkin asked the Government to hold the referendum on a separate date.⁴⁴ Eleanor Laing (Conservative) said that if the referendum was held on a different day from the national elections in Scotland, Wales and Northern Ireland, the result would 'command far greater respect'.⁴⁵ Jonathan Edwards (Plaid Cymru) said that his party would argue for a new date for the referendum to be set 'on which no other election is taking place, to avoid the accusation that the Government in London are riding roughshod over the interests and concerns of the devolved countries.'⁴⁶ Tom Geatrex (Labour/Co-op) suggested that the significance of either the referendum or the elections to the devolved assemblies 'will inevitably be diminished' if the polls are held on the same day. George Eustice (Conservative) said that running the referendum simultaneously with the elections in Scotland, Wales and Northern Ireland posed two major problems; the first was different spending limits for the elections and the referendum and the second, issues about broadcasting during the campaign.⁴⁷

Angus MacNeil (SNP) asked the Government to respect what was happening in Scotland; if the referendum is to be held on the same day as elections to the Scottish Parliament the media will be dominated by issues other than Scottish ones. He said that there would be 'an asymmetrical voting day across the United Kingdom' which would be 'a tremendous mistake'.⁴⁸ Jonathan Edwards (Plaid Cymru) said there was

...no reason why the voting reform referendum needs to be held on the same day as elections to form the Celtic governments. It is, at best, insensitive for the UK Government to proceed with 5 May 2011 as the date...We will argue that a new date

³⁹ Ibid, c77

⁴⁰ Ibid, c60

⁴¹ Ibid, c92

⁴² Ibid, c107

⁴³ Ibid, c126

⁴⁴ Ibid, c86

⁴⁵ Ibid, c92

⁴⁶ Ibid, c101

⁴⁷ Ibid, c113

⁴⁸ Ibid, c59

should be set on which no other election is taking place, to avoid the accusation that the Government in London are riding roughshod over the interests and concerns of the devolved countries.⁴⁹

3.5 Parish council elections on 5 May 2011

The Minister, Mark Harper, confirmed that parish council elections will take place as planned on 5 May 2011. A Government amendment to the Bill will make the necessary provisions.

Andrew Selous: I am extremely grateful. Can my hon. Friend reassure me that town and parish councils, whose elections are due to take place on the same day as elections to unitary councils, will not be forced by the AV referendum to hold those elections on a later date? That would cost some of them up to £50,000, money that ought to be spent on local services rather than on another election.

Mr Harper: I can confirm that our combination amendment will ensure that parish elections can take place on the planned date. As most of England will be voting on the same date, I foresee no problems with differential turnouts, and I think that Members who are concerned about that can be reassured.⁵⁰

3.6 Local inquiries

A number of Members expressed concern that the Bill made provision to replace the system of local inquiries with a longer period for written representations. Jack Straw said that this was 'no substitute for a proper examination, including oral evidence, before a judicially qualified chairman.'⁵¹ Mr Straw also agreed with an intervention by David Davis who said that if the Bill went ahead as currently drafted there would be a series of local judicial challenges on the basis of reflection of community interests instead of public inquiries.⁵² Paul Murphy (Labour) opposed the abolition of local inquiries and said that this was wrong when it seemed that there would still be a right to hold public inquiries when the Boundary Commissions were looking at boundaries for the devolved assemblies.⁵³ Nigel Dodds (DUP) also criticised the proposed abolition of the local inquiry process and said that the 'face-to-face open, transparent evidence taking and cross-examination' was 'a vital part of any boundary review.'⁵⁴ Mark Durkan (SDLP) commented that sometimes it was the third version of the Boundary Commission's proposals that created particular problems for a constituency and that under the Bill's provisions there would not be an opportunity for people to make any further representations after a third set of recommendations by a Commission.⁵⁵

Peter Hain, speaking for the Opposition, said:

For generations, constituency boundaries have been reviewed and adjusted by local agreements, not by central imposition. Local people have had the opportunity to object if community identities were threatened or unsuitable mergers with nearby towns or villagers were proposed. Formal hearings would hear representations, and a final decision would be agreed, if not always by total consensus then at least with broad support. Last time, the process necessarily took fully seven years in England. The Bill has unilaterally dumped that process for a rigid two-year deadline in a straightforward fix, abolishing the right to trigger public inquiries and destroying a bipartisan,

⁴⁹ Ibid, c101

⁵⁰ Ibid, c125

⁵¹ Ibid, c50

⁵² Ibid, c50

⁵³ Ibid, c73

⁵⁴ Ibid, c84

⁵⁵ Ibid, c92

independent system of drawing up boundaries, which has been the envy of countries elsewhere in the world.⁵⁶

The Minister, Mark Harper, responded to criticism of the abolition of local inquiries by citing academic opinion on the matter:

They have described oral inquiries as ‘very largely an exercise in allowing the political parties to seek influence over the Commission’s recommendations – in which their sole goal is to promote their own electoral interests.’ They also say that ‘it would be a major error to assume that the consultation process largely involves the general public having its say on the recommendation.’⁵⁷

3.7 Isle of Wight

Andrew Turner (Conservative) criticised the Government for its lack of consultation about the Isle of Wight:

...the Deputy Prime Minister has singularly failed to explain why Isle of Wight residents have not received similar consideration to Scottish island constituents. Like the Scottish islands we are physically separate from the mainland, but our uniqueness is ignored.⁵⁸

Mr Turner said that there was a cross-party campaign, OneWight, which had presented a petition signed by more than 17,500 people to 10 Downing Street. The Minister, Mark Harper, gave an undertaking that either he or the Deputy Prime Minister, would visit the Isle of Wight to hear the concerns of Mr Turner’s constituents.⁵⁹

3.8 Electoral registration

Chris Ruane (Labour) called for the Government to address the problem of under-registration, saying that 3.5 million people were still missing from the register. He expressed concern that ‘rushed individual registration’ would take a further 4.5 million people off the register.⁶⁰ Other Labour Members also drew attention to the problem of under-registration; Roger Godsiff suggested that if voting was obligatory there ‘would be a much greater emphasis on electoral registration officers ensuring that, in every household, everybody who was eligible to register was registered.’⁶¹ Fiona Mactaggart also expressed concern about under-registration in Slough and Emily Thornberry spoke about the problems of low registration rates in her constituency before there was a BME registration drive which saw the electoral register in Islington increase by 9,000 by 2010.⁶² The Minister, Mark Harper, said that the registration rate in the UK was ‘about 91 or 92%, which is broadly in line with that of comparable countries’, he continued:

I can assure the hon. Gentleman that when we announce our plans for speeding up individual registration he will find that the fears that he expressed this afternoon are misplaced. The Government have no intention of worsening the situation – quite the reverse; we plan, by the measures that we will introduce, to reduce the number of people who are not registered to vote and to improve the system.⁶³

⁵⁶ Ibid, c124

⁵⁷ Ibid, c128

⁵⁸ Ibid, c73

⁵⁹ Ibid, c129

⁶⁰ Ibid, c80

⁶¹ Ibid, c69

⁶² Ibid, c86 and c114

⁶³ Ibid, c128

3.9 First Programme motion

As a constitutional Bill, the Committee stage will be taken on the floor of the House. After the division on the second Reading, the House also divided on the [Programme Motion](#) which was passed by 324 to 272. The Programme Motion provided for five days in Committee, with two days for consideration and Third Reading.⁶⁴

4 Referendum Question: Electoral Commission report

The Electoral Commission is required to report on the intelligibility of the referendum question. On 30 September the Commission published its [report](#); a press notice gave further details:

The Commission undertook research to find out whether people could easily understand the proposed question. On the whole, people taking part in the research found the UK Government's proposed referendum question clear and understood what it was about. But some people, particularly those with lower levels of education or literacy, found the question hard work and did not understand it. The structure of the question, its length, and some of the language used made it harder to read than it needed to be.

The Commission has recommended a redrafted question that addresses these issues.

The Commission also reports that, so far, voters have a limited understanding of the voting systems they will be asked to choose between in the proposed referendum on 5 May 2011. The elections watchdog identified a gap in public knowledge and understanding of what 'first past the post' means and, in particular, what the 'alternative vote' electoral system is.⁶⁵

The Commission's full report is available on its website.⁶⁶ The Commission's recommended redraft of the question is set out below:

4.12 Our recommended redraft of the question is:

Referendum on the voting system for UK Parliamentary elections

Vote (X) once only

At present, the UK uses the 'first past the post' system to elect MPs to the House of Commons. Should the 'alternative vote' system be used instead?

Yes

No

4.13 This formulation is easier to understand than the UK Government's proposal because it:

- Replaces one long sentence in the original question with two shorter ones.
- Uses everyday, straightforward language. This improves its accessibility and helps people in particular who have low literacy or whose first language is not English.

⁶⁴ Ibid, c138

⁶⁵ <http://www.electoralcommission.org.uk/news-and-media/news-releases/electoral-commission-media-centre/news-releases-referendums/electoral-commission-publishes-report-on-voting-system-referendum-question>

⁶⁶ http://www.electoralcommission.org.uk/__data/assets/pdf_file/0006/102696/PVSC-Bill-QA-Report.pdf

- Is focused and factual, providing a clear indication that ‘First Past the Post’ is the voting system currently in use and that the proposal is to replace it with the ‘Alternative Vote’ system.
- Uses familiar abbreviations – ‘UK’ and ‘MPs’ – to make the question more succinct.
- The use of ‘UK Parliamentary elections’ makes clear to people, especially in Scotland, Wales and Northern Ireland, that they are voting only on the electoral system in use in Westminster. This reduces potential confusion amongst people who will be voting in elections for the devolved institutions on the same day as the referendum.

4.14 People in our research generally preferred the formulation ‘should’ to ‘want’, when the question is made up of two short sentences. They found it less forceful than a new sentence beginning ‘Do you want ..?’. They preferred the use of ‘should’ in this particular context.

4.15 Because the question is easier to understand, it is more likely that people will be able to vote in the way they intend. Not understanding the question increases the likelihood of people accidentally voting in the opposite way to their intention.

4.16 The responses follow common parlance by putting ‘Yes’ before ‘No’. We see no reason to depart from common parlance. Indeed, putting ‘No’ before ‘Yes’ may lead to perception of bias, because reversing the normal order is not what people expect.

5 Commons Committee stage

The material is organised by day of debate. Government amendments added to the Bill are indicated in bold. the version referred to is [Bill 63 of 2010-11](#). The Bill will be reprinted for report stage.

5.1 12 October: Referendum on AV

Programme Motion

The Government put forward programme motion no 2 on 12 October as follows:

<i>Day</i>	<i>Proceedings</i>	<i>Time for conclusion of proceedings</i>
First day	Clause 1	11.00 pm
Second day	Schedule 1, Clauses 2 and 3, Schedules 2 to 4, Clause 4, Schedule 5, Clauses 5 and 6	11.00 pm.
Third day	Clause 7, Schedule 6, Clauses 8 and 9	11.00 pm.
Fourth day	Clauses 10 to 13, Schedule 7, Clauses 14 to 17	9.00 pm.
Fifth day	New Clauses, New Schedules, remaining proceedings on the Bill	One hour after the moment of interruption.

Mark Harper pointed out the motion offered a later time for conclusion or proceedings, but in the subsequent debate a number of Members argued that more time was needed for such a major constitutional measure. The programme motion was passed by 323 votes to 256.⁶⁷

Following points of order on the failure to find time for a debate on a threshold in the referendum,⁶⁸ a subsequent [programme motion](#) was introduced on 19 October and applied by 327 to 233 votes, which removed the internal knife on Day 3 allowing debate on Clause 9 to run on to Day 4.⁶⁹

That the Order of 12 October (Parliamentary Voting System and Constituencies Bill (Programme) (No. 2) be varied as follows:

(1) In the Table, for the entry relating to the third and fourth days of Committee there shall be substituted:

<i>Day</i>	<i>Proceedings</i>	<i>Time for conclusion of proceedings</i>
Third and fourth days	Clause 7, Schedule 6, Clauses 8 to 13, Schedule 7, Clauses 14 to 17	9.00 pm on the fourth day

However, several amendments on the boundary review remained undebated at the end of Day 4 when the end of the Bill was reached and new clauses debated on Day 5 (25 October) did not include any on the boundary review process.

Day of the poll

Angus McNeil spoke on behalf of amendment 155 to give the Electoral Commission power to specify the date of the poll, ensuring that it was not on the same day as an election to a devolved body. He noted that the counting of ballots for the Scottish Parliament was planned to take place after the referendum poll, according to advice sent by the Electoral Commission.⁷⁰ This amendment was grouped with other amendments designed to ensure that the poll was not held on the same day as normal local government elections and at least 6 months after royal assent. Bernard Jenkin, the Conservative backbencher, spoke to these amendments. He emphasised the need to have six clear months from royal assent to the holding of the poll, as recommended by the Electoral Commission. He also drew attention to the arguments of the Commission in 2002-3 that referendums should not be combined with other polls.

The debate centred around the question of lack of consultation with devolved bodies before the date of 5 May was set, and difficulties in combining polls in terms of party political issues cutting across broader based alliances which might form to campaign on the referendum.

For the Opposition, the new Shadow Lord Chancellor, Sadiq Khan, said that it was right for the electorate to be offered a choice between First Past the Post and AV and that he would be supporting AV. He noted that Nick Clegg had opposed the combination of an AV referendum with the general election when this option had been under review by Gordon Brown. He also suggested that the timing of the referendum was too hasty, arguing that the Government had given no good reason for the choice of 5 May.

⁶⁷ HC Deb 12 October 2010 c192

⁶⁸ HC Deb 19 October 2010 c864

⁶⁹ HC Deb 18 October 2010 c833

⁷⁰ HC Deb 12 October 2010 c198

In response, for the Government, Mark Harper argued that the Programme for Government had promised a referendum and that the public had a right to expect that commitment to be delivered promptly. He disputed the arguments about the impact of differential turnouts across the UK and argued that evidence by Ron Gould to the Scottish Affairs Committee on 21 September 2010 did not necessarily mean that there should not be a combination of polls. **He promised amendments on 25 October to ensure that counting of the referendum in Scotland would be done on the basis of Scottish Parliamentary constituencies.**⁷¹ Most of the speakers in the debate were representing constituencies in Scotland, Wales and Northern Ireland, but there were backbenchers who spoke in favour of combination, including Nick Boles, a Conservative, and Labour's Graham Stringer who favoured combination with the next general election.

The Opposition abstained on the SNP sponsored amendment which was lost by 323 votes to 28,⁷² the Opposition voted in favour of the Jenkin amendment, but this was lost by 326 votes to 264.

Wording of the question

Caroline Lucas, for the Green Party, spoke to an amendment to offer voters a two question referendum - firstly a choice between staying with First Past the Post and moving to a new system and secondly a choice between AV, STV and AMS as the new system. She cited the precedent of the New Zealand 'preferendum' in 1993. **The amendment was grouped with amendments to change the wording of the question, as recommended by the Electoral Commission. These were sponsored by the Deputy Prime Minister and members of the Political and Constitutional Affairs Committee.** Ms Lucas argued that voters should be offered a genuine choice between different electoral systems; in response Mr Harper said that she was entitled to test the opinion of the House on her amendment and discover where the balance of opinion lay.⁷³ He noted that the Government as a whole were neutral on the outcome of the referendum.

Chris Bryant, for the Opposition drew attention to the fact that no Liberal Democrat MP had supported the Lucas amendment, citing quotes from the last Parliament where the party had pressed for amendments to include STV as an option in a referendum.⁷⁴ In response, Mark Williams, a Liberal Democrat MP, emphasised that his party continued to believe that STV was the most appropriate electoral system, but that the party had to accept AV in order to secure a referendum. The Lucas amendment was lost by 346 votes to 17 and **the Government amendments were passed without a division.**⁷⁵

5.2 18 October: Referendum on AV

Counting Officers for the referendum

The Government tabled a number of amendments to Schedule 1 relating to the running of the referendum; these included making provision that the Returning Officers appointed for local district or borough elections in England, for National Assembly elections in Wales and for the Scottish Parliament elections will be automatically designated as counting officers for the referendum. In Northern Ireland the counting officer for the referendum will be the Chief Electoral Officer. **A further Government amendment defined the voting areas for the referendum;** in Scotland and Wales the referendum will be conducted according to the same boundaries as used for the Scottish Parliamentary and Welsh Assembly constituency seats. There was already provision for the referendum to be

⁷¹ HC Deb 12 October 2010 c254

⁷² HC Deb 12 October 2010 c258; *ibid* c261

⁷³ HC Deb 12 October 2010 c289

⁷⁴ HC Deb 12 October 2010 c290

⁷⁵ HC Deb 12 October 2010 c297

run in England on the same boundaries as local elections. **Other Government amendments allowed for the fees paid to counting officers and regional counting officers for delivering the referendum to be reduced if they fail to meet an adequate standard of performance;** the Minister, Mark Harper, said that he hoped that this would help address 'some of the concerns that members of the public and indeed, Members of Parliament expressed about the accountability of returning officers, following what happened at some polling stations, albeit limited numbers of them, on 6 May.'⁷⁶ Mark Harper also confirmed that the counting of the referendum would take place after the counting of all other elections.⁷⁷

The Opposition argued that the results of the referendum should be made available by Parliamentary constituency. The Minister said that any possible benefit in doing this would be outweighed by the extra demand made on administration resources.⁷⁸

Conduct of the referendum

An amendment moved by Alun Michael (Labour) which aimed to improve the access to voting documents for the disabled at the referendum was defeated by 328 to 235.

An Opposition amendment sought to add a requirement to the Bill that any literature published by the Electoral Commission promoting awareness of the referendum would have to be subject to the agreement of the Speaker's Committee on the Electoral Commission. The Minister, Mark Harper, was not convinced that the Speaker's Committee was the appropriate body to be involved in public awareness matters concerning the referendum and warned of the dangers of bringing the Committee into the referendum debate. The Opposition's amendment was defeated by 328 to 233; **the Government's amendment clarifying the role of the Electoral Commission in providing information about voting systems was agreed without a division and Schedule 1, as amended, was agreed to.**

Franchise for the referendum

Graham Brady (Conservative) moved an amendment to change the franchise for the referendum so that only British citizens would be allowed to vote; Commonwealth citizens and Irish citizens resident in the United Kingdom would be excluded from the franchise.⁷⁹ Mr Brady also moved an amendment that would allow all British citizens living overseas to be registered to vote in the referendum, not just those who have lived abroad for less than fifteen years. There was also debate on an amendment moved by Natascha Engel (Labour) to allow people aged sixteen to vote in the referendum.⁸⁰ The Minister disagreed with these amendments and said that the Government 'have not used the one-off referendum as an opportunity for experimenting with the franchise.'⁸¹ There were divisions on Mr Brady's second amendment which was defeated by 539 to 25 and on Ms Engel's amendment which was also defeated by 346 to 196.

Notice of poll

Government amendments to the rules for the conduct of the referendum were agreed; the main amendment was a change to the deadline for issuing the notice of poll from 16 to 15 days before the date of the referendum. This change, and other minor and technical changes to the Bill, were necessary for the provisions relating to the combination of polls on 5 May 2011.⁸² Further Government amendments to modify forms issued in connection with

⁷⁶ HC Deb 18 October 2010 c647

⁷⁷ HC Deb 18 October 2010 c649

⁷⁸ HC Deb 18 October 2010 c648

⁷⁹ HC Deb 18 October 2010 c689

⁸⁰ HC Deb 18 October 2010 c695

⁸¹ HC Deb 18 October 2010 c711

⁸² HC Deb 18 October 2010 c726

the referendum to improve their clarity were also agreed; these followed recommendations from the Electoral Commission, Scope and electoral administrators.⁸³

Queues at polling stations

An Opposition amendment to allow voters who were still queuing at 10pm to vote was defeated on division by 345 to 224. The Minister said that the Government was considering the Electoral Commission's report on the general election and 'looking at what steps are necessary' to prevent a repeat of voters being unable to cast their vote because of queues at polling stations when the poll closed.⁸⁴

Recounts

Iain Stewart (Conservative) and Eleanor Laing (Conservative) moved amendments to seek clarification about the provisions to hold a recount at national level in the event of a close overall result in the referendum. The amendments would establish a mechanism for calling a recount and allow the Chief Counting Officer to give a direction to hold a recount. The amendment was negated after the provisions of the Programme Motion led to the end of the debate at 11pm.

Effects of Programme motion

The Minister had indicated earlier that if there was not an opportunity to debate amendments to Clause 6, there would be a vote on the lead amendment in the group selected for debate in relation to that clause. The amendments proposed a turnout threshold for the referendum. Clause 6 was not reached and the Government formally moved Eleanor Laing's amendment which proposed a 50% threshold. The amendment was negated without a vote.

Further Government amendments to Schedule 2 were agreed without division and the Schedule, as amended, was agreed to. Schedules 3, 4 and 5, as amended, were agreed to. Clauses 4 and 5, as amended, and Clause 6 were ordered to stand part of the Bill.

5.3 19 October: the Alternative Vote System and Boundaries

Alternative Vote

Following a new programme motion discussed above at 5.1, during consideration of Clause 7, Christopher Chope (Conservative) moved an amendment which would allow voters only two preferences instead of as many preferences (up to the number of candidates) as they wish. Mr Chope said that if his amendment was agreed it would not be possible for anyone to be elected unless they had either the first or second largest number of first preference votes.⁸⁵ The Minister said the Government wanted the optional preferential system which gave maximum choice for the elector. Mr Chope withdrew his amendment.

Clause 7 was ordered to stand part of the Bill after a division, by 327 votes to 224.

Government amendments to Schedule 6, which makes amendments to the Parliamentary Election Rules to allow for the change to the Alternative Vote system, were agreed without a division. The amendments were mainly technical and included the procedures that would need to be followed if there was a tie during the counting of the votes under AV.⁸⁶

⁸³ HC Deb 18 October 2010 c735

⁸⁴ HC Deb 18 October 2010 c739

⁸⁵ HC Deb 19 October 2010 c837

⁸⁶ HC Deb 19 October 2010 c864

Boundaries

During consideration of Clause 8 of the Bill Greg Mulholland (Liberal Democrat) moved an amendment which would delay the introduction of new boundaries until after the next but one general election.⁸⁷ Mr Mulholland suggested that the redrawing constituency boundaries every five years was not sensible, was costly and could lead to electoral chaos. Geraint Davies (Labour/Co-op) moved an amendment which proposed that instead of using the electoral register for calculating the number of electors in a constituency, an estimate of the number of eligible voters should be used. Mr Davies said that this would ensure that each MP represented the same number of people 'not the same number of people who happen to have registered.'⁸⁸ Andrew George (Liberal Democrat) also proposed an amendment which would allow the Boundary Commissions to take into account the difference between the potential electorate of a constituency and the actual number of voters on the electoral register.

Graham Stringer (Labour) moved amendment 38 which would delay the start of the boundary review until the Electoral Commission had reported to Parliament that it was certain that sufficient measures had been taken to provide for the registration of eligible voters.⁸⁹

5.4 20 October: Boundaries

There were a series of votes on proposed amendments to the boundary review process, as debated on 19 October. Amendment 127 was lost by 326 votes to 232, Mr Mulholland's amendment 342 postponing the review to 2018 was lost by 319 votes to 237. Chris Bryant announced that he would like to press further amendments on the timing of the review to a division. Mr Stringer's amendment 38 was lost by 328 votes to 231. Eleanor Laing spoke on behalf of the Political and Constitutional Reform Committee to amendment 234 which would prevent the Secretary of State from making modifications to the boundary reviews without the agreement of the boundary commissions.⁹⁰ In response David Heath, for the Government, promised to examine the point. Although she wished the amendment to be withdrawn sufficient Members indicated that there should be a vote, and the amendment was lost by 308 to 231. **Mr Heath then moved a series of minor Government amendments to clarify ministerial responsibility for electoral law.** These were added without a division. A division on the principle of clause 8 next took place and this was won by 311 to 225.⁹¹

Chris Bryant spoke to amendment 364 on the question of the appropriate size of the House, which was grouped with similar amendments. He was concerned that a reduction to 600 would disproportionately affect Labour MPs, whereas a reduction to 585 would have disproportionately affected the Liberal Democrats⁹² He drew attention to the major effect on Wales, and later on the impact on the House as a whole, since the maximum number of Ministers would not be reduced.⁹³ He was also concerned about the impact of increasing constituency work and impact on a backbench career.⁹⁴ The Conservative backbencher Mark Field supported the principle of Mr Bryant's amendment, arguing that a reduction to 600 had no justification, especially as the unelected House of Lords continued to increase in size by over 50 since the May 2010 election alone.⁹⁵ A number of speakers drew attention to the increased constituency workload which would result from a reduction, and Christopher

⁸⁷ HC Deb 19 October 2010 c882

⁸⁸ HC Deb 19 October 2010 c886

⁸⁹ HC Deb 19 October 2010 c897

⁹⁰ HC Deb 20 October 2010 c1017

⁹¹ HC Deb 20 October 2010 c1028

⁹² HC Deb 20 October 2010c1033

⁹³ HC Deb 20 October 2010 c1037

⁹⁴ HC Deb 20 October 2010 c1046

⁹⁵ HC Deb 20 October 2010 c1049

Chope challenged the Government to explain how the figure of 600 had been chosen, when the Conservative manifesto had proposed 585. . In response David Heath said:

The figure is not magical; it is simply an arbitrary figure that reduces the size of the House in a way that I believe is consistent with the public mood and the needs of this House.⁹⁶

Mr Chope drew attention to the widespread boundary review which would be required by the reduction to 600 and the potential impact on independent-minded MP who would need to seek selection in the new constituencies. John Mann and Martin Vickers spoke of the need to retain the history of community representation, and not accept a fixed number of MPs for the House. Eleanor Laing argued in contrast that the boundary commissions were capable of undertaking the work in three years and that communities and traditions formed themselves once boundaries were set. Stephen Williams argued that in contrast to federal states such as the USA, there were already insufficient elected representatives to whom constituents could turn. Mark Durkan spoke of the tyranny of arithmetic and the requirement in the Bill to readjust the number of seats given to Northern Ireland, Scotland and Wales every five years.⁹⁷

In response, David Heath said that the Coalition was committed to the principle of an elected Lords, and that the changes were not partisan. He commented that some Members had forgotten the public mood for reducing the cost of politics. Amendment 364 was lost by 325 to 212. **A Government amendment to amend the new redistribution rules to clarify the definition of local authority boundaries was added to the Bill.**⁹⁸ Due to the length of the debate on these series of amendments, that there was no time under the terms of the programme motions to debate specific amendments on public inquiries for boundary commission proposals in clause 10.⁹⁹ Clauses 11 to 17 and Schedule 7 were also added to the bill without any debate, due to the terms of the programme motion. This meant that the decoupling of National Assembly for Wales constituencies from those for Westminster in clause 11 was not discussed, although several MPs from Welsh constituencies spoke to earlier amendments on the size of the House.

5.5 25 October 2010 New clauses

Referendums and the media

The Government's New Clause 19 was added to the Bill without a division. The new clause states that the costs of covering and reporting on the referendum in the media are not referendum expenses for the purposes of the *Political Parties, Elections and Referendums Act 2000*. The clause will put the costs incurred by the media in reporting the referendum outside the regulatory regime for referendums as laid out in PPERA; the new clause does not apply to advertisements by campaigning individuals or organisations.¹⁰⁰

Combination of polls

New Clause 20 and new Schedules 2, 3 4 and 5 on the combination of polls were also added to the Bill. The new clause and schedules allow for the referendum to be combined with different elections or local referendums that could take place on 5 May 2011. The Minister, Mark Harper, explained further:

⁹⁶ HC Deb 20 October 2010 c1056

⁹⁷ HC Deb 20 October 2010 c1078

⁹⁸ HC Deb 20 October 2010 c1093

⁹⁹ HC Deb 20 October 2010 c1097

¹⁰⁰ HC Deb 25 October 2010 c27

The “combination amendments”...consist of one new clause and four schedules. There is a schedule to deal with the combination with elections or local government referendums for each of England, Wales, Scotland and Northern Ireland. Each schedule is divided into three parts: part 1 deals with general provisions; part 2 deals with postal voting provisions; and part 3 deals with forms.¹⁰¹

New clause 20 makes provision for parish elections in England to be combined with the local elections and the referendum on 5 May 2011 and not postponed for three weeks.¹⁰² Subsection (6) of new clause 20 provides that if there are any unscheduled polls (such as a UK Parliamentary by-election) these will not be combined and will be run as separate elections.

New schedule 2 sets out the provisions for the combination of the referendum with local parish and mayoral elections and local government referendums in England. Paragraph 5 of the Schedule allows the cost of the combined polls to be equally apportioned between them.¹⁰³ Mr Harper said that in the case of a combined referendum on the voting system and local government elections in England ‘the cost would be split 50:50 between the Consolidated Fund and the local authority concerned.’¹⁰⁴ The Schedule also made provisions for the combining of the official poll cards; for the verification of the ballot papers for all combined polls to take place before the declaration of any counts and provisions for the issue and receipt of postal ballot packs. The provisions in **Schedules 3 to 5 for Wales, Scotland and Northern Ireland**, are largely consistent with those for England in Schedule 2. Mr Harper said that the three draft territorial orders, which are required to complete legislative provision for the combination of polls in each of the countries, had now been tabled. These are statutory instruments made under powers contained in the *Scotland Act*, *National Assembly for Wales Act* and *Northern Ireland Act*.¹⁰⁵

Chris Bryant moved an amendment to new clause 20 which would allow only a local authority election in England to be combined with the referendum. A further Opposition amendment relating to Northern Ireland would have prevented the combination of the referendum with both local elections and the Northern Ireland Assembly elections. These amendments were defeated after divisions.

Timing of the counts

During the debate on an amendment to the new schedule 2 which would allow Members of Parliament to attend counts on 5 May 2011, Mark Harper said that he expected the count for the referendum to take place on Monday 9 May ‘because of prioritising the elections and our respect for the fact that in Northern Ireland counts do not usually take place on Sundays.’¹⁰⁶

Number of Ministers

The Conservative backbencher, Charles Walker, introduced an amendment to reduce the maximum limit on the number of holders of ministerial office in the *House of Commons Disqualification Act 1975*. A number of backbenchers supported the rationale, given the planned reduction in the number of MPs. There was also comment on the increase in the number of PPSs in recent years. In response, Mr Heath argued that the Government might address the question at some point in the future, once the various pieces of constitutional

¹⁰¹ HC Deb 25 October 2010 c41

¹⁰² HC Deb 25 October 2010 c42

¹⁰³ HC Deb 25 October 2010 c43

¹⁰⁴ HC Deb 25 October 2010 c43

¹⁰⁵ Draft Northern Ireland Assembly (Elections) (Amendment) Order 2010, Local Elections (Northern Ireland) Order 2010, Scottish Parliament (Elections) Etc Order 2010, National Assembly for Wales (Representation of the People)(Amendment) Order 2010 laid 25 October 2010.

¹⁰⁶ HC Deb 25 October 2010 c89

reform had been put in place, including Lords reform.¹⁰⁷ Mr Heath said: “surely the number of Ministers must be a function of need, which is not necessarily related to the number of Members”.¹⁰⁸ Mr Walker pressed the amendment to a division which was lost by 293 to 241.

5.6 Select Committee evidence

Lords Constitution Committee

On 8 October the [Government responded](#) to the Lords Constitution Committee report on referendums which had been published in April 2010. A debate was held on 12 October in the Lords on the substance of the report and the Government response.

One issue which is likely to come under scrutiny is the question of the regulation of information during the referendum period, which runs from royal assent until the poll planned for 5 May 2011. The Lords were sympathetic to evidence from the Electoral Commission that the production of publicity should be regulated for the whole of this period, not just the 28 days before the poll as set out in PPERA. The Government did not agree:

The restriction on the publication of promotional material by central or local government to apply from the start of the referendum period.

The Government is concerned that putting in place such a requirement could impact upon the ability of Government to carry out its day-to-day duties, depending upon the subject of the referendum and the length of the referendum period. The Government believes that the existing 28-day restriction provided for in PPERA is adequate and that any extension of that period needs to be considered on a case-by-case basis.

Scottish Affairs Committee

On 11 October the [Scottish Affairs Committee](#) published the written evidence it has received in response to its call for submissions on the date of the referendum on the alternative vote. During the first day of committee on the bill the Scottish Affairs Chair, Ian Davidson, said that “a strong view had been expressed by civic Scotland that is hostile to the proposals in the main.”¹⁰⁹ He complained that the Government had not had an opportunity to take these views into account, such was the haste with which the legislation was being handled.

Welsh Affairs Committee report

On 14 October the Welsh Affairs Committee took evidence from witnesses from the Boundary Commission for Wales, the Association of Electoral Administrators and Mark Harper on the implication for Wales of the Government's proposals for constitutional reform. There was some concern that the scrutiny of the bill might leave insufficient time to examine the impact on Wales. The [uncorrected evidence](#) is available online. The Committee produced its report on 25 October 2010 entitled [The Implication for Wales of the Government's proposals for constitutional reform](#). The summary was as follows:

The Parliamentary Voting and Constituencies Bill will have a greater impact on Wales than any other nation of the UK. Wales is projected to lose ten of its forty parliamentary seats, a reduction of 25%.

We agree with the principle that all votes should have equal weighting. However, equalisation between constituencies is only one of a number of factors to be taken into account when deciding constituency boundaries. The unique geography, history and

¹⁰⁷ HC Deb 25 October 2010 c129

¹⁰⁸ HC Deb 25 October 2010 c131

¹⁰⁹ HC Deb 12 October 2010 c192

communities of Wales must not be ignored when the Boundary Commission undertakes its review.

The decision to hold a referendum on a change to the UK voting system on the same day as elections to the National Assembly for Wales might result in a number of problems for electoral administrators. However, these problems should not be insurmountable if rigorous planning is made. More problematically, we are concerned that the number of complex political decisions that the people of Wales will be asked to take next Spring means that there is a risk that they will not each receive the attention they each deserve.

More generally, we are disappointed at the pace at which the whole package of constitutional reforms is being legislated and implemented. The provisions of the Bill will have profound consequences for the UK Parliament and for Wales in particular. We are equally disappointed that the Government has decided to timetable the Bill through the House of Commons without adequate opportunity for fuller scrutiny. We regret very much that the Secretary of State for Wales did not make allowance for a meeting of the Welsh Grand Committee so that Welsh interests in the Bill could be considered in depth.

The Members Research Service of the National Assembly for Wales published in September a background briefing on the Bill.¹¹⁰

6 Report stage 1 and 2 November 2010

The [fourth programme motion](#) made provision for consideration of amendments relating to boundaries on the first day of the report stage and amendments concerning the rules for combined polls and on referendum thresholds on the second day. Chris Bryant opposed the programme motion saying that it was 'inappropriate for no further time to be allowed' for consideration of the amendments; the programme motion was passed by 320 votes to 241.¹¹¹

6.1 Boundaries

An Opposition amendment proposed that the Boundary Commissions should be allowed a 'wider degree of latitude' in applying the 5% rule. Chris Bryant said that there were 'more instances than are allowed for in the Bill where the Boundary Commissions should be allowed to exercise a degree of discretion'.¹¹² The amendment would allow the Commissions to vary the rule up to a fixed limit of 10%. Other Opposition amendments made provision for a whole number of seats for Cornwall and the Scilly Isles, for Anglesey and for the Isle of Wight; for not splitting wards between constituencies and for local boundaries to be considered without subordination to the 5% rule, but not going further than the 10% exception that an earlier amendment proposed.¹¹³ The amendments that were pressed to a division were defeated.

During the debate on the amendments concerning boundaries several Members expressed concern about the division of communities if constituencies had to be within 5% of the electoral quota and called for more flexibility in applying the new rules. Chris Bryant commented that

A system that delivers mathematical perfection may be aseptically clean, and please the tidy utilitarian and the centralist, but it will in countless cases leave voters on the

¹¹⁰ 10/67 National Assembly for Wales Parliamentary Voting and Constituencies Bill September 2010.

¹¹¹ HC Deb 1 November 2010 c648

¹¹² HC Deb 1 November 2010 c657

¹¹³ HC Deb 1 November 2010 c660

wrong side of a river, a mountain, a county or ward boundary, or cultural divide and, thereby, fail the fundamental tests that we should be setting.¹¹⁴

Andrew George (Liberal Democrat) who had also put down an amendment to allow the Boundary Commissions more discretion when applying the 5% rule, particularly in relation to Cornwall, said that

When people wake up to the full reality of the way the boundaries are to be divided, they will understand that it will result in the effective pasteurisation of parliamentary constituencies. They will be homogenised and we will see the denigration of place, the denigration of identity and the promotion of placelessness and bland uniformity. The Boundary Commission should be given the discretion to recognise identity, culture, tradition, history, geography and so forth, so that places with strong identities, historic communities, historic counties and, indeed, historic boroughs do not find themselves divided up for the satisfaction of the Government's need for so-called statistical equalisation.¹¹⁵

Charles Kennedy said the Government was trying 'to introduce the artificial construct of a capped number of constituencies for the whole UK.'¹¹⁶ He continued:

Leaving aside party politics, I think the House would agree that there are distinct and unique geographical considerations in places such as the Isle of Wight, in Cornwall, with its relationships between places on each side of the Tamar, and in the highlands and islands, a vast area that is bigger than Belgium. I think the House recognises that in such circumstances, a degree of sensible flexibility is called for. This is not gerrymandering; in fact the seats that tend to be involved could not be gerrymandered in a political sense, because they are not those kinds of community. Largely because of their sheer disparity and diversity, the individual who happens to be their Member will, irrespective of their party affiliation, represent a significant link between those communities and officialdom at the regional, national and even European level. That is being dissipated and completely overlooked in the crazy approach that is being applied, which simply is not suitable and does not make sense given the communities involved.¹¹⁷

Mr Kennedy spoke about the size of his constituency which has been the largest geographically for the past 27 years; he said that there came a point 'at which geographical impracticality sets in and nobody can do the job of local parliamentary representation effectively.'¹¹⁸

Mark Durkan (SDLP) had tabled amendments to give Northern Ireland its own electoral quota. Mr Durkan said that the Bill would mean that Northern Ireland could end up with about 15 constituencies and with reviews every five years

...it could be that under the Sainte-Laguë system for distributing seats to the four constituent boundary commissions, the following boundary review might reduce the number of seats in Northern Ireland to 14, and the boundary review after that, depending on what happens with registration, might raise the number again.¹¹⁹

¹¹⁴ HC Deb 1 November 2010 c657

¹¹⁵ HC Deb 1 November 2010 c680

¹¹⁶ HC Deb 1 November 2010 c662

¹¹⁷ HC Deb 1 November 2010 c662

¹¹⁸ HC Deb 1 November 2010 c661

¹¹⁹ HC Deb 1 November 2010 c674

Mr Durkan added that ‘chopping and changing the number of seats in Northern Ireland every five years without any regard to either a sense of equality or a quota that relates to Northern Ireland’s particular circumstances has difficulties’.¹²⁰ Paul Murphy (Labour) agreed, saying that the negotiation and compromise that led to the Good Friday Agreement, which led to the constituencies in Northern Ireland also being the constituencies for the Northern Ireland Assembly, could be jeopardised. David Heath, the Parliamentary Secretary, said that Mr Durkan had raised an important point and that there would be further consideration of the quota and Northern Ireland.¹²¹

Andrew Turner (Conservative) criticised the Government for its lack of consultation about the exceptions made in the Bill for the Scottish islands but not other islands; his amendment would make provision for the whole of the Isle of Wight to remain as a single constituency.¹²² David Heath said in response that a cross-Solent constituency might have advantages and added that ‘there are a number of shared opportunities between the island and the mainland and I believe this willingness to engage could also be demonstrated in a cross-Solent constituency.’¹²³

Government amendments were agreed which would allow the Boundary Commissions to use the most up-to-date register in areas where publication is delayed and which make consequential amendments to other legislation that refers to particular constituencies by name.

6.2 Local inquiries

Eleanor Laing (Conservative) moved amendments on behalf of the Political and Constitutional Reform Committee which would require the Boundary Commissions to hold a short consultation on how they intend to approach the division of the country into constituencies before the next review takes place.¹²⁴ Another amendment would have given voters the right to make representations with respect to constituencies other than the one in which they lived. Mrs Laing said these amendments were on behalf of the Select Committee on Political and Constitutional Reform. Sadiq Khan, for the Opposition spoke to amendment 15, which would have reinstated local inquiries. Mr Khan argued that the tight timetable for the review was driving the removal of inquiries but the result would affect the public perception of the impartiality of the boundary commissions.

Mark Durkan, for the SDLP, pointed out that the Act would be a destabilising factor in Northern Ireland, since the Westminster constituencies were also used to elect Members to the Northern Ireland Assembly. A public inquiry covering the whole of Northern Ireland was particularly necessary in this context.¹²⁵ He received support from Nigel Dodds from the DUP, who spoke to similar amendments, noting that there were constituencies in Northern Ireland who were unrepresented in the Commons due to the abstentionist policies of Sinn Fein.¹²⁶

In response David Heath emphasised the importance of meeting the timescale for the reviews, making it harder to prepare for the next general election. He said that under the current law voters could make representations about other constituencies and there were no plans to change this right.¹²⁷ He cited academic research indicating that inquiries were not helpful to the commissions in terms of providing a good indication of public opinion and that

¹²⁰ HC Deb 1 November 2010 c674

¹²¹ HC Deb 1 November 2010 c686

¹²² HC Deb 1 November 2010 c682

¹²³ HC Deb 1 November 2010 c685

¹²⁴ HC Deb 1 November 2010 c701

¹²⁵ HC Deb 1 November 2010 c719

¹²⁶ HC Deb 1 November 2010 c724

¹²⁷ HC Deb 1 November 2010 c727

publicising written representations would offer a more transparent system.¹²⁸ The Opposition amendment 15 was lost by 336 votes to 244 at 10pm. The terms of the programme motion then came into effect and clauses 10, 11 and 12 were undebated. **A Government amendment to clause 10 only allows the Secretary of State to modify a Commission report in the subsequent Order in Council if this at the request of the Commission.**

6.3 Combination of polls

On 2 November Mark Harper introduced a series of Government amendments on the combination of polls:

Mr Harper: These amendments update the combination provisions in the Bill to reflect the following draft orders, which were laid before Parliament by the Scotland and Northern Ireland Offices on 25 October: the Scottish Parliament (Elections etc.) Order 2010; the Northern Ireland Assembly (Elections) (Amendment) Order 2010; and the Local Elections (Northern Ireland) Order 2010.

The purpose of the amendments is to ensure that the combination rules in the Bill work effectively with the rules governing elections to the Scottish Parliament and the Northern Ireland Assembly, and local elections in Northern Ireland, in the event that the draft orders are approved by Parliament, as the Government hope. No amendments have been necessary in relation to the combination provisions for Wales. Although the rules governing elections to the National Assembly for Wales will be updated by the National Assembly for Wales (Representation of the People) (Amendment) Order 2010, if approved by Parliament, none of the amendments to be made by this order affects any rules relevant to combination with the referendum. This order was also laid in draft before Parliament on 25 October.¹²⁹

Mr Harper emphasised that most of the amendments were minor and technical, apart from those which set out the details of the joint issue and receipt of postal ballot papers in Northern Ireland. He pointed out that the costs of the referendum and the elections for the Scottish Parliament would be met from the Consolidated Fund and potential savings of £30m might result.¹³⁰ There were protests from Opposition members about the length and complexity both of the Orders and the series of amendments, but most of the comments focused on the lack of consultation with devolved administrations on the choice of the polling day. In response Mr Harper commented on some detailed postal voting provisions and said he would reflect further on whether the Bill changed the ability of the Northern Ireland Assembly to change the date of its election by up to 2 months.¹³¹ **The Government amendments were added by 331 votes to 238.**

6.4 Thresholds in referendum

Bill Cash moved amendment 7 to ensure that 40 per cent of electors had to vote in a referendum for the result to be valid. This was debated with amendments sponsored by Eleanor Laing to the effect that 25 per cent of those entitled to vote should vote yes for a valid result. Mr Cash argued that 40 per cent was a low threshold and some threshold was required when constitutional change was proposed. Opponents argued that a threshold could prompt 'No' campaigners to encourage non participation in the referendum.¹³² Chris Bryant opposed the amendment, but, under questioning from the Labour MP Graham Stringer,

¹²⁸ HC Deb 1 November 2010 c729-31

¹²⁹ HC Deb 2 November 2010 c795

¹³⁰ HC Deb 2 November 2010 c798

¹³¹ HC Deb 2 November 2010 c824-828

¹³² HC Deb 2 November 2010 c844

noted that there was no fixed Labour policy on thresholds in referendums.¹³³ He drew attention to the potential issues with differential turnouts across the UK.

Mr Harper also opposed thresholds, stating: “we should not set artificial limits that encourage people not to participate in the referendum”.¹³⁴ Mr Cash’s amendment was lost by 549 votes to 31. Under the terms of the programme motion, the rest of the Bill was passed.

6.5 Third Reading

The Deputy Prime Minister opened the debate on third reading of the Bill. There were a number of comments to the effect that he had not previously participated in its detailed scrutiny.¹³⁵ Mr Clegg said:

I am sure I do not need to remind Members of the damage that was done by the expenses scandal, which lifted the lid on a culture of secrecy, arrogance and remoteness right at the heart of the democracy. The coalition Government are determined to turn the page on that political culture and give people a political system that they can trust. That is why we have set out a programme for wholesale political reform. We are starting with this Bill, which, through its commitment to fairness and choice, corrects fundamental injustices in how people elect their MPs.¹³⁶

Sadiq Khan countered that the bill was in effect a political bargain:

This Bill is the product of a straightforward political bargain. In exchange for a referendum on the alternative vote, which the Conservatives opposed, the Liberal Democrats signed up to a review of constituency boundaries that the Conservatives favoured. As such, it has come to be regarded by the leadership as an unalterable document that must be accepted totally and unquestioningly.¹³⁷

Mr Khan complained that an unbending attitude had prevented sensible reforms to the Bill. Eleanor Laing also commented on the failure to accept sensible amendments, while supporting the principle of the Bill. Nigel Dodds complained that constitutional changes should be subject to pre-legislative scrutiny and appropriate consultation. Charles Walker deplored the failure to reduce the maximum number of Ministers in proportion to the reduction in the number of Members. The Liberal Democrat Alan Reid drew attention to the difficulties imposed on Scottish highlands and islands constituencies by the new Rules. The Conservative Richard Shepherd said that he would vote against the Bill, as diminishing the powers of the Commons. The Bill was passed by 321 votes to 264.¹³⁸

¹³³ HC Deb 2 November 2010 c848

¹³⁴ HC Deb 2 November 2010 c854

¹³⁵ HC Deb 2 November 2010 c862

¹³⁶ HC Deb 2 November 2010 c862

¹³⁷ HC Deb 2 November 2010 c866

¹³⁸ HC Deb 2 November 2010 c888