

HOUSE OF COMMONS
POLITICAL AND CONSTITUTIONAL REFORM COMMITTEE
GOVERNMENT PROPOSALS FOR VOTING AND PARLIAMENTARY
REFORM

Tuesday 27 July 2010

PROFESSOR RON JOHNSTON and MR ROBIN GRAY

PROFESSOR PATRICK DUNLEAVY and PROFESSOR JUSTIN FISHER

Evidence heard in Public Questions 57 - 150

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Oral Evidence

Taken before the Political and Constitutional Reform Committee

on Monday 26 July 2010

Members present

Mr Graham Allen, in the Chair

Nick Boles

Mr Christopher Chope

Sheila Gilmore

Simon Hart

Tristram Hunt

Mrs Eleanor Laing

Sir Peter Soulsby

Mr Anderw Turner

Stephen Williams

Witnesses: **Professor Ron Johnston**, Bristol University, and **Mr Robin Gray**, former Boundary Commissioner for England, gave evidence.

Q57 Chair: Good morning, Mr Gray and Professor Johnston. It is nice to see you. Welcome to the Political and Constitutional Reform Committee. As you know, we are looking at the Government's Bill pre-legislatively in an extremely short timetable, the Bill on voting and parliamentary reform. We are delighted that you can both join us here this morning. I know Nick has some general opening questions. Is there anything specific you would like to say initially or can we crack straight on with the questions?

Professor Johnston: I would just say initially I am agnostic about the issue of the number of MPs and in general accept what is being done with regard to revising the rules and giving equality primacy, but there are many other issues that follow from that.

Mr Gray: One thing perhaps I ought to say at the outset is although I was obviously a member of the Parliamentary Boundary Commission for England, I am not here today speaking on behalf of them, I am very much here in my own right speaking as an individual. It would be silly not to say, of course, that the last two or three Boundary Commission Reports, the third, fourth and fifth ones, said that we had concerns about the rules. I also have feelings about the need to change the rules and some of the things that are being done are very much in accord with what we said in our recent reports.

Q58 Nick Boles: Good morning. I have just a couple of general questions at first. I am not entirely clear how the Boundary Commission is likely to go about this. In those seats which are already pretty close to what will be the quota, will you nevertheless expect that there will be significant change because they will be starting at one end of the country or will there be substantial numbers of seats that remain roughly as they are?

Mr Gray: It is a very difficult question. I suspect there will be massive change because if you are reducing the number of seats in England by roughly 30 constituencies, as it were, that means you are going to be doing a lot of shifting around particularly as if the

provisions in the Bill are enacted you are going to be much closer to the electoral quota so you have got less room for manoeuvre. There is going to have to be, I think, a lot more movement. Even if it is done on a regional basis you are within those regions, without doubt, going to have to pair counties in a way that has never been done before. It has been done in London with the London boroughs and it has been done in the large metropolitan areas with the metropolitan boroughs but never with the shire counties. I do not see any way that is not going to happen next time, so I think there are going to be a lot of changes.

Professor Johnston: If you are the Member for St Ives or the Member for Berwick-upon-Tweed you can be fairly sure that you will more or less have the same constituency, but if you are the Members for many parts of England you may find that very large percentages have gone somewhere else simply because of the size and the need to pair.

Q59 Nick Boles: Last week we had evidence from various others, including Professor Pinto-Duschinsky, and he made a very strong suggestion that the rush to timetabling this legislation was a result of the Boundary Commission process and was suggesting that we move to an Australian style approach to Boundary Commissions which would then give us a lot more time and would still be ready for an election in five years' time. What is your view of that?

Professor Johnston: The big thing that the Australians do not do is public inquiries and nor do the New Zealanders. Of course, New Zealand has politicians on the commission so the deals are done before the proposals are made. In terms of the timetabling, if you have public inquiries they will take more time. It is still feasible to do it in the time, and Robin can say more about it because he has been in there doing it, but it will be very tight and will undoubtedly mean plenty of resources being given to the Boundary Commissions to do it. I do not think adopting an Australian approach would make that much difference to the timing.

Q60 Nick Boles: As you are probably aware the draft Bill does actually propose that there will not be any public inquiries.

Professor Johnston: It does, I know.

Q61 Nick Boles: Would that, therefore, move us much closer in terms of timeframe?

Professor Johnston: Indeed.

Mr Gray: The timeframe for this first review is going to be tight enough anyway, two years and nine months. That is going to be tight even without public inquiries. In England, you are talking about reviewing 500 seats or creating roughly 503 seats. That is quite an undertaking in just less than three years.

Q62 Nick Boles: One final question, Chairman. This is me probably being naïve but we are all very familiar with the American situation where you get these extraordinary shapes. I am not aware of a particular provision that says some sort of sensible contiguity of landmass, if you like, is a prime consideration. Is it?

Mr Gray: It is not a prime consideration but it is one of the considerations. The problem with the current rules is that we have had to consider a whole range of different rules in order to try and create sensible constituencies. There was not even, as you know, priority

for equality of votes. It was a balancing act. That became even more so after the *Foot* judgment in 1983 where the Court of Appeal said that what the Commission had to do was try and come up with the most sensible solution taking all of the rules into account. There are some circumstances where there are some actually quite curiously shaped constituencies and that is probably because in those circumstances we were taking into account some of the other issues about community or breaking ties or whatever.

Professor Johnston: Rule 5(1)(a) says: "The Boundary Commission may take into account, if and to such extent as they think fit, special geographical considerations, including in particular the size, shape and accessibility of a constituency". So they are told if at all possible do not have a long thin one.

Q63 Tristram Hunt: What is your view in terms of the Bill of the taking away of local inquiries?

Professor Johnston: My feeling on public inquiries is in general, to quote a former MP, "far too elaborate about so little" for a variety of reasons. One is although you occasionally get the case where a local community will come forward and say, "You're breaking our local community", they are doing it in a non-political way - it happens - and very occasionally an individual will come up with some very interesting things to say, but the public inquiries are dominated by the political parties and they are using the rules obviously for promoting their electoral gain. If you have a longer period for submissions, and they are proposing 12 weeks rather than the previous four, you are going to get considered things put in in writing whereas what you previously got was, "Put anything in to show we are against it and then we have got a long time before the inquiry to come up with what we really want". The change will focus minds on that. Public inquiries often have no impact. Of the public inquiries last time half of them made no change and a lot of them only very, very minor change, one ward moved from one constituency to another or whatever. Mainly places where public inquiries had a big impact from what the Commission initially proposed to the final solution was where either a seat was being added to a county or being taken away and then everything was up for grabs and, not surprisingly, there was much more fighting over it. That is an argument against me because that is an argument for having public inquiries this time because you are drawing a totally new map with new constituencies and nearly everything will be different. In general terms the experience over the last three or four inquiries has been that public inquiries have been fine involving people but in the end it is really about the politicians seeking to gain their own advantage. This time you are going to have much more where the local people are going to be concerned because suddenly the pattern of representation is going to be very different from what they have been used to for a long time.

Q64 Tristram Hunt: So of all the boundary changes arguably this one should have a public inquiry most readily?

Professor Johnston: I can concede that there is a very strong argument.

Mr Gray: I have got a slightly different take from Ron. I agree in most respects. He is absolutely right about the impact that public inquiries had on the Commission's initial recommendations. In a lot of cases there was no change. One of the things about public inquiries is even though you could argue that it is the political parties who play the major, and in some cases admittedly the only, role at public inquiries, they do actually provide some assurance for the public that the issues have been looked at, debated and an

independent, barrister, solicitor, whatever, has come to a view about that. The other issue is that from time to time - not often - you do get very good inputs from community groups and the odd individual. It is unusual but you do sometimes and that is quite important. For the Commission it has also helped at times to reassure us that we got it right because when you are reconfiguring an area and creating slightly new constituencies on a different basis there are different options, we go one way but we might have gone another. It is quite helpful to be reassured by hearing that evidence pored over, the cross-questioning between the main participants and so on, so that we, when we are looking at the Assistant Commissioner's report and making up our minds, can say, "Ah, yes, we did more or less get it right", or, and in one or two cases we did last time, we can actually reject the Assistant Commissioner's recommendations and either stay with our original recommendations or alter them slightly because when we look at the transcripts of the inquiry and the evidence we think we need to do something slightly different. It does help the Commission, notwithstanding the fact that there is a mass of written evidence as well. One of the things that worries me about the way this is going in one sense is 12 weeks will mean probably, as Professor Johnston says, that the Commission will get more considered responses from the main players in the game but they will come in on the day before the end of that 12 weeks, they will not come in at the beginning. That means the other participants will not be able to know whether there are counterproposals being put in until after that. To give you an example in the new situation, and it comes back to the point you made, let us suppose the Commission in trying to work out what they are going to do in the south west decides to put Somerset, Dorset and Devon together and create seats from those three counties but one of the main players in the game comes up with a counterproposal that says, "No, no, we need to link Devon, Cornwall and Somerset and Gloucestershire with whatever", nobody will know that until those things come in. Particularly with this first round I can see there is a real need for public inquiries particularly to enable those who are interested, political parties and others, to actually argue this through because these are going to be big changes.

Professor Johnston: That is important. We are talking largely about England but it does apply in Scotland and Wales as well. If the Commission decides to group a particular grouping of counties there could be a case that it should consult on that before it then goes to the next stage otherwise if you have got people coming and saying, "We don't want Dorset with Wiltshire, we want Dorset with Somerset", that throws everything in the pot and it may affect Wiltshire in different ways as well. By making one change you are making lots of changes which ripple through half of the country. There could be a strong argument for a two-stage thing, which in a sense is what has been done before by the Commissions because they changed the groupings of London boroughs from their provisional recommendation to their final recommendation.

Q65 Tristram Hunt: If we get rid of public inquiries we have got a 12 week consultation period and we are hoping in that moment to get lots of voices come up. Would you then expect, given also the two year and nine month timeframe, that there would have to be quite a sizeable increase in the budget of the Commission to make this run properly?

Mr Gray: Yes.

Professor Johnston: There is also the issue as to how the Commission handles it. At the moment an Assistant Commissioner holds the inquiry and makes a report. It is nearly always a QC, a sheriff in Scotland, who is independent of the Commission and looks at what the submissions have laid out alongside what the Commission has proposed. Is the

Commission going to be judge and jury in its own cause, which could be the case if it just takes the submissions and says, "Yes, we accept what somebody has said" or "No". There is an issue of how the consultation is handled if there are public inquiries, which may not be an issue for the Bill, or it may be, but it is certainly an issue for how the Commissions operate.

Q66 Chair: Could I ask, to make this perhaps a little more succinct, the Deputy Prime Minister on the face of the Bill has said that this Bill does not in any way compromise the European Convention on Human Rights. If there is such a lack of due process, if there is no ability to see the representations that other people make, which having been through a Boundary Commission I found incredibly helpful in mobilising my argument, are we in danger of actually denying due process here and infringing the ECHR?

Mr Gray: There is another issue there which I was going to mention in reply to Mr Hunt. I suspect that what that could lead to is more judicial review. We were only subject to one judicial review last time right at the end of the process in West Yorkshire. I can see that in this sort of situation you could end up with a lot of people around the country applying for judicial review.

Q67 Chair: Any consequences you see under the European Convention and judicial review, Professor Johnston?

Professor Johnston: I can well see people using it as a reason for addressing the issues that they think they are not able to address because they are not having public inquiries.

Q68 Chair: I am going to ask Members to be fairly sharp because we have our two witnesses until 11. If questions can elicit information and opinion from the witnesses rather than us giving our own.

Mr Gray: Could I answer the resource issue, Chairman?

Q69 Chair: By all means. Excuse me, I thought you had finished, Mr Gray.

Mr Gray: Through the last review the Commission never had more than 15 staff. At the previous review the government of the day asked for the review to be accelerated, and I hasten to add I was not there then so this is obviously a matter of report for me, and enacted legislation that brought the review forward. On that occasion they then increased their staff to 40, so it went up from 15 to 40 to enable that to happen. Effectively, even with public inquiries they carried out the majority of that review in two and a half years. There was a year and a half roughly before that where they were doing it, if you like, in the normal way but if you look at that, by increasing the number of staff in that way, still running public inquiries, I am sure they could have done it in around about three years if they had been doing that at the outset. If the legislation is enacted in this new system, if we are going to have effectively a rolling review, once you are on that path then all the time you are going to be ready almost for the next one and you can publish your proposals much, much earlier than you can now. Even under the old system I actually think it would have been possible to have published things earlier. Even if you did not have the inquiries until later you could have published your proposals much earlier on and got the thing moving more quickly. I know that the Commission Secretariats across the four territories - I do not know what the other three are doing - had been talking about

how you could speed up the process even before this Bill was put forward.

Professor Johnston: There is another resourcing issue and that is the size of the Commission. The Bill has made no reference to that so it has gone back to the 1958 Bill, which is that each country has in effect three Commissioners, a Deputy Chairman and two active Commissioners, because the Speaker is not active. My guess is that in Scotland, Wales and Northern Ireland that would be quite feasible but I wonder whether three Commissioners would be sufficient to do the job in England in the brief time at least the first time round. Last time they advertised for Commissioners they advertised it as a day a month job.

Chair: I am going to ask my witnesses to take pen in hand because I am going to take four questions from this side of the table so we can get everyone in. We have a lot of other things to ask.

Mr Turner: Are you saying that one area cannot be examined until the last one is sorted out, or something like that, or are you saying they can look at everywhere in England at one go? Secondly, is Northern Ireland a further exception? Nick Clegg said in his letter to you dated July, "a difficulty which arises only in Northern Ireland owing to smaller electorates relative to the rest of the UK". I understood that in Northern Ireland they have more than Wales, so what is this about?

Simon Hart: Just turning attention to Wales, where we are looking at a potential 25 per cent reduction in the number of Members of Parliament, so this may be our only conversation, there is going to be a decoupling exercise from the Welsh Assembly as I understand it. What difficulties do you think this poses the Commission in terms of delivering something which is in the interests of the voter rather than in the interests of the political parties?

Q70 Mrs Laing: Just going back to the issue of public inquiries and the point of public inquiries, given that there is a fundamental change that will come through if this Bill is passed that says for the first time the overriding consideration is the arithmetic and that having the size of the constituencies is the most important factor to be taken into consideration, why is it necessary to have public inquiries because both gentlemen have said that public inquiries tend to be dominated by the political parties presumably, one would say, trying to gain political advantage, because that is what political parties do?

Professor Johnston: Yes.

Mrs Laing: If political parties are to be left out and we are to concentrate only on arithmetic, why have public inquiries at all?

Sir Peter Soulsby: My question follows from that. I think you drew attention to the fact that local people have often in the past had some very useful things to say at public inquiries beyond the political parties and their input and particularly local councils on occasions have been very helpful in drawing attention to anomalies, discontinuities, problems with communities and so on. If there is a case for some form of public dialogue, at least about the proposals, the fundamental question is whether including that in the process would still enable the timetable for the implementation of the review to be met, whether or not the Government can get what it wants in the time that it wants and include

some public dialogue.

Q71 Chair: Okay, gentlemen, take your pick!

Professor Johnston: On public inquiries and why have them if it is only arithmetic, it is not only arithmetic because the new Rule 5 says there are lots of other things the Commissions can take into account as long as they are within that five per cent variation. There could be many possible variations which will produce a solution within that five per cent. I started working on this issue 30 years ago when a colleague and I wrote a computer programme to replicate what the Commissions do and we looked at Sheffield. In those days Sheffield had 27 wards and six constituencies. The variation that the Commission had allowed was ten per cent, so we allowed ten per cent and we found 15,000 different ways that they could do it. There would still be many, many ways in which you could do it and you could use Rule 5 to say, "This is why ours is better than yours" although both fit the size constraints. It is not just arithmetic although arithmetic is now being made the dominant feature. You are right, of course, local councils and others do make very good points. I once gave evidence for five councils and got the plan changed. I am sure it can be done with the resource if enough resources are there. That is really the issue. It is the size of the Commission itself and the amount of resource and staffing. The logistics of running some very big and complex inquiries will be much more than last time. I am sure it can be done but the resource implications are clearly there.

Mr Gray: On that issue, as a Commission we did consider that in future one way of speeding up, irrespective of the current proposals, was to increase the number of Commissioners. The same Chair to ensure consistency but you have maybe six, maybe nine, and then do it regionally and you could speed it up that way because you would be looking at things concurrently rather than one after t' other.

Professor Johnston: On the question of decoupling, I guess the question is best asked of somebody from Scotland because they have done it. Electoral administrators in Scotland could tell you how difficult it is to run different elections in different constituencies, different units with different electoral systems. Also you would have this in Wales as well. I am sure the electoral administrators will not be very happy. It will make it more difficult for parties and candidates if you are campaigning in the same area for different units at the same time where boundaries cross over. Joint campaigns will be much more difficult for the parties too. It presumably does work in Scotland but the alternative of not doing the decoupling is you will have a much smaller Welsh Assembly because that is what the law currently says.

Q72 Simon Hart: Can you just repeat that last bit?

Professor Johnston: At the moment the number of first-past-the-post constituencies in Wales is the same as the number of first-past-the-post constituencies for the House of Commons. If Wales goes from 40 in the House of Commons to 30 there can then only be 30 first-past-the-post constituencies in the National Assembly of Wales.

Q73 Simon Hart: That will not happen. It has been completely separated.

Professor Johnston: I am telling you what the current situation is. Unless the decoupling happens which is in this current Bill the Welsh Assembly will go from 60 to 45 AMs. Northern Ireland will go from 108 to 90 and there is nothing in the Bill on Northern

Ireland, which I can only assume the Northern Ireland parties are content with otherwise it would be in the Bill. I was not quite sure about your point on Northern Ireland. Northern Ireland currently has 18 constituencies and will almost certainly go to 15, which is half the number that Wales will have. The argument about Northern Ireland being a special case is Northern Ireland is entitled to 15.2 seats and the point two of a seat is around 10,000 voters, shall we say, which spread out over 15 constituencies is quite difficult. England is entitled to 493.2 and you can easily lose 10,000 extra voters in 493 seats. It is going to be slightly harder for the Northern Ireland Commission to keep within the size constraints because of their small number of constituencies than it is for the others, which is why Rule 7 in the Bill is difficult to read. If you cannot get a fit in Northern Ireland, everything within five per cent, you can have a little bit more elasticity.

Q74 Mr Turner: So there is a different rule for Northern Ireland?

Professor Johnston: Only if the main rule does not produce a solution.

Q75 Mr Turner: They could do the same on the Isle of Wight.

Professor Johnston: You may well say that, I could not comment.

Q76 Chair: I think we were all there before you!

Mr Gray: Can I answer the other question, if I understood you correctly, on would we have to leave it until the last area had been agreed in England before publishing anything. Was that what you were saying?

Q77 Mr Turner: You can only do them one at a time or a small number as you go round the country. You cannot do constituencies up there as well as constituencies down here because when you get to the middle it will be a mess.

Mr Gray: If you do it regionally ---

Q78 Mr Turner: But they are not going to.

Mr Gray: If it was done regionally then that would definitely be possible.

Q79 Chair: Are the orders going to be placed regionally or, as in the past, will there not be one order for the whole lot?

Mr Gray: It will be one order but that does not mean you cannot be doing ---

Professor Johnston: The Commission may say, "Here are all our recommendations for the north east".

Chair: You can do the work but unless it is put in front of Parliament separately you will still have a blockbuster order at the end of this process, which will be cause for another debate no doubt. Has everybody got their question answered in that round? I will move on to some of the other issues and take Stephen first and then Chris and then Tristram.

Stephen Williams: Robin Gray said that this will be the first time a review has considered crossing county boundaries, which may historically be true, but I wonder whether it really

matters. Looking round the table I have to deal with only one unitary authority and if you are in a unitary or a met that is probably the case, but Sir Peter Soulsby, for instance, who is also predominantly an MP for a unitary authority, also has Oadby and Wigston and presumably ---

Sir Peter Soulsby: No, they are coterminous.

Q80 Stephen Williams: There are other examples around the country where Members of Parliament already cross unitary and other boundaries or, indeed, if they are in two-tier districts have district councils and county councils to deal with. Does it really matter?

Mr Gray: The point that we were making was that this is a big change. They may be used to it in London and they may be used to it in the major metropolitan areas, but they are not used to it in Cornwall, Lancashire, Essex, Northumberland or wherever. That is going to be a big issue. It is going to happen everywhere in future rather than just in the big metropolitan areas.

Professor Johnston: The issue is whether it is important particularly for administrators and for parties and MPs, and I am sure it is, because the fewer local authorities you have to deal with the better. Rule 9(3) of the Bill for England only includes some of the types of local authorities. It has gone back to the old wording of the previous Bill and only the boundaries of counties and London boroughs shall be taken regard of. Why not take regard of the unitary authorities as well? Why not take regard of the metropolitan boroughs or principal authorities? It seems to me that the Bill is deficient there and I wonder if that clause was not written in haste simply taking something from a previous Bill and it would be better to reconsider that. Wherever possible give an MP as few local authorities to deal with as possible.

Q81 Stephen Williams: The second question, Chairman, is on what evidence you look at in order to comprise a constituency boundary. Professor Johnston may well be familiar with the last Boundary Review in Avon and Bristol. When I gave evidence I pointed out that because of all the building works that are going to take place in the city centre of Bristol the recommendations they were proposing at the time would be obsolete within a couple of years, and that has proven to be the case. Are we not in danger of having exactly the same outcome again if we only use the December 2010 Electoral Register rather than looking at other data that is available to us? By the time we get to 2015 the boundaries will be out of date and we will have many variations away from the five per cent that is proposed as a rigid figure in the Bill.

Professor Johnston: Part of the response to that is in the election you have just been elected on they were ten years obsolete.

Q82 Stephen Williams: They were obsolete in 2005 as well.

Professor Johnston: Now we are going to have them every five years so there will not be so much obsolescence perhaps. The answer is it would be desirable but how do you do it. Both Robin and I have been members of the Boundary Committee for England with local government re-warding where they do try and take account of proposed changes and it is extremely difficult. Local authorities come up with all sort of data about, "There is going to be a massive growth there and we need to take that into account" and more often than not the growth does not happen. The problem would be if you say there is going to be

change in here there are two things: firstly, how sure can you be it will happen; secondly, what knock-on effect is that going to have. It seems to me, desirable though it is, it would be almost impossible for the Commissions to do it. It would be open to much more challenge and I can imagine three more days at your public inquiry if you were discussing the likelihood of Wimpey's building that estate. All I can say is with a review every five years it is not going to be anything like as bad as it was in the past. You may have to live with some variation which comes in within the five year period but it is not going to be anything like what we currently have with adjacent constituencies in London, one with 88,000 voters and one with 61,000. You are never going to have that again.

Mr Gray: The old Local Government Commission, just before it was subsumed into the Electoral Commission - I know it has come out again now - commissioned some research into the five year electorate forecasts they are required to take into account in creating local wards. With one honourable exception every one of the authorities that the research looked at from the mid-1990s proved to be highly overoptimistic. Also in terms of the Parliamentary Boundary Commission, when we were going through the last review, the Fifth Review, we were pilloried in a number of places for not taking account of local forecasts of population and electorate growth. That was stated in Ashford in Kent because of the Channel Tunnel and Milton Keynes, Telford, Basingstoke and places like that come to mind. Just before we published our final report in 2006 we actually did a check back to see whether those forecasts that we were being told about by local people had in fact come to pass and they had not. There is a real problem in terms of looking too far forward in trying to guess what is going to happen.

Q83 Stephen Williams: What Robin Gray has just mentioned about local boundary reviews leads me to my final question. At the moment we have Parliamentary Boundary Reviews and we also have Local Government Boundary Reviews that take place at different periods in time and then lead to other anomalies. For five years I represented bits of different wards around the edges of my constituency. Would it not be better to join up these processes in future so you settle ward boundaries and parliamentary boundaries at the same time so you have building blocks that work?

Mr Gray: Yes.

Professor Johnston: In an ideal world, yes, except given the constraints that this Bill puts on parliamentary constituencies it may be that in some places the ward boundaries would come after the parliamentary constituencies and not before.

Q84 Chair: Mr Gray, in your previous existence as a Boundary Commissioner if I had asked could you get the number of Members of Parliament down from its current level to 600 over a period of several Boundary Commissions, would you have been able to deliver that had Parliament asked you do that without this timetable?

Mr Gray: Without question. Without doubt, yes.

Q85 Chair: On an incremental basis using existing criteria and using existing local inquiries?

Mr Gray: We might have been able to do it quicker than you are proposing, I suspect. With the resources and a will it could have been done. The big issue would have been

England coming down from 533 to 503. It could be done.

Q86 Chair: You could have done this on at least as fast a timetable as the one the Government is proposing?

Mr Gray: Not faster than the Government is proposing. Timing is clearly key here. It could have been done more quickly than under the old arrangements.

Q87 Chair: Certainly, yes. I am trying to get to the point of it being one Boundary Commission cycle or two, or possibly three. If I had said set a ceiling and just keep reducing that ceiling until you get to 600, would that have been a couple of cycles?

Mr Gray: Two at the absolute outside.

Q88 Chair: So we could, and may still if the Bill is amended, get there without the pain of all this dislocation and changing historical means by which these things are decided?

Mr Gray: You could do it quicker, yes.

Q89 Nick Boles: You presumably would not have been able to achieve equalisation?

Mr Gray: That is the issue in a sense, what rules you are operating under. You could have got closer without question.

Q90 Chair: As close as the criteria in the Bill, which is five per cent around the mean?

Mr Gray: Yes.

Q91 Mr Turner: If we were going for equalisation without reducing the number of constituencies how much quicker would that process be?

Professor Johnston: I am not sure it would be that much quicker because many constituencies would be affected. In most parts of the country you would still have most of the seats having something done to them.

Q92 Mr Turner: Have you any insights into why the Conservative Party manifesto said we were going to reduce the number of seats from 650 to 585 and that has now been changed to 600? Can I ask another question and that is in the old days when we had devolved government in Northern Ireland and Stormont we had higher quotas for electors in Northern Ireland because the elected MPs did not have to take responsibility for domestic legislation. Do you think that was a sensible idea? Do you think that should be included in this Bill in relation to Northern Ireland and the other devolved administrations?

Professor Johnston: Of course, there was some recognition in 1998 with regard to Scotland and that was why Scotland went from 72 to 59 in 2004. I am not sure how you would come up with any formula that in any way rigorously represented the nature of the devolved powers because, as I understand it, they differ between the three territories which means you cannot have an overriding rule that applies necessarily to Scotland, Wales and Northern Ireland and therefore how would you put in a differential. It would have to be an ad hoc set of decisions. I cannot think of anything that would implement it

in a rigorous way. On the political issue of whether it should be done anyhow in that so much of what happens in Scotland is irrelevant in the House of Commons and so forth, I have to sit on the fence I think.

Q93 Chair: You are not able to give us an insight into the Conservative manifesto? I am very surprised about that, Professor Johnston!

Professor Johnston: All I can say is until Mr Clegg made his announcement in the House of Commons three weeks ago it was my understanding that it was 585. It went to 600 overnight, I believe, and I do not know why.

Q94 Mr Chope: You say you do not know why but there must have been some reason for that. It has been suggested, for example, by my political opponents that this is being done because reducing it from 600 to 585 would disadvantage the Conservative Party compared with sticking at 600. Have you any evidence to suggest that would be so?

Professor Johnston: I have no evidence to suggest that is the case. I am not quite sure how they would have worked that out. It may be the case that they have done some clever simulations and come up with that conclusion but I have not. It is believed that the major gain from equalisation will be a reduction in the bias that the Labour Party has in how the system operates because in general Labour electorates are smaller than Conservative electorates and whatever number you went down to that would be reduced to some extent. It seems to me it would always be slightly in the Conservative interest to reduce the number of seats and equalise. It is equalising that really is the point of removing that Labour advantage. As I understand it, reducing the number of MPs was part of the response to the expenses scandal, "We're proving to the country we can work harder with less money".

Q95 Chair: Can I ask you about building constituencies on sub-ward divisions. How will wards be sub-divided? Is that information available and is it accurate to build those sub-wards?

Professor Johnston: That is the biggest problem the Boundary Commissions face, that we have no areas of any statutory importance below ward level. There are polling districts but there is no mapping for them, certainly outside Scotland, and they are changed by electoral administrators for their own purposes and also for political reasons as well sometimes. You can assemble the data at any one moment for the number of electors in each polling district. You can assemble the number of electors in each postcode, but they are changed much more. They do not observe ward boundaries or anything. It seems to me that the Commissions will be in great problems in some parts of the country. I will give you the simple example I have used before of Sheffield. Sheffield will almost certainly be entitled to five constituencies under the current reduction. Sheffield has 28 wards. That would be three constituencies of six wards, which would be too big, over the five per cent on one side, and two of five wards which would be below the five per cent on the other side. You would have to either split wards in Sheffield or somehow around the Barnsley/Rotherham interchange manage to create constituencies which cross the boundaries all of which were within five per cent. I very much doubt that is feasible because wards in Rotherham are about the same size as wards in Sheffield anyhow and there are some hills in the way before you get to Barnsley. They are going to have to split wards, I have no doubt about this. The Scottish Boundary Commission, when they produced their new constituencies for the Scottish Parliament in March this year, did split

wards. They did not use any existing smaller areas. They just drew a line on a map and then they fitted the electoral data from the postcodes into that. They were able to do that because the Scottish have a national single database. England and Wales, and I believe Northern Ireland, do not have. The Scottish Boundary Commission had created mapping for those areas which they shared with the political parties. I gather the software did not work that well but they were able to do it. There is plenty of software out there in the United States you could do it with but you do not have the small areas. When the Commissions publish their recommendations for any area they always publish the electorate of each ward so that if somebody wants to come up with an alternative configuration they can do the sums. That would mean they would have to publish the electorates for all the polling districts, or whatever areas they used, in a city that they were sub-dividing. Think of the answer I gave you of 15,000 different ways of doing it for Sheffield for 27 wards. Think of how many thousands of different ways you could do it for Sheffield with 100 polling districts. The task becomes massive. Yet it cannot be any other way if the five per cent strict rule is there, and it is.

Mr Gray: There is a big difference between Scotland and England, 59 as opposed to currently 533 constituencies. Scotland has had more of an opportunity to try and cleanse their database as well, this single database, and work with postcodes. As Professor Johnston says, the problem is that for electoral registration you need to be able to map this and at the moment the Ordnance Survey have got this digitised mapping system boundary line which they relate to wards. You could eventually do that because the geographic information system, the GIS, is improving all the time and, as Ron says, in the States there are some packages. The problem is that we know from research that Southampton University has done there is a one to one and a half per cent error rate in postcodes in England. Over constituencies as a whole, if you like, over the electorate as a whole, one to one and a half per cent is not huge, but a lot of that is going to be focused in major urban areas where it will not be one and a half per cent, it will be a lot more, which could lead to big error rates and problems. Postcodes are not so straightforward in England. The Post Office change postcodes as well and do not always tell their local councils that they have done it when a new estate is built or a cul-de-sac is put in or whatever. It is a problem. They are not ideal. Eventually if a big effort was put in you could one day use postcodes as they have in Scotland to sub-divide wards. You cannot use parishes because they are not available in major urban areas. You cannot use census output areas because they are out of date and they are on population not the electorate. It is a problem. The only solution may be where if the current Commission did get into problems in a particular area of getting close to the arithmetic without splitting a ward they would have to just do it on a case-by-case basis and say, "Right, we will sub-divide that ward".

Q96 Chair: The Government starts from the premise that 600 is a magic figure and I have yet to hear any justification of why it is 600 or ten less or ten more. Your traditional mode of operation was organic, that is it might go up sometimes, it might go down sometimes. In your experience, Mr Gray, as a Commissioner of the Boundary Commission were you ever given an indication from government about an optimum figure?

Mr Gray: Never.

Q97 Chair: How long did you serve on the Boundary Commission?

Mr Gray: Ten years.

Q98 Chair: How long were you associated with the Boundary Commission before service, familiar with the area?

Mr Gray: Certainly a few years before that because I was a Local Government Boundary Commissioner for about three years before I became a Parliamentary Boundary Commissioner, so I knew a little about it.

Q99 Chair: In your experience no government of any political complexion specified a number or direction of travel in the numbers?

Mr Gray: No.

Tristram Hunt: To follow on from the Chair's question and your answer to Mr Chope, do you regard this Bill as a partisan measure?

Chair: Before you answer that can I bring Sheila in.

Sheila Gilmore: I have got three questions. One is whether the arrangement within the Bill for dealing with the fact that Scotland has two very small constituencies preserved is the right ones? If it is not the right one is there a better way of doing it? Secondly, you touched on what I would almost call the dog's breakfast of electoral boundaries that we now have in Scotland. Might it not have been sensible to have reviewed how that is working before embarking on something similar for Wales and potentially other places because we not only have different boundaries for the Scottish Parliament and Westminster but also local government because it is now on a multi-member ward basis. As I say, it is a bit of a dog's breakfast. Thirdly, will equalising the constituencies have the impact that Government says it wants, which is to remove the electoral bias it perceives?

Q100 Stephen Williams: I come back to this point of building blocks. Given that polling districts exist at the moment, is not the answer if a polling district is used to draw up a parliamentary boundary that thereafter that polling district itself cannot be changed if it is around the borders of a constituency which would take away the discretion of an electoral registration officer to change it arbitrarily, which is what happens at the moment? Is that not a clause that needs to be inserted in the Bill?

Mr Gray: If that were to be done it would be an immense help. At the moment there is no proposal to do that. Obviously our concern is that you cannot use something that is liable to change just before you have a review or at the time when you are doing a review.

Stephen Williams: So that would be a good amendment to the Bill you are saying?

Q101 Chair: That is called leading the witnesses!

Professor Johnston: On bias, on which I have written too much in the last 30 years, the operation of the British electoral system has been very biased over the last five elections and has very much favoured the Labour Party. This is for a number of reasons. One is, yes, Conservative constituencies have tended to have more electors than Labour constituencies and therefore there has been an advantage to Labour in that you need fewer

votes to win a seat. There has also been a very large advantage in terms of turnout because the Labour constituencies tend to have much lower turnout on average and so, again, it takes fewer Labour votes to win a seat. There has been some advantage, although it has not been very large, which has come about because of the varying impact of other parties on the Conservative and Labour success rates. Finally, there has been what is called the efficiency of the vote, how well it is distributed. In general until basically the 1990s Labour lost out on that because they tended to have lots and lots of votes in the coalfields and in the industrial areas and the Conservative votes were more widely spread and did not have these very big safe seats with 80 per cent of the vote or whatever as you would find in a place like Hemsworth. The coal mines have gone, the industries have gone and the Labour vote is no longer spatially concentrated. In fact, over the last three or four elections the Labour vote has been more efficiently distributed. You asked if this is a partisan Bill. The Conservative Party has been aware the system is biased against them. After all, in the 2005 election if the two parties had got the same percentage of the vote, about 34.5 per cent, Labour would have won 112 seats more than the Conservatives. You understand why they are worried about it. It is very difficult to tackle some of those sources of bias that I have just outlined. The one that you can tackle is the size difference and the size difference is what this Bill is about. The reduction to the number of 600 is a separate issue I think. What the impact of removing the size difference between the two parties will be is to remove that advantage that Labour had, but it will not remove all of it by any means. The advantage to Labour this time when, let us say, the Conservatives got 36 per cent and Labour got 28 per cent, if we halve it they each got 32 per cent in the election this year, Labour would still have got 54 more seats than the Conservatives. That is because turnout variation is much more important than size variation. Bias in the British electoral system is a very complex thing. This Bill will reduce a large part of a small part of it.

Q102 Chair: Mr Gray, would you like to round up, as it were?

Professor Johnston: I am sorry, I did not answer the other thing about Scotland and whether it would have been a good idea to review how well it works before we move on and create the same dog's breakfast in England. I think that was your term. The answer is possibly yes. There is now a constituency for the Scottish Parliament called Edinburgh Southern which comprises of the parts of six wards, there is no whole ward in that constituency. I guess it will take a few years before whoever becomes the MSP next year and for the electoral administrators to work out exactly how it will work out. There are going to be complexities of operating for the parties, for the administrators and for you as MPs.¹

Sheila Gilmore: And for the voters, of course.

Professor Johnston: And for the voters.

Q103 Sheila Gilmore: It will be quite differently constituted.

Professor Johnston: Particularly if the elections are on the same day. You might have a referendum on the same day as well, but we are not here to talk about that.

Q104 Chair: This proposal seems to emanate from a desire to make sure that MPs are more worthy of the position they hold, that there is a limit and there are spending reductions which accompany that. If it dislocates electors from known constituencies do

you feel that it might actually erode the connection between Members of Parliament and electors?

Professor Johnston: It could do, yes.

Chair: This has the feel of trying to do the right thing, rather like IPSA, Government imposing something on Parliament and not quite thinking through all the machinery and the data processing and the rest of it and ending up with more unexpected consequences for Members.

Nick Boles: That was a very partial view that you put.

Q105 Chair: It is a question to the witnesses. Would that be your view?

Professor Johnston: I think the more complicated you put the situation before the voters the more difficulty they will have in responding to it and you may therefore find they are less likely to participate. Most voters now, if they want to, have a clear notion of what constituency they are in. Whether they know who their MP is is less clear in some cases. If you are going to say for something you have got to go to the local authority and you go in that way with those people if you are promoting something for your area and if you are promoting something for your area at a different level you have got to go that way with your MP or MSP you are creating complexities and most people do not put as much time into that aspect of their lives as we do and they may well recoil from it and say it is too complicated to control.

Mr Gray: Two quick things, one of which relates to what Ron has just said. What I think everybody has been trying to do in recent years is to secure more public engagement in political affairs and things and, whatever happens, what needs to be taken account of in this review is that what you are not doing is actually discouraging people from being interested and engaged. The other point I was going to make earlier on and I forgot, so I will just do it now, is electorates at the moment are volatile. What I mean by that is because electoral registration officers first of all went through a major period of cleansing electoral registers in taking people off who had not replied to the annual return they are now engaged in trying to encourage as many people as possible to get on the register. Being on the electoral register is becoming increasingly more important for every one of us because so many things now you will not get unless you can demonstrate that you are on the electoral register, whether that is a loan or being on this or that. They are volatile and it will affect what happens in these future reviews. It does not automatically mean when we go through this first one on the new basis that it is going to be plain sailing thereafter, I think there will continue to be quite a lot of changes.

Chair: Final impartial word from Nick.

Q106 Nick Boles: As impartial as yours were, Chairman! The first thing I would like to say is that I represent a constituency where I have a split ward. Are you aware of anyone, other than a political anorak, in any way being remotely interested or affected or even really aware of that fact? I certainly am not. My second question is, is it not the case that a clear majority of the Members of Parliament were elected on manifesto commitments to reduce the size of the House of Commons actually by rather more than is currently proposed so the idea that this is being imposed on Parliament by the Government is

wrong?

Professor Johnston: Certainly the latter is my understanding, that the reduction in the size of the House of Commons was part of the main parties' manifestos.

Q107 Nick Boles: On the previous point, are you aware of anyone other than political anoraks who really cares about being in a split ward between constituencies?

Professor Johnston: I had a student some years ago who did some local work in Bristol who found that when a ward was split a lot of the ward activists drifted away. They had lost their rationale to represent this place, this place no longer existed, it was in two parts and political activity declined.

Q108 Chair: Last word, Mr Gray?

Mr Gray: Nothing to add.

Chair: Professor Johnston, Mr Gray, thank you very much for an extremely helpful session. Thank you for sparing the time to see us this morning. Thank you very much.

Witnesses: **Professor Patrick Dunleavy**, Professor of Political Science and Public Policy, London School of Economics, and **Professor Justin Fisher**, Professor of Political Science, Brunel University, gave evidence.

Q109 Chair: Welcome, Professor Fisher and Professor Dunleavy. Sir Peter Soulsby and Mr Williams will begin the questioning. I just wondered if there were any general things you wanted to say to start us off?

Professor Fisher: Yes.

Q110 Chair: We have received your evidence, thank you very much.

Professor Fisher: Firstly, just to say that I am agnostic on the AV system but I would emphasise that it represents a relatively minor shift from first-past-the-post, contrary to some of the evidence that was presented last week. Secondly, in terms of a referendum, I think it is worth bearing in mind that we are on almost entirely new ground for holding a referendum following the Political Parties, Elections and Referendums Act. There has only been one referendum held under that Act in 2004 in the North East, so we can learn something from past experiences in this country but we need to be wary of the relatively new legislation. Thirdly, to emphasise a point that has been picked up in the first part of this session, to look at the Government's reform process more broadly and that is that there are knock-on effects for other pieces of legislation which need to be borne in mind. I am thinking in this case of fixed parliaments, which is not something in this Bill but I think it is something that is worth raising to flag up. Finally, whilst I take Nick Boles' point about the manifestoes at the last election, it does seem to me that if it is deemed sufficiently important to have a referendum on AV, it is arguably sufficiently important to have a referendum on reducing the number of MPs by such a large amount given that this would be the largest reduction since the elimination of Irish MPs in the House of Commons in the early 1920s. I have no particular view on this but it does strike me that

this is an issue which has not attracted the sorts of discussion that we might expect.

Q111 Chair: Professor Dunleavy?

Professor Dunleavy: Thank you. I am a strong advocate of making the minimum necessary change to increase the proportion of MPs, in fact to get all MPs to have local majority support. I do think the measure is highly desirable for the reasons that are set out in my evidence. I also think if it was not to be approved there will be a continuing problem of fewer and fewer MPs having local majority support, and that is very unlikely to go away. However, I think the Government has perhaps skipped a stage, a rather crucial stage, and it comes out of the need to do a coalition agreement rather quickly which does mean that we have a proposal for the referendum which in my view is ambiguous because it seems to be offering voters either a whole class of electoral systems or one system. It is not clear to me which of these is being proposed. Alternative Votes means that you are electing a single office holder but you are using an instant runoff form and that you are looking at multiple preferences. As my evidence sets out, there are three or four existing versions of that system you might want to use and the Government has in mind the particular version that is currently used in Australia but that was not the version that was used for many years in Australia and it has certain advantages and disadvantages. Because there has not been a little commission or a royal commission or an investigation, except of course by your Committee, I think there has been a bit of a stage missed out. Election systems are not cast in stone, they are not implemented in the same way everywhere. When you take a new election system into a country you always tweak it. Sometimes you tweak it deliberately and sometimes you do it inadvertently because you have made a mistake. For example, we have a very distinct kind of additional member system in this country which is very specific to this country and is not found in any other use of additional member systems, so the British one has more local MPs and fewer top-up MPs. That came out of the Scottish constitutional convention and was used in London and Wales as well. There is a whole set of tweaking and very detailed decisions. Voters need to know in great detail what exactly it is that the government means when it says, "Do you want to replace first-past-the-post by the Alternative Vote". There is this ambiguity between basically two versions of the Alternative Vote, one of which allows people who are placed third, fourth or fifth in the initial ranking of votes to win office and another one, the London version, which really creates a kind of runoff between the top two.

Q112 Chair: Could I ask you, just to start you off, whether you feel it is helpful or unhelpful to link in one Bill the issue of electoral systems and the issue of the number of Members of Parliament?

Professor Dunleavy: If you were going to introduce AV-plus it would be helpful to be reducing the number of MPs because you would be redistricting anyway because you would need to create top-up MPs. I do not see any clear connection between AV as a class of system very closely related to first-past-the-post so I do not see any virtue in linking it but I do not see any particular disadvantage either.

Professor Fisher: I think it is a risky strategy. I do not see any particular problem with linking them, but there is a danger if one half of the Bill gets into difficulty then the whole Bill may fall. In that sense it is risky for the Government but I do not see a problem in linking them together in one Bill.

Q113 Sir Peter Soulsby: Professor Fisher, in your introduction you talked about a change to AV as a relatively minor issue. Professor Dunleavy, you talked about it as an overwhelming public interest case. Those are rather different ways of describing it. How significant do each of you feel it will be were we to adopt it in terms of the outcomes it would achieve and public perception?

Professor Fisher: The only evidence that you can really use is evidence based on survey work. If you have simulations based on aggregate data there are an enormous number of assumptions which are not terribly helpful. The work that was done by Patrick in the 1990s and more recently by the British Election Study shows firstly that people's first preferences tend to be fairly similar, particularly for Conservative and Labour, but the outcome tends to amplify the national mood. If you take the 1992 election, when there was a simulation done then, rather than being a small Conservative majority, there was a Conservative minority. If you run the simulation in 1997 the Labour majority would have been rather larger than it was. If we are looking at the effects, it is fair to say that it probably amplifies very slightly what you get under first-past-the-post. The general principle of electing one person to serve in a constituency seems to me to be not a huge departure from where we are currently.

Professor Dunleavy: I think my view is not totally distinct from Justin's. We did a lot of work in simulating when Labour was changing the electoral system in Scotland, Wales and Northern Ireland. Basically the changes in behaviour which took place were much more extensive than those that we had envisaged. In particular I think if you are introducing a numbering of preferences - one, two, three, four, five - I would expect that support for smaller parties will go up. I would expect that, depending on how you design the system, in the London AV you are only given the first and second preference so that restricts your expression of preferences. If you go one, two, three, four, five at least a substantial proportion of voters may begin to cast multiple preferences, so more smaller parties may tend to get first preference votes and the first preference support of the winner will tend to decline. When we were advising Nick Raynsford on the London mayoral system, one of the reasons why he and the government at that time went for the restricted expression of preferences to first and second was to try and avoid having large numbers of candidates. On the whole I think that has been quite successful, the number of candidates for London Mayor went up to ten but it has not gone up continuously. I would think there would be a slight danger that the AV system might conduce to a fragmentation of the votes further. If everybody expresses a complete preference set so that they number all the candidates you still have MPs with majority support but if you get a fragmentation of the votes and then people expressing only a few preferences then the winning candidate may not have majority support. I think there are a lot of dynamic things that you have to take into account. You have to think what will the ballot paper look like and I have included in my evidence a couple of versions of the AV ballot paper. You have to think how will the candidates and voters behave when they are confronted by a different ballot paper with this different task that you are asking of them. You have to think what is the trend of political party activity in the UK and it is overwhelmingly towards increased fragmentation. For example, there were no constituencies at all in 2005 or 2010 with two party contests and there were almost none with three party contests. We are heading in a very different direction. There are a large number of other parties bubbling under that might be encouraged or fostered by particular choices that are made on the voting system.

Q114 Sir Peter Soulsby: Why do you think the AV system is so rare? Is there any

example of it having led to increased public satisfaction with the outcomes?

Professor Dunleavy: AV has been used in Australia more or less since its foundation. Initially it was used in a version where people had to number all the parties but as the number of parties increased the Australians moved to a system where you do not have to number all the choices. That is quite a big difference. It is not used virtually anywhere else in the world. It has been used in some Canadian provinces.

Professor Fisher: It is not something that is unique to AV; it is something that you find with preferential systems. STV, for example, is only used in a relatively small number of cases. One of the issues with that is firstly that AV is not proportional and a number of democracies have opted for a more proportional system. Secondly, there can be a danger with preferential systems, particularly if, as was the case in Australia, you have to rank every candidate. You can experience something called donkey voting where people simply vote for the candidates in the order that they appear on the ballot paper. It is the same principle that is suggested if you go in the *Yellow Pages* you will have lots of Aardvark plumbers but very few Zoo plumbers, if you see what I mean. There are some dangers with that. I do not think they are insurmountable. Through administrative techniques you can override the effects, such as reordering the ballot paper in different districts and so on. The general trend has been not to move from a plurality system to a majoritarian system but often to move towards something that is more proportional.

Q115 Sir Peter Soulsby: Some of the proponents of AV see it as a step towards a proportional system of some sort. Do you yourselves see it as an end state or a step toward something different?

Professor Dunleavy: In my evidence in part three I pointed out that general elections are very often held on the same day as other elections, that in particular the Government will be announcing plans in January, I understand, for the new constitution of the House of Lords. We do not know what timetable that is on but that is likely to require the House of Lords election takes place on the same day as the general election. It is common for general elections and local elections to take place on the same day and we have had instances of general elections and European Parliament elections on the same day. There would be a risk also of Scottish Parliament, Welsh National Assembly and London elections possibly coinciding. When you are making a voting system decision like this you do need to take into account how consistent or inconsistent is the new voting system with the ones you have already, particularly for voters. There are small problems for administrators. In particular most of our existing voting systems use X voting and moving to numerical voting will create problems in having the elections on the same day and would also tend to mean that if you move to numerical voting for Westminster perhaps there will be more pressure for STV for the House of Lords as one of the three possible big systems coming there. Perhaps there will be more pressure for STV for local elections because that way you would be able to recreate consistency. I certainly think if AV in the Australian form was introduced you might need to make some consequential changes in how the London Mayor is elected and other English mayors. People have complained already about a bewildering variety of electoral systems in use in the UK. I do not think that really matters very much to voters but I do think the thing that matters is if they are being asked to do X voting and numerical voting on the same day. We have had one case of this in Scotland and it was a very searing problem for Scottish voters. The Government should be careful and should indicate how this is going to become possible for the future.

Professor Fisher: I have to say I do not really buy this Trojan horse argument. It strikes me that particularly because the decision on whether to adopt this will be based on a referendum it would be very difficult for a subsequent government to hold another referendum or simply change the decision. One of the advantages of a referendum is that it embeds the will of the people. Patrick may be right with other levels of government but it strikes me that for Westminster elections the idea that a party propping up a coalition could in effect demand a further change is perhaps unlikely.

Q116 Stephen Williams: Before I ask the question on AV which I do have, Professor Fisher said something interesting in his opening remarks that perhaps we could have done with in the previous session. He said the reduction of the House of Commons by 50 was the biggest change since the Irish or the Southern Irish left in 1922. The difference between then and now is that responsibility left as well. Westminster is no longer responsible for Dublin, Limerick, Cork, et cetera. Can either of you think of another instance in the democratic world where an assembly has had its numbers reduced without some transfer of sovereignty or devolved power somewhere else?

Professor Fisher: I do not know of any.

Professor Dunleavy: The UK House of Commons, to put it in perspective, is one of the largest legislatures in the world. Apart from the Chinese and Supreme Soviet there are not many that are bigger than the UK. UK constituencies are quite small. It is not massively over provided with MPs but it is certainly not short of MPs at the moment compared with other countries.

Professor Fisher: I think that is an important point. There may well be international examples. I am not aware of them but it is important that the idea of what works in a particular country is retained. My point about whether or not there should be a referendum on this, if it is deemed sufficiently important to have one on AV, is that whereas there has been a reasonable amount of discussion about the potential impact of a certain electoral system, it strikes me there has been almost no discussion about the potential impact of a reduction of MPs even to 600 as opposed to 585 which stems, it seems to me, from a rather populist response to the expenses crisis. Given that we know constituents use their MPs more than they ever did, given that we know that people value local representation, I am not sure that the argument has been put to people that, effectively, increasing constituency size by an average of 10% is necessarily what the voters want. I do take the point that it was in the manifesto, and that seems to me a perfectly legitimate argument, but I go back to the point: if it is deemed legitimate to have a referendum on AV then it strikes me that this change is of a similar magnitude, and therefore might be worthy of further consideration.

Q117 Chair: May I just ask a question of political theory? By what right does a government, an executive, reduce the numbers, powers or composition of a legislature in the UK?

Professor Dunleavy: The UK is in a rather unique situation because we have a concept of Parliamentary sovereignty instead of a concept of constitutional sovereignty. So I do not think that this is inconsistent. The size of the House of Commons has gone up and down in the past; this is the most dramatic change, but I do not see it as a constitutional change.

Q118 Chair: Let me be clear: you see the exercise of executive power as an exercise of

Parliamentary sovereignty?

Professor Dunleavy: I think the justification that has been given is a mandate doctrine justification. It is a stretching, certainly, but I would not say it was quantitatively a constitutional change.

Q119 Chair: Do you regard it as legitimate?

Professor Dunleavy: It is not something I am terribly keen on, but ---

Professor Fisher: Let us be clear: there is no existing practice about when one has a referendum. It is not set in stone that it is about constitutional change; it is often for purposes of convenience of government. So I go back to my point about AV; there is no particular need to have a referendum on AV - one could do without one - and indeed I think I am right in saying that had Labour won the election it would have been introduced anyway. My point is simply that if you are embarking on this road we are differentiating between two different fairly significant changes in the way in which people are represented. Whereas there is an acceptance that you should have a referendum on one, it strikes me that the other issue has not been discussed in such depth.

Q120 Stephen Williams: We come to AV now. Bristol West is still a marginal seat and in previous General Elections it was a three-way marginal seat, so voters have been treated to leaflets from all parties with competing bar charts and claims about: "If you vote for this candidate someone really nasty will win", etc. Does AV eliminate tactical voting considerations from our electoral process?

Professor Dunleavy: The answer is, in theory no but in practice yes. Essentially, what AV will tend to do, I think, for all MPs, is it will encourage them to reach out beyond their immediate party supporters and to appeal to supporters of other parties, and they will particularly tend to do that, I think, through contacts with interest groups and local associations, and so on. If you look at the London Mayor elections both of the candidates who have been elected in the three elections - Ken Livingstone and Boris Johnson - have been very savvy candidates who have actually managed to represent the City in a much better way and get a lot of enhanced legitimacy because of that change. So some of my colleagues will draw you fancy diagrams or construct hypothetical situations in which tactical voting is still possible in AV, but tactical voting can occur under every electoral system. The thing that will tend to swamp all of that and to dominate is: does the candidate reach out and project beyond their own party and get second preference votes from other parties?

Professor Fisher: The limited evidence that we do have of campaigning under different electoral systems, particularly the Scottish local government elections and the European elections, suggests that regardless of the system in place parties tend to campaign in almost exactly the same way. So whereas in Australia you find that there are voting instructions, effectively, issued by parties to encourage tactical behaviour, we have not yet in this country - London perhaps is a slight exception here - seen the widespread behaviour such that parties reach out beyond their own party and, perhaps, encourage people from other parties to back them, and vice versa. This could be a cultural thing and it could take time to bed in, but the argument that parties will suddenly campaign in a different way - perhaps form alliances - is not borne out by the limited evidence that we

have to date.

Q121 Stephen Williams: So there is no evidence that parties chase second preferences as an alternative to tactical voting?

Professor Dunleavy: If you look at the first London Mayor election, the Labour candidate was Frank Dobson, and he was asked what would he advise people to do with their second preferences. He said, well, he was not giving any advice. If you contrast that with, let us say, Ken Livingstone, he advised people how to cast their second preferences and appealed for second preferences. He said: "I would advise them to vote Green". The reason he said that was because he wanted to get the Greens' second preferences. If you look at Mr Dobson's campaign, it was fairly lamentable; he came a very poor fourth; a large proportion of his voters did not cast any second preferences and quite a large proportion of them voted for him twice. So it is very important that the candidates should actually respond to the change of our election system, and of course subsequent Labour candidates have responded to that. It does take a little bit of time, but most MPs already reach out in hustings, in their leaflets and in their contacts with constituents to people from outside their own party. The personal vote has been increasing as an important element of MPs being elected. It is definitely worth about twice as much as it used to be.

Q122 Chair: Which is what?

Professor Dunleavy: It is about 3,500 votes, 4,000 votes now, whereas most people would say it was only about 2,000 votes. That is partly because MPs do a fantastically much more vigorous job as representatives of their constituents than they did two decades ago.

Q123 Chair: So it is up from 3 or 4 to 8 or 9%?

Professor Dunleavy: It is up to about 4,000 votes, one would say, which would make a big difference to an MP. I think the sitting MP will always be reaching out anyway, and the serious candidates will be reaching out. I think it will have a very big and transformative effect and it will have a much bigger effect.

Professor Fisher: It is important to point out that the London Mayoral elections are rather different from constituency elections. While Ken Livingstone was standing under the Labour flag Boris Johnson stood to a slightly lesser extent under Conservative flag. They are not as tied into the party machine as you can see at constituency level.

Stephen Williams: A final question on ballot papers. As Professor Fisher mentioned there is a risk that people do 1, 2, 3 and this allows me to plead to Professor Dunleavy not to use (a fictional, I presume) Stephen Williams as a Conservative candidate in demonstrations of ballot papers in the future! If you think there is an argument for doing away with the traditional practice that candidates should be listed in alphabetical order, certainly a multi-member ---

Chair: I take exception to that!

Q124 Stephen Williams: Certainly, Mr Allen, in multi-member council elections, just by observation it is fairly obvious that often people will vote for the party candidate who is Allan or Bones or something first and then, perhaps, not find their way down to a

Williams or a Young at the bottom.

Professor Dunleavy: I think there is a very strong rationale for introducing 1, 2, 3, which does sort of tend to suggest an ordering to people, otherwise to randomly rotate the order of candidates, and that is what the Australians in the end ---

Q125 Stephen Williams: The Australians do that?

Professor Dunleavy: Yes, you still get the people at the top getting more votes but at least it is sort of random.

Q126 Stephen Williams: Your ballot papers are in alphabetical order.

Professor Dunleavy: Absolutely. That has been the sort of standard UK practice but I do think if you were going to numerical voting then if you are saying to people 1, 2, 3, it sort of suggests an order to people, and then I think you would need to really compensate by going for random ordering of candidate parties.

Q127 Simon Hart: Can I just go back to the international comparison discussion earlier on, a number of witnesses in previous sessions have in a sense justified whatever proposal it was we were discussing on the basis that it worked well in another country or indeed another area. Does it automatically follow that a system that works in Papua New Guinea (which was one such example) would also work with just as much ease in Pembroke Dock, for example? It strikes me that we are sometimes a bit flippant in just assuming: "It works there, therefore it will work here". I do not have the answer which is why I am asking the question. The second part of the question is in relation to your model ballot paper. This is a bit of a bugbear of mine, but projecting yourself forward to 2015 and a General Election, which will coincide with a Welsh Assembly election, I would be quite interested seriously to see a ballot paper which accounted for the fact that there would be two languages, two different boundaries, two different systems and two different Parliaments together on the one ballot paper in a way that serves the voters' interests rather than the political parties' interests. If you could do that then I will wind my neck in.

Professor Dunleavy: On international comparisons, it is very important to not imagine that the way a system like AV works somewhere else will work in the same way. If we look at Australia, for example, we have a very strong dominance of two main parties. There are other parties in Australia but they tend to be quite small and they have not developed in the way that the British party system has developed. The British party system now is becoming increasingly a standard West European liberal democracy with six or seven parties that range all the way through from Greens through to anti-foreigner parties on the right. So we have three parties on the right in the UK - Conservatives, UKIP and the BNP - and we have a couple on the left - Labour and the Greens - and then we have the nationalist parties in Scotland and Wales who sit in the middle and create extra dimensions. So I am absolutely completely convinced that if you are thinking about how AV is going to work out and you are trying to project it forward do not assume it is going to work in the same way as the Australian way; in particular, we are much more of a multi-party system than the Australians and we are heading that way much more rapidly than the Australians. So things like: do you get more candidates; do you get more fragmentation of the vote - these are serious issues to think about. I am sorry ---

Q128 Simon Hart: Complicated ballot papers, basically.

Professor Dunleavy: Yes, complicated ballot papers - 2015. It would be particularly interesting - I do not know whether there are any local government elections also due then.

Q129 Simon Hart: I cannot remember.

Professor Dunleavy: It is very, very hard to ask people to do X voting and numerical voting on the same day. I would say that wherever possible you should avoid that. The way to do that is that if you are very committed to doing numerical voting then you have got to probably do numerical voting a lot more. The other lesson from Scotland is do not put them all on the same ballot paper; so have separate ballot papers, separately coloured, and so on. If there is a Welsh Assembly election on the same day or a Scottish Parliament election on the same day that would be a real problem.

Professor Fisher: My view of international comparisons is that they are useful for information but I would completely agree with Patrick that you cannot simply transplant one to another. If we look at it the other way, in the way that Britain exported first-past-the-post to much of what was then the Empire, it was successful in some places and not in others. So wholesale transfer, I think, is ill-advised. In terms of confusion of the voters, I think one can overstate this. There are already examples of people having to cope with this. It was clearly done badly in Scotland last time around, but I remember, in 2000, I voted with three different systems in the same booth with three different ballot papers, in London, voting in the European elections, SV for the London Mayor and AMS for the London Assembly.

Professor Dunleavy: The reason for that, with respect, is that these systems are all very carefully designed to be consistent with each other.

Professor Fisher: Crosses and numbers.

Q130 Simon Hart: The point of my question was that in the Welsh Assembly election, in our area, 7% of postal ballots were incorrectly completed as a result of confusion, and in a result which only had 100 votes between first and third that definitely affected the outcome.

Professor Fisher: Therein lies the folly of postal voting.

Q131 Chair: Can I just clarify London and the three ballot papers, Professor Fisher? You are saying that they were confusing, Professor?

Professor Fisher: No, no, they were not confusing.

Professor Dunleavy: I think you are thinking of 2004 when there was a London election and a European Parliament election on the same day. The Mayoral ballot paper for London has two Xs; the Assembly election has two different X components and the European Parliament is a single X. So actually, five election votes were cast on the same day, and there were some extra problems there, but nothing like what you might expect if you are mixing them with numerical.

Professor Fisher: My point was that the problem can be overstated.

Q132 Mrs Laing: I would like to come back to the perceived fairness or otherwise of the AV system. Would it be fair to say that some people's votes count twice or even three times? You said just a short while ago that one of the expected changes that would occur if we have AV instead of first-past-the-post is more votes for minority parties. Is that likely to occur because people feel that instead of saying: "I have only one vote and actually I cannot stand the Conservative candidate - I hate Margaret Thatcher - therefore I have got to vote Labour", they might say: "Oh no, actually I really want to vote BNP but my vote will not be wasted because of AV so I will vote BNP and then I will vote Labour second", in which case that person has two votes whereas someone who is just voting for the Liberal Democrats has only one vote?

Professor Dunleavy: It is quite complicated to think about how AV operates. Basically, the first thing you have got to think about is a disjuncture between if somebody has majority support; in this case we are just going to count up the first preferences and as soon as somebody reaches 50%+1 we are going to say they are elected, so we are not going to look at any second preferences in that set up. However, if nobody has 50%+1 we then look at the second preferences. There is a difference really between the Australian AV, where you carry on looking at preferences however many you have expressed, and the London AV, where you will only look at second preferences for the candidates who are still in the race - the top two candidates. So, basically, you only have first or second preferences expressed in a London AV, whereas in the Australian AV you go 1, 2, 3, 4, and 5. It is perfectly likely that one of the reasons why vote fragmentation will increase is, supposing I am a BNP supporter but I do not want Labour to win, I might be voting Conservative, but now I can vote BNP 1, UKIP 2, Conservative 3, and I can still be confident that I am going to influence the result. So there will be some voters, particularly voters who express a lot of preferences, particularly voters who express a lot of preferences for small parties that then get eliminated, where we will be counting down past their first preference, past their second preference and to their third, fourth and fifth preferences, and you might object on equity grounds that it is not fair to be counting third, fourth and fifth preferences of some voters only. However, the system is designed so that your preference only makes a difference to the outcome, allegedly, once, but in fact with small parties, if you have got a lot of preferences, you will have more influence.

Q133 Mrs Laing: That is very helpful. If somebody has expressed a fourth preference then that would suggest to me that they do not really want that person to represent them, if they have put them fourth. Yet that fourth preference could actually change the outcome of the election.

Professor Dunleavy: I think we can certainly tell that British voters would like to have multiple preferences, because wherever they have been given the opportunity to cast two votes, in Scotland, Wales and London, they have taken it up with great enthusiasm.

Q134 Mrs Laing: That is quite a sweeping statement.

Professor Dunleavy: In the sense that a lot of people split their votes in these elections when they do not need to, and they have also done that quite regularly when they have local and general elections on the same day. We can expect that the number of preferences people express will decay quite quickly. So maybe three-quarters of people will give a second preference; 60% a third preference, less than 50%, maybe, a fourth

preference. This is a political theory argument that I cannot resolve. You certainly could make the argument that fourth preferences should not be weighted as much as first on second preferences.

Professor Fisher: I concur with Patrick there. It does not seem to me to be an immense problem and something that you could design out. To go back to your initial point - do some voters effectively get more say than others - we cannot force people (well, you can force people) to do all the preferences but it strikes me as undesirable, but it strikes me as being no different, really, from offering people the opportunity to vote or not to vote. As things stand, if people choose to take advantage of that they have more say than people who do not. So I do not think there is an insurmountable problem. Patrick raises an interesting way of looking at that. In practice, it is very unlikely that preferences below three will make any material difference to the outcome.

Q135 Mrs Laing: That is very helpful, thank you. Can I go back to that issue about voters, as Professor Dunleavy, I think, said, that voters show enthusiasm for (I cannot remember the exact word you used - forgive me) for multiple preferences. Do you mean by that that when they get to the ballot box and they discover that in front of them they have to place not just an X but they can do 1, 2, 3, 4, 5, and in those circumstances they do, at least, 1, 2 and 3 rather than just 1? Is that what you mean by that rather than that they are more enthusiastic and actually go to vote? That actually there is a greater turnout because there is a preferential system?

Professor Dunleavy: We have not got experience of numerical preference ordering in voting except in Northern Ireland and in Scottish local government. So I could not comment on turnout in relation to those. In Northern Ireland I think there are particular reasons why you might not go too far down your preference order. So I think really, outside of Scottish local government, we do not really know how people have responded to numerical. In the Additional Member Systems we have you have two votes; you have a vote for a local MSP or Assembly member and you have a top-up vote. People have split the top-up vote; they quite commonly will give one vote to the Conservatives and one vote to somebody else or one vote to Labour and one vote to somebody else. In the sense that even when people are quite committed they tend to want to express preferences, multiple preferences.

Professor Fisher: The point you made about voters turning up at ballot boxes is an important one. When Scotland introduced the Additional Member System for elections in the Scottish Parliament the use of both votes was widespread. When it was done in London there was no public education programme as there had been in Scotland, and there were a large number of people who either did not use the second part of the SV ballot or the second part of AMS. So if a different system is going to be introduced there has to be something done as successfully as it was in Scotland rather than as unsuccessfully as it was in London.

Q136 Sheila Gilmore: There has been some discussion of tactical voting and the suggestion that there is less of it with AV, but it seems to me from what you have said that there is actually just as much potential for people to campaign for the least worst. Would you agree with that? In terms of the electoral systems, it is slightly disappointing that the turnout in Scottish Parliament elections has actually been less good than for Westminster. I do not think that is what we anticipated, and I do not think that is necessarily to do with electoral systems. Would you agree that the main problem with the

2007 Scottish system was not so much that people had several different things to vote for but that they had three different things they were supposed to be doing?

Professor Dunleavy: I agree; there were three different things that voters had to do on the same ballot paper as well.

Q137 Sheila Gilmore: There were two ballot papers.

Professor Dunleavy: There was one with two ---

Q138 Sheila Gilmore: There was indeed. That was a very badly designed ballot paper, which shows how important design can be.

Professor Dunleavy: Design is very important. I think the Scottish Parliament elections have been very successful. It is incredibly hard to set up a new institution and get to a high level of voting; it very rarely happens. The new institutions often take a long time to sort play themselves in and Scotland has had very high turnouts, I think, considering its role. Although Justin is right that turnout is a little low in London, it has tended to grow over time as familiarity with the systems grows.

Professor Fisher: At the risk of making international comparisons, where you have systems other than first-past-the-post, turnouts in general tend to be higher, but they are falling everywhere so we should not see an electoral system as a quick fix to arresting declining turnout.

Q139 Chair: If we were in this country to elect our own chief executive or prime minister, as most Western democracies do, which system do you think would be best to do that to complement other changes?

Professor Dunleavy: If you are electing a chief executive, you might want to go for the London AV system because you might want to make sure only someone who is in the top two on the first preference count would be elected, so I would strongly recommend the London AV system.

Q140 Chair: Is that like the French presidential elections?

Professor Dunleavy: It is the instant run-off version of a dual ballot. The difference is that in a dual ballot you have a first round in week one and everybody can look at all the votes and then you have the second round in week two and you shrink the number of candidates in week two. But obviously it would be very chancy to ask British voters to come back a week later, so I think you would have to go for an instant run-off version!

Professor Fisher: If you were to go for something as alien as electing a chief executive

Q141 Chair: Alien to?

Professor Fisher: Alien to the British political system.

Q142 Chair: Not to the rest of the Western democratic system.

Professor Dunleavy: We do it in London.

Professor Fisher: It is an important point. Different political cultures mean that different systems work in different ways around the world. This is going back to the point about international comparisons. If you were to go with that, I agree with Patrick, SV would seem to be the most sensible option. The two-round election, although it has the advantage that people can be voting for a second time in the light of seeing what has gone on previously, strikes me as being a slightly risky system, as indeed happened in France in the early 2000s.

Q143 Chair: Le Pen?

Professor Fisher: Yes.

Q144 Mr Chope: Can I come back to the question which is being put in this referendum if the Bill goes through unamended? You are implying, in fact saying, that the question is ambiguous because it is talking about the AV system. How would you seek to have that question altered to refine and clarify the choice available? Do you think there is any scope in a referendum for having essentially a whole series of questions so that people could express a preference as to which of the alternative systems they would like, whether they would like London AV, STV, first-past-the-post? So in a sense they could experience what it would be like to engage in an AV system when they were putting down their preferences for the voting system. What you are saying at the moment is that you think any referendum based upon the existing proposed question is going to be flawed because of the ambiguity, and what I am inviting you to say is what would you put in its place?

Professor Dunleavy: You cannot put very much in the referendum question. There would certainly need to be at least a footnote which explains what alternative voting explicitly means. In the past, when we legislated for the London Mayor for example, the legislation just said the supplementary vote, but that was a special made-up label which designated one system, whereas I think Alternative Vote designates a whole class of systems – single office holder, multiple preferences, instant run-off. So you need to have a footnote possibly, or a clarificatory memo or something of that kind, in the booklet which goes to voters and possibly available in the polling booths for people to check what exactly it is they are voting for.

Professor Fisher: I think having the range of choices would be catastrophic. I think Patrick is right to draw our attention to the variants but I think it is the job of the House to decide which is the most appropriate one before putting it to the voters.

Q145 Chair: If I can just switch questions for a moment and ask how campaigning funding rules will work in a referendum on AV. What is your take on how effective that is going to be?

Professor Fisher: The rules in terms of spending are laid out by PPERA, such that the Electoral Commission needs to designate each side, the yes or no campaign - which is not without difficulty, as seen in the North East referendum, where there can be competing sides - and each side is permitted to spend £5 million. In addition to that, there are sums available for political parties to spend provided that the political party takes a unified stand. This strikes me as potentially problematic because there is an interest for a party in taking one stand and therefore allowing them to spend a certain amount of money, which

is determined by the share of the vote, they enjoyed at the previous general election. So the Conservative Party will have an advantage here as the only party which exceeded 30 per cent in May. So there is a potential issue, not an insurmountable but one which needs to be borne in mind. Then other participants can register, they are allowed to spend half a million pounds, and then if you do not register up to £10,000. One of the key issues which was raised in Professor Ewing and Dr Orr's paper is that there is a potential anomaly in the Political Parties, Elections and Referendums Act in respect of third party campaigning, ie whether you are a registered participant or not. Whilst in general election campaigns it explicitly excludes the newspapers from these third party considerations, in the part of the Act which deals with referendums it only explicitly excludes the British Broadcasting Corporation and one in Wales. Professor Ewing and Dr Orr's paper suggests there potentially could be a case whereby newspapers would have to register as participants in order to take a position on the referendum. This strikes me as almost certainly an oversight in the Bill. Mistakes happen but in the passage of this legislation there ought to be some amendment, otherwise you could find yourself in a position where the newspapers would be hamstrung from taking a particular view.

Chair: We are collecting quite a few amendments as a Committee as we go along. I was going to ask questions about pre-legislative scrutiny and pretty much you are it. We have been allowed three sessions, which is wholly inadequate, and of course one of those sessions is taking place now today, at the very same time as most of us would want to be on the floor asking the Deputy Prime Minister questions. That is just by way of a comment to underline, hopefully on behalf of all colleagues, there are some fundamental flaws in this process which we feel need to be addressed pretty quickly. Eleanor and then Simon?

Mrs Laing: I am seeking to clarify exactly the way in which AV works. It might be that people in this room understand it, because we pay attention to these matters, I would suggest it is important that the majority of people not in this room should understand it. You have referred, Professor Dunleavy, to the London AV system and then you have both referred to the differences between AV and STV and to the Australian system, et cetera. Having examined what is in the actual Bill and the way it is set out in the Bill, how does the system in the Bill differ from those other systems that you have described?

Q146 Simon Hart: Just on the subject of explanation, you were talking about the role of the media in explaining what all of this means as we run up to the great date. Bearing in mind that it will coincide with a very party political election in somewhere like the Welsh Assembly, how can the broadcasters on the one hand act as a public service explaining what people should do but stop short of falling into the trap of inadvertently supporting one party or another? To be able to square that circle strikes me as being quite difficult for the broadcasters.

Professor Dunleavy: I think the Bill, as far as I understand it, is offering voters the choice of the Australian version of AV, what is called the Australian version. That means that voters can express as many preferences as they like by numbering, if nobody has an outright majority on first preferences we begin to eliminate candidates from the bottom and we inspect their second preferences and transfer them to the candidates who are still in the race. We carry on doing that elimination of candidates from the bottom until somebody has majority support or has more than half of the votes and there are only two candidates remaining.

Q147 Mrs Laing: So the candidate who comes sixth has his or her votes redistributed?

Professor Dunleavy: Yes, to candidates still in the race.

Q148 Mrs Laing: To any candidate still in the race not just the top two, but the candidate who comes fifth does not have his or her votes redistributed? I understand it, I am just trying to get this point straight. So for the people who supported the candidate who comes sixth, their votes count twice, but for those who supported the candidate who came fourth or fifth their votes do not count twice, if, after one distribution, 51 per cent appears – 50 per cent plus one?

Professor Dunleavy: That does get to a really acute point, that in many, many constituencies whichever is the third or fourth party, it is quite likely that you may never count their second preferences under the Australian version of AV. In a way that is very limiting for MPs because the winning MP will no doubt have had a convincing majority. If you look at the London system, it will tell you that Ken Livingstone or Boris Johnson both won 58 or 60 per cent of the vote, so they have strong legitimacy as the voice of London because we have counted all the second preferences and we know where those second preferences went. But in the Australian AV system, it is very likely you will never count up Liberal Democrat votes across the country. If a Conservative or Labour person gets to 50 per cent plus one, you will stop the counting.

Professor Fisher: There is no easy answer, we are in completely new territory holding a national referendum under this piece of legislation. The Electoral Commission is charged with producing information which is deemed to be neutral, and outside of the 28 day period before the referendum - I believe this is correct - the Government can also issue some guidelines. But given the Government itself presumably does not have a position in this particular case ----

Q149 Simon Hart: It has two positions actually!

Professor Fisher: Quite! It is inevitably problematic and we will have to see how it plays out. To go back to the point made at the outset, this is completely new ground because no referendum of any size in this country has been fought under the regulations introduced at the beginning of 2001.

Chair: Professor Fisher, Professor Dunleavy, thank you very much indeed for your time this morning and for your contributions. It has been fascinating.

[1] Note by Witness : There was a further item about Scotland that I failed to respond to in the oral evidence – whether the method of dealing with Scotland’s two very small constituencies is the right one. This is quite difficult: certainly those two constituencies present particular difficulties for their MPs in terms of accessibility – both to them from Westminster and within them. A strong case can be made that they are very particular cases and that no other parts of the UK present the difficulties to the same extent. In effect, their special position is creating one additional constituency for Scotland and one less for England than might otherwise be the case, which I do not think is too high a price to pay for recognising their particular character. I also think that the proposed resolution of the problem of very sparse populations in other parts of northern and western Scotland

is a sensible one since it does not further increase Scottish over-representation; instead it means that if one or more constituencies of 12,000 sq km are created with electorates below the size constraint (i.e. more than 5% below the UK quota) the remaining Scottish constituencies will have an average electorate slightly above the UK quota. These are 'special geographical considerations' as they have always been understood and previously the four Commissions have all been able to exercise their discretion to create constituencies with relatively small or large electorates. That is now not possible, and it could be argued that all Commissions should be given some discretion that could be applied in particular situations (such as Ynys Mon and the Isle of Wight).
