

HOUSE OF COMMONS
POLITICAL AND CONSTITUTIONAL REFORM COMMITTEE
THE GOVERNMENT'S VOTING AND PARLIAMENTARY REFORM
PROPOSALS

Thursday 22 July 2010

MR PETER FACEY, DR MARTIN STEVEN and DR MICHAEL PINTO-
DUSCHINSKY

Evidence heard in Public Questions 1 - 56

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Oral Evidence

Taken before the Political and Constitutional Reform Committee

on Thursday 22 July 2010

Members present

Mr Graham Allen, in the Chair

Nick Boles

Sheila Gilmore

Simon Hart

Tristram Hunt

Mrs Eleanor Laing

Sir Peter Soulsby

Mr Andrew Turner

Stephen Williams

Witnesses: **Mr Peter Facey**, Unlock Democracy; **Dr Martin Steven**, Electoral Reform Society; and **Dr Michael Pinto-Duschinsky**, gave evidence.

Chair: Welcome, Mr Facey, Dr Steven and Dr Pinto-Duschinsky. It is very good of you to spend the time to inform the Committee of these very important issues at which we are looking. We are doing some rather speedy pre-legislative scrutiny or evidence taking on two Bills, the Bill which affects AV and the boundary situation and the Bill which impacts upon fixed-term parliaments. We expect both of those Bills to be published today and we would expect them to have a second reading in September, so we have moved very quickly as a brand new committee to try and get some ideas out there which will be informative for Members of Parliament as they deliberate on these issues very soon and also to inform the public debate too, so I am delighted that you have all been able to join us today. We have got your biographies and rather than have lengthy opening statements, I think it would be really helpful if we could get straight into questions. We have grouped the questions into a number of groups: firstly, electoral systems, their merits and otherwise; secondly, the AV referendum; thirdly, boundary changes and a smaller House of Commons; fourthly, fixed-term parliaments; fifthly, the legislative timetable; and finally the purpose of the overall package of reforms. The way I will conduct this is I will call members to ask a question rather than make a speech or a statement themselves to try and get your views on the record. If you could answer as succinctly as you can that would be helpful. We did have the Deputy Prime Minister last week who was extremely eloquent, if I can put it that way! It would be helpful to get through these issues and as the exchange takes place I would like it to be conversational if at all possible. The first group is about electoral systems and their merits or otherwise and I will ask Sheila Gilmore if she would like to start us off on that.

Q1 Sheila Gilmore: The first question is perhaps particularly for Dr Steven and Mr Facey and it would be to ask what your preferred voting system would be.

Mr Facey: Our position as an organisation has always been that neither Parliament nor us should choose the electoral system; the best way of doing it would be for a citizens' assembly to look at the issues and decide. We preferred the model which was used in British Columbia and Ontario where citizens actually deliberated. My own personal opinion has always been that I would prefer systems which are proportional and increase voter choice, and that would include a number of systems including single transferable

vote, AV-plus, AMS, et cetera, but I do not think that simply my choice of electoral system should be put to the electorate or for that matter politicians' choice but that there should be a deliberative process which chooses the exact electoral system which is put to a referendum.

Dr Steven: Historically the Electoral Reform Society has backed the single transferable vote as the system it considers to be ideal.

Q2 Sheila Gilmore: I think Unlock Democracy has said they particularly want people to have a choice of candidates. How would changing the electoral system achieve that?

Mr Facey: A number of electoral systems allow voters to actually have greater choice over candidates whether that be STV, which allows people to actually choose between candidates of the same party, particularly if there is more than one candidate for that party standing, or open list systems. In the case of the choices we have here, which if the legislation goes through will be between the alternative vote and first past the post, then voters will have a greater choice under alternative vote because they will at least between the candidates standing be able to vote according to their desire rather than simply voting negatively or trying to guess which of the two candidates are going to be the two front runners, which you have to do in first past the post elections, particularly where you have four or five parties standing in that election and you are not actually sure what order they are in in that constituency.

Q3 Sheila Gilmore: Can I just pursue this a little further, and anybody can come back on this. There seems to be an assumption made by many people advocating any change in the electoral system that it will make MPs more accountable and therefore there will be more change taking place. In the Scottish local government system of STV which was introduced last year it is not the case that people are necessarily ranking different candidates of the same party because parties tactically only run the number of candidates they think it is reasonable run. I believe that is also the situation in the Republic of Ireland and has been for many years so, in fact, this desired achievement does not happen and, secondly, is there not a risk that within some of these systems you actually make the party candidate more likely to feel they have a built-in ability to win, that you are always going to get certain seats one Tory one Labour, in Scotland one SNP and so on, and so actually the MP may feel safer in certain respects.

Mr Facey: There are two things there. One is the choice we are going to be faced with here is between two single member systems, so whatever my preference may be we have a choice between AV and first past the post. Under AV, the reality is the number of seats which are going to be marginal will increase because, in effect, a candidate will have to get 50% of the vote and it will push more seats into being competitive, they will be better fought because parties have a chance of winning them and therefore there will be more accountability to the voters in that constituency. I accept that in Scotland under STV the parties were extremely conservative and actually there was evidence that some of the parties were too conservative because they lost out on the possibility of winning. Whether at the next election they will be as conservative I do not know. If you look in Ireland it is the norm for bigger parties to put up one more candidate than they think they can win. That is the norm in Ireland but also in Tasmania and Australia, et cetera, where the system operates. In Scotland we had a situation where the parties were overly conservative about their candidate numbers and some of them realised that they actually lost out as a result of that. Whether that will continue in future elections I do not know. It

is also true that we have to bear in mind if you look at Scotland's local government before the change there were huge numbers of seats which were uncontested. If you compare it to England now there are large numbers of local council seats in England which have no election because no party stands. Under STV in Scotland every single seat was contested so the voters actually decided, whereas in England in my part of the country for one of our counties the result was known before the election because there were not even enough candidates standing to challenge it. I think that STV in Scotland is a very clear example of something which increased accountability and increased the influence of voters compared to first past the post.

Dr Pinto-Duschinsky: May I say something about this. First, I would like to congratulate you, Chairman, because it is a very important Committee especially if we are going to second reading in September, which I think is completely premature and is going to cause huge difficulties, and I think is totally irresponsible myself, partly because of details which we will come to but also because of the completely false rhetoric such as we have heard now. The fact is that elections are not only to elect MPs, they are to elect governments and they are to dismiss governments, and under a system that is proposed by some, it is a wholly elite system in which electors have very little to do. The election is like an auction in which there is a ring of dealers and then they have the other decision after the auction is finished. You have the deal after the election in which the people are excluded and that is the whole essence of a proportional system, that you cannot get rid of certain governments and, in particular, you cannot get rid of certain political parties because of coalition arrangements. I think that the whole term 'proportional representation' is a misnomer because you can have proportional representation of numbers of legislators, and our system is not proportional on that, but you can also have proportional representation on shares of government office, and the whole point about the change to AV and that then leading to a proportional legislative representation is that you will have a kind of 'chips with everything' form of coalition, in other words like spam and chips and chicken and chips, you will have Clegg and Labour, Clegg and Conservative, Clegg and something else. You can never get rid of the third party and you may then want to ask why it is that the third party wants this change.

Q4 Nick Boles: I want to come in because this is an important point and you made the argument very well that the point of elections is to change and to choose governments not just MPs. Are you absolutely sure that you know what would happen with AV because one hears so many conflicting reports that actually in some circumstances, for instance in 1997, it could have produced a more extreme result so therefore an even more effective booting out of a government? Are you absolutely sure that it would not produce what you want?

Dr Pinto-Duschinsky: The point about AV is that very few places have it for legislative elections. I was taken once to Fiji for a constitutional review there and it was very interesting.

Q5 Nick Boles: But Australia seems to kick the rascals out.

Dr Pinto-Duschinsky: Australia has it, Papua New Guinea has it; not many places do have it. We do not have enough experience of it and so I completely agree with you that this is something very untried. You could have a normal scenario and then an abnormal scenario. The normal scenario that you have is that Conservatives lose seats, Liberal Democrats gain seats, Labour is about the same, and therefore you have more likelihood

of hung parliaments and therefore you have a two-stage process, AV first leading to full PR, and that I think is the design. You can have another scenario which is the sort of coupon election scenario, where in a coalition the Conservatives and Lib Dems back each other and then you have Labour absolutely smashed. It all depends really on the kinds of deals that are put to the electors. That is why it is a system that again makes for deals rather than elections.

Q6 Chair: Are you saying, Dr Pinto-Duschinsky, that changing the electoral system is not the way to resolve the fundamental problem of having the executive and the legislature fused in one election?

Dr Pinto-Duschinsky: I think the way of solving a problem in a democracy and giving people power is the ability to throw the rascals out.

Q7 Chair: Is that an argument for directly electing the executive as most nations do?

Dr Pinto-Duschinsky: I think that a directly elected president or prime minister is an interesting idea and it does work in numbers of country. I think the problem that comes with that is that you can have an executive and a legislature that are of different parties and they have to have a compromise and so you do not have as definite an expulsion. In Britain when we expel we expel in an immediate and spectacular way. I have seen it happen in my own lifetime when I was taken with David Butler to interview Harold Wilson in office and then a few weeks later he had no home and we saw him at Dick Crossman's home because he never reckoned he could leave office. That is what I think democracy is all about. If governments and Members of Parliament feel that they can somehow wriggle out of the anger of the electorate, then democracy is weakened.

Q8 Stephen Williams: If I could direct my questions principally at Dr Pinto-Duschinsky. Would it be fair to say that your defence of first past the post is largely for negative reasons, as to how you can throw the rascals out, "removal van" democracy as you say in your paper, rather like Tony Benn often says that the best advantage of the current system is that you put a cross on a piece of paper and throw out a government. Is that the main reason for supporting first past the post?

Dr Pinto-Duschinsky: I would admit that the first past the post system has been quite unfair to minor parties. In other words, in terms of representation in the legislature obviously it is disproportionate and it disadvantages minor parties or third or even fairly major parties but not the major parties if they are spread around the country. However, I think the larger problem is if you never could throw out a Government as a result of the election. I believe that the removal van aspect, what you say is the negative quality, is the central argument but I do not call it a negative quality because that is democracy. That is the people doing what they do not do in many systems of the world and it is a way of holding the executive to account better than anything else.

Q9 Stephen Williams: But for the record, Chairman, governments in Australia have lost elections. I remember John Howard being Prime Minister and then he was not. We have had Labour governments in Australia, Liberal (but Conservative really) governments in Australia, governments in Germany change their composition quite often, so it is not just first past the post that leads to the removal van turning up for the Prime Minister or the Chancellor.

Dr Pinto-Duschinsky: I think you have to look at the likelihood of this happening in different scenarios and whether a third party is likely to hold the balance of power. Often you do find - and I did this work 11 or 12 years ago, supported I may say by the Rowntree Trust to whom I am very grateful - that the expulsion of governments happens about four times as often under the first-past-the-post system as it would under proportional systems, so although there are many ways you can look at it, there is a greater likelihood that you can have removal of democracy under first past the post than under other systems, but for the record I do accept what you say.

Stephen Williams: Would you characterise yourself as a duopolist or a pluralist?

Q10 Chair: You can have some time to think about it.

Dr Pinto-Duschinsky: I actually would define myself as a democrat. What I care about most is a system where people can make a difference in elections. What I really fear is having a succession of elections where you have votes and then there are deals afterwards that have very little to do with what the electors want. We have had a bit of a taste of this in the last few months and whereas I think it was a desirable change in the short term, if we always had that I think that our democracy would be gravely undermined.

Q11 Tristram Hunt: I just want to throw some of those critiques back to you, Peter or Martin, particularly this notion that if you take a minister such as Steve Webb who is the current Pensions Minister, who is currently tacking right but under a different Coalition might tack left, we vote out one government, we vote in a new government and he could well be in the same job in the same place without any sense of the checking of the executive under an AV system.

Mr Facey: Let us clarify something: AV is not a proportional electoral system. First past the post is a plurality electoral system; AV is a majoritarian electoral system. It has more in common with first past the post than it does with proportional systems. Let us also clarify that the connection between coalition government and an electoral system is not as strong as my colleague Michael seems to imply. Canada has just had minority governments, hung parliaments in effect now, for the last three elections under first past the post. India uses first past the post and has coalition government as the norm. Australia has a majoritarian system, the alternative vote, and does not have coalition government; it has majority governments. There is something called the Coalition but that is effectively one party. It is the same as the Labour Party and the Co-operative Party effectively being one. There is no evidence for this idea that alternative vote is going to usher in this scenario that Michael points out. If you want to look at whether the removal of an element of democracy works, if you are a fan of that, just watch the Australian election which is going to take place in about six weeks' time and look at whether or not that works. The reality is if you talk to your Australian colleagues I am not sure you are going to find people who live in this kind of world which is not competitive where politics is not operated in that kind of cut and thrust. John Howard is not some example of a weak centrist Prime Minister. He was a Conservative Prime Minister who had a very strong vision. We cannot start having a debate here about whether or not the alternative vote or first past the post is the best and then start saying, "Look at Germany, look at Ireland, look at Bolivia." The reality is that is not the choice we have. You may want to recommend to the Government that we have a different choice in the referendum. I would be interested to hear if you do that but if we are going to have a referendum on the alternative vote and first past the post let us have a debate about that and not a debate

about things which have got absolutely nothing to do with it.

Q12 Chair: Can I ask Dr Steven to come in and give his view.

Dr Steven: There are a number of different points that have been covered and we have to keep them separate to the best of our ability because there have now been three or four different strands to this discussion. If I can deal with Tristram's point first, theoretically, yes, but the political reality, the practicalities of somebody like Steve Webb either changing the party to stay in government or, if you like, the Lib Dems having a permanent seat in the British government, I do not think there is any empirical evidence of that in the British context, if you know what I mean. There is that theoretical prospect but then the reality is there is no evidence of that happening comparatively. I can talk about other points too. In terms of throwing the rascals out, we have to be clear, if you look at British elections in the twentieth century there are four elections where basically the result was extremely tight and where three times out of four the result was wrong: Sir Ramsey MacDonald in 1929, Winston Churchill in 1951 and Harold Wilson in 1974. In 1964 the result was also very tight and the first-past-the-post system produced the right result and Wilson won. There is only one example, 1970, of a clear-cut wholesale removal van process whereby a party with a working majority was replaced by another party with a working majority. Every other parliament has ended with a minority government where the majorities have faded away and the party that has then come in has replaced that. If we are looking at the evidence - and I am not here as a campaigner, I am not here to make a case one way or the other, I am really here to try and give a view - there is no empirical evidence in the British context of first past the post consistently allowing the British electorate to throw the rascals out in the way that I think Dr Pinto-Duschinsky means, if I can respectfully say so.

Q13 Tristram Hunt: We are about to face some very damaging cuts in public services under the Budget and there is some suggestion that this change to the voting rule does not make a huge amount of difference. We are going to adjust and change the British system of voting to follow Fiji, Papua New Guinea and Australia. What would you say to the criticism that this is going to be a massive waste of £60 million to follow a model which is not followed by the rest of the world, it is rather a minority following, when if you look at the broader history of Britain we have had an incredible degree of political stability which has served us well and there is no other point to do this other than to fulfil a Coalition political stitch-up, say?

Dr Pinto-Duschinsky: May I comment?

Q14 Chair: Perhaps I can ask Mr Facey first.

Mr Facey: Nicely put but I do not accept that argument. Let us be clear, in some ways if you want to look at the longest running discussion on the British constitution it has been the electoral system. You only have to look at institutions like the Electoral Reform Society, they go back to the 1860s, and the debate about the British electoral system is the longest in British political history. It has come up again and again in periods of our history in terms of discussions. Also the reality is the existing electoral system has only existed since 1950. The myth which is around that it is this long-lasting one is not actually true. It was only in 1950 that we got rid of seats which had two or more MPs. It is only then when we had one electoral system because we used to have the single transferable vote for university seats. I think in a democracy, particularly at a time when

there are major issues to be decided, how healthy our democracy is is an important debate. As already indicated, I would have preferred a more open process. I wish that politicians were not so control freakish about it and we were not having the situation where the choice was between a majoritarian and a plurality system, but that is the choice and I still think it is a worthwhile choice. If you as a committee would like to be extremely brave and recommend that you open up the whole process and let citizens in a grand jury decide what the options are, I would applaud you for it. I may be doubting you but I somehow doubt you are likely to do that. Therefore if the choice is between the alternative vote and first past the post, I think that is a useful choice to put to the British electorate because at least it will mean that you sitting here will have the majority of your electorate and those of us who are voters will no longer have to have people on our door steps telling us, "You must vote for us because if you vote for the person you like this person you hate will get in." I am fed up of having that debate. I would rather have a positive debate about why voting Conservative or Labour or for that particular candidate is a good thing. I think that would be a positive change.

Chair: I am going to speed up just a little bit and ask colleagues on this side of the table to ask questions to try and elicit information from the witnesses as well as giving your own opinions about where we stand on all these issues.

Q15 Mrs Laing: You will recall, as some of us do, that Roy Jenkins, then Lord Jenkins of Hillhead, carried a very long drawn out, in-depth investigations into voting systems and presented a report in 1998. I recall being there when he presented it and he threw out AV saying effectively it was the worst of all systems. May I ask each of our witnesses: was he right?

Dr Steven: I do not think he was right. He proposed effectively an AV-plus system, you may recall, which was rooted in AV.

Q16 Mrs Laing: --- which was totally different from AV. It just happens to have the same letters at the beginning.

Dr Steven: I think probably there were more similarities between AV and AV-plus than you say. There are different ways of answering your question in relation to what is the worst electoral system and whether the British context is relevant. I could talk a lot about the worst system and the best system, but I do not think I agree in principle with that.

Dr Pinto-Duschinsky: I never thought that the Jenkins Independent Commission was very independent for various reasons I could go into. The experts advising were very carefully chosen. I think the whole issue of electoral reform is one of interest to an equivalent of train spotters and a real minority group that can give the train numbers because they have studied that kind of thing is not really of any interest to the general public and so I completely agree with Dr Hunt on this. The trouble is that we are only having this referendum because of the chances of electoral arithmetic and the way in which the Coalition deal was done. It is of no public interest at all, either in terms of interest or in terms of benefit, and I think that the danger is that what Professor Ian McLean has called the anoraky nerdy people can actually effect a change in the British system that will be totally undesirable and without the public really realising what has happened.

Q17 Chair: I will ask Mr Facey to reply also to that question with a caveat from myself:

was it the inexperience of people dealing with coalitions which led to Mr Clegg perhaps selling himself and his bargaining short position and not going for something which was certainly more proportional than AV?

Mr Facey: Let me answer the question in terms of whether or not AV was the worst electoral system. I think even Lord Jenkins would agree with me that first past the post was a worse electoral system than AV. What he was talking about and what his Commission's job was was to propose an alternative to first past the post, so in that case, if you are asking me to choose between AV and first past the post I think first past the post is a lot worse than AV. If you are asking me to say are there better systems than AV my record is well-known on the subject and I am not going to sit here and say that there are not, but that is not the choice which we are being given. I have already said I wish that choice had been more open. The reality is if Labour had won the last election we would still be having a referendum on the alternative vote because that is what was in the Labour manifesto, so it is not just the vagaries of electoral arithmetic here, it is that this outcome was not that predictable in terms of it. Whether or not the Liberal Democrats could have played their hand better and got a more proportional outcome is a really difficult one to answer. In some ways I will leave it up to historians to judge in terms of it. I think the reality is that Members of Parliament are extremely wedded to single member seats. I wish you were not. I wish you did believe more in competition and you believed that there was a more competitive style of politics but MPs are extremely wedded to their individual constituency, and therefore a referendum between two single member constituencies is not actually that unsurprising and it is not surprising that politicians when it came to it chose the two alternatives which were effectively both single member systems, which is why I do believe that it should have been the voters on a citizens' jury who decided on what the alternative was rather than politicians who have a self-interest in it.

Q18 Chair: I am going to wrap this piece up because we are using virtually all our spare time on this by asking two quick questions.

Mr Facey: By the way, I accept I am an anorak. I would also point out that Michael is an even bigger anorak with a longer history on it, but anoraks are useful when it is raining.

Chair: Simon and Peter, I will take both your questions together.

Simon Hart: May I go back to Tristram Hunt's point about the public appetite for this because if we take the 2010 election where there was a higher turn-out than the previous one, incumbents did better than everybody expected despite the climate that was surrounding politics, and you in your own paper talked about a wave of public opinion in favour of electoral change, it being popular with the public, if we are truly reflecting public need here, where is the evidence? The only party which did not have something about this in their manifesto was the Conservatives who ended up getting more votes than anybody else as it happened. Where is the evidence that supports your assertion that there is some great public movement and thirst out there? Surely that is what we should be reflecting? What the individual MPs want is irrelevant.

Q19 Sir Peter Soulsby: My question is specifically to Dr Pinto-Duschinsky: when you were describing earlier on your fears for the future you talked about AV leading to full proportional representation. That is the way in which you characterised it on a couple of occasions. That is not of course what we have got in front of us. What we have in front of

us is a proposal (it may be many people's aspiration but it is a proposal) for AV as an end state. Do you have the same fears about the change to AV if it were to be an end state rather than as you have described where it is a step towards proportionality? It can be argued that many of the fears that you have expressed are a long way from the likely outcome and in fact it will make very little difference.

Mr Facey: At the last election only two parties had a manifesto pledge of supporting the current electoral system: the Conservative Party and the British National Party. All other parties in Great Britain, including UKIP, the Greens, the nationalists which have seats in this Parliament or in other parliaments, stood on supporting a change to the electoral system to some degree. If you want to add up the numbers of votes for parties which voted for reform and against I can say there is evidence there. Am I going to say that this is the most burning issue in the minds of the people in my local pub in a village in Cambridgeshire? I would not so claim. However, I do believe that there is an appetite for giving people more power and more control. As I said, I wish that process had been more open. We advocated a process whereby a citizens' jury would decide whether or not there should be a referendum on whether there should be change or not. That is not the option here. I think the fact we are having a debate about how you get to this place is a good thing for our democracy and it is something which is positive. We will see in the referendum whether or not there is a public appetite for it. We will be able to judge afterwards whether that is the case. We will see if you are right or I am.

Dr Steven: I would turn your question around slightly and say that there is real evidence of a fall in trust in politicians which actually predates the expenses scandal. The electoral turn-out generally has been in decline. Party membership has been spectacularly in decline. There are other indicators of quality of democracy in Britain which suggest that the average British voter's perception of the political classes is maybe not as good as it once was and the notion of public service is being replaced by career or self-interest and professional politicians. There is survey evidence that there is this sort of groundswell of public opinion about that out there. You can only judge the effectiveness or the success of an electoral system by its own virtues. We can speculate until midnight about what AV might do or might not do but the one thing it certainly will do is involve more people. It will make it more difficult, if you like, for a single political candidate to get elected to office on the basis of a minority of votes, if you know what I mean - I am not putting that very clearly - so in terms of that specific point it passes, if you like.

Dr Pinto-Duschinsky: I do not think we should be naïve, and I am sure we are not. Labour did not have AV as a burning issue for itself until the very end when Labour felt that it would lose and therefore was reaching out for a possible coalition and therefore it was a deathbed policy and so to say that it was in the manifesto and therefore Labour is wedded to it is unrealistic. Similarly, I think it is unrealistic and naive to think that Mr Clegg loves AV. He wants it as part of a two-step process towards PR in the hope that it increases the chances of a second hung parliament, which it would do, and at that stage he would demand full PR. That is clearly what the scenario is and so I think to say that the issue in front of us is AV so let us ignore the real politics of it would be a great mistake, and, indeed, one of the things that I am frightened about, say, with the Electoral Commission, whose chair after all is a former member of one of Peter's organisations and so is not exactly neutral, is that they would want to present it in terms of AV without looking at where we are heading.

Q20 Chair: Finally, Dr Pinto-Duschinsky if we were to directly elect our chief executive,

our Prime Minister by first past the post, would your antipathy towards a proportional system for the legislature be lessened somewhat?

Dr Pinto-Duschinsky: To be realistic about it I think that the idea of a presidential or prime ministerial direct system is a very interesting one. It is not one that is before us now and so I have not really looked at that question so I would hope you would excuse me if I passed.

Q21 Chair: The traditional argument is that when you need strong government you need first past the post so therefore directly electing the Prime Minister on first past the post makes sense but deliberative chambers do not need that so much and a broader and a proportional basis can be used.

Dr Pinto-Duschinsky: I think you have a strong government if an executive can usually be assured of a majority in the House and you have a democratic government when they can then be thrown out, and so I think that the combination of strong government for a while but then the ability to throw them out is the British tradition of combining a strong executive with democracy.

Q22 Sheila Gilmore: How will the citizens' jury be elected?

Mr Facey: The way that it works in Canada was that it was random, it was a random selection of citizens, in the same way that a jury works in a criminal case. In British Columbia, they had 120 people, 60 men and 60 women, who were chosen by lot, effectively, from the electoral roll, who served for a year, who looked at the electoral system and came back with a recommendation which then went to a referendum of the voters in British Columbia, and the politicians in that case took the decision that they would keep their hands off what electoral system came out of it. The assembly/jury had a choice of simply saying there should be no change at all, so listening to Michael and saying to stay where they were, or, if there were to be a change, recommending a change were put to a referendum. I think that would be a fairer way because it would be those people who would not have a direct interest in deciding on the electoral system, but that is not the option here. We tried to persuade the last Parliament to do it and your good selves decided not to listen to us and, therefore, we are where we are.

Chair: I am going to move on now to the AV referendum itself.

Q23 Mrs Laing: One very quick opening question, if I may. If there is a referendum on changing the voting system, is that changing the Constitution, or is it just incremental change?

Dr Pinto-Duschinsky: I think it is important enough to be considered a constitutional change.

Dr Steven: I am not a constitutional lawyer, so I am not qualified to comment.

Mr Facey: It is a very interesting question, and I am not trying to get off the hook.

Q24 Mrs Laing: You do not have to answer.

Mr Facey: The reason it is an interesting question is that, if you look at countries like

New Zealand where they have entrenched a few things into their constitution, they entrenched the issue of having elections as constitutional, the fact that you have to have elections, but they did not entrench the issue of the electoral system. They said that that should be decided by voters through a referendum process, but that was not in the same order, so I think it is certainly constitutional that we have elections and that elections are run in a certain open way. Whether the question of the exact electoral system itself should be entrenched in our Constitution, I think, is one which would need further debate and discussion.

Q25 Mrs Laing: That is very helpful, thank you. If one accepts that changing the voting system is not the same process within our democratic system as choosing between four or five candidates who will represent a particular area, is there not, therefore, a case for saying that it would be wrong to make a fundamental change like that if, let us say, only 15% of those who were entitled to vote took part in that decision and, therefore, should there not be a threshold which has to be crossed in order for this fundamental change to be made?

Dr Pinto-Duschinsky: Well, we have a problem in the British Constitution in that Parliament is sovereign and Parliament votes by ordinary majority. I am in favour of parliamentary sovereignty, but that is the one weakness of it, and that has allowed various decisions and changes to go through on the nod of basic constitutional significance without really having public information, let alone public consent. I do believe that it would be wrong to have this, or other fundamental changes in our democratic system, without real consent, so I would think that a threshold, such as the George Cunningham proposal, is absolutely appropriate on this, and I would note that, since there was a coalition agreement with a whipped vote to come on the AV referendum, I do not believe that that was the case for the threshold, so I think that that should be left for Parliament to decide. Were I a Member of Parliament, I would certainly vote for the threshold.

Mr Facey: I am a believer, unlike Michael, in popular sovereignty. I believe that sovereignty rests ultimately with the electorate, with our fellow citizens. I think the question about having super majorities, thresholds, all these things in referenda is that the reality is that you only have to look at Italy where they have such a threshold that, if I were a campaigner for the 'no' side, what it effectively means is that the best way of defeating this change would be to tell my supporters not to vote. I think that that type of mechanism in a democratic process is actually extremely undemocratic. Very few referenda now work in Italy because what does happen is, if you are opposed to that change, you simply tell all your supporters, because it gets the threshold down, not to vote, so you end up having huge 'yes' votes, but actually no change. Now, if you applied the same rule to you, as parliamentarians, and said that you can actually change anything because you are sovereign, as a body, and we have had fundamental changes to our Constitution and our civil liberties, but you have to have at least 50% of your electorate, et cetera, then a number of you would not be sitting here at all. If you applied it to local council elections, we would not have any local councils at all. I am in favour of things which entrench the Constitution, but one of the triggers for change, I believe, is in referenda. I think in referenda you are going to the people who actually have the sovereignty, in my belief of things, and, therefore, they can. Now, I would like a higher turnout. I supported a referendum on the same day as the General Election when the previous Government was doing it because it would have been a higher turnout. I support a referendum on the same day as elections being held because it saves money, but also because it will give a higher turnout, but I do not believe that we should start imposing

artificial ones in referenda because, effectively, that would be gerrymandering and the case of one side against another.

Dr Pinto-Duschinsky: I think that this whole language of gerrymandering and all that ignores the basic issue, that you need proper consent to a basic change. I do disagree with the view of 'we, the people'. Organisations, such as that which Peter represents, exist and are able to campaign in his case because he controls with his group the former funds of the British Communist Party, and the idea that he represents the British public on this is controversial, but I do not think that the rhetoric of 'we, the people' is actually apt in this because the method that is being proposed is one that would actually take sovereignty away from the people and sovereignty can only be with the people if they can dismiss governments.

Q26 Chair: I think the concept of consent to change basic law, whatever you want to call it, constitutional law, is a good one, providing process is available in order to make the change. What we are finding today is that it is a fluke of parliamentary mathematics that has presented this opportunity, some may say, to make a change and it is actually quite difficult, even currently, to envisage a process by which people could make that flow, particularly in a quite rigid party system. I was thinking, Dr Pinto-Duschinsky, of you being a Member of Parliament, as you alluded to a little earlier, and I just wondered ----

Dr Pinto-Duschinsky: You are thinking that would be ludicrous, were you?

Q27 Chair: ---- how long you would survive the whipping system in the House of Commons, which some of us have sailed close to the wind on in the past! I shall leave that thought hanging, but bring Dr Steven in.

Dr Steven: I cannot comment on the constitutional dimension, but I suppose I can say briefly that there is, I suppose, a need to be consistent. Any threshold is arbitrary. A number of things that Peter said I would, I think, support. Once you break everything down, Parliament is sovereign, you are parliamentarians and there is no threshold for you to get in in terms of turnout, so I suppose I can only really comment about the consistency aspect, but I cannot comment about anything else.

Q28 Simon Hart: Just to go to the question about timing, you were supportive of referenda being held on the same day as other elections, in which case why is the Electoral Commission wrong in advising against that, and why is it wrong in advising against holding subsequent elections on the same day, which might, as I put to Nick Clegg last week in Wales, actually mean two different systems on the same day over boundaries which, in some cases, do not overlap at all and, in other cases, overlap quite a lot? Why is the Electoral Commission wrong, in your eyes?

Mr Facey: They can speak for themselves better than I can. I said they were wrong for the simple reason, well, firstly, if you look around the world, holding multiple elections and referenda on the same day is a fairly normal thing for most countries to do. The ability of voters to answer a number of questions on the same day is perfectly possible for them to do, and in fact in this country we have multiple elections on the same day, for instance, local elections and European elections.

Q29 Simon Hart: But not by different systems. That is the point.

Mr Facey: Well, we do because we have local elections on the first past the post and we have a closed-list, proportional system on the same day and voters deal with it. I went to San Francisco at the time of one of their elections and a voter was being asked to decide on electing their local council, electing their local mayor, electing state representatives, federal representatives, state referendum issues and local referendum issues, about 50 issues. Now, I would not advocate that they do, but the ability of the voter to maybe make four decisions on one day, if you do not think that, I think you are underestimating the intelligence and the good sense of voters. I think there is a duty, particularly in a time of financial crisis, to do things in the most efficient way, and actually holding elections and referenda, in my opinion, effectively a form of election, an issue election rather than a council election, is actually cheaper and also guarantees that you have more people participate. In response to the question about making sure that we have a higher turnout, which I passionately believe we need to have, holding them on the same day makes sense.

Dr Pinto-Duschinsky: My comment is that actually the same day/not the same day is a calculation of interest. I think that it is thought by the proponents of AV that they are more likely to get it through if it is put quickly and if it is put on the same day, and it is that calculation. I think all of the other evidence is secondary, if we are really frank.

Q30 Stephen Williams: Can I just challenge that because everyone in Wales and Scotland will be voting and 84%, I think, of the people of England will have the opportunity to vote in a local election so, therefore, the vast majority of people in England, Scotland and Wales will be voting. Is that not better than having a referendum on a different day when probably fewer people will vote?

Dr Steven: Yes, the Electoral Reform Society does not have a set-in-stone line on this, but it is very much what works and whatever is clearest in the circumstances with voters. I think, speaking perhaps personally, I would say that there is evidence that voters are able to vote in different elections and in different contexts at the same time, and there is comparative evidence for that from similar advanced industrial democracies. I think that is probably what I would say.

Q31 Mrs Laing: I certainly do not, and I have been accused of doing so, underestimate the intelligence of the electorate; of course the people who go to the polling station can distinguish between voting for one thing and another. However, is it not the case that, where there are national elections in Scotland, Wales and Northern Ireland, the turnout is likely to be proportionately much larger than for local elections in 84% of England and, therefore, is it not likely that there will be, on this particular day that it is proposed, differential turnout and, therefore, a result which is, at best, challengeable as being fair in this referendum?

Mr Facey: I suppose, if you assume, and you are presuming effectively, that voters in Scotland, Wales and Northern Ireland are likely, therefore, to vote particularly one way or another in greater numbers ----

Q32 Mrs Laing: No, I am not, but, supposing they vote 50% one way and 50% the other way, there is still a differential turnout that there are more people voting and having their say there. I know it is a question of choice, but, therefore, I will argue, the result of the referendum will be less watertight.

Mr Facey: What I would say is that we always have in elections differential turnout. The

reality is that the voters of Liverpool, you can argue, because of their electoral system, tend to have turnouts in some of their seats which are way below 50% in a general election. I would not argue, and I do not argue, that the result of a general election is, therefore, illegitimate because you have differential turnouts in different parts of the country. I think that, if we are looking at ideal days to have referenda, and this is a point which we have argued way before we actually had this particular circumstance, we have always said, and we have said to the Electoral Commission that we disagree with the Electoral Commission, that holding elections and referenda on the same day is better because it means that you do get more. We know from the experience of local referenda on mayoral issues that, when you hold them on days outside the normal cycle of when people go to the polls, turnouts are considerably less, and I think that that is actually more damaging than the problems which you are identifying.

Dr Pinto-Duschinsky: I think there is a completely different problem though, which is that, if you say that you want a referendum date that is fixed for May and if there is a certain amount of time before that which you need for the campaign, you then assume that the legislation can get through the House of Commons in a very short time. I think that we will find that there are enough difficulties, and I have brought up some with the funding rules for the campaign, that I do not believe that we can responsibly have our Parliament discuss all of this and pass the legislation in time for a referendum next May. It would require, I think, a fairly casual look at what are very real questions of process in order to do that, so I think the question of whether you want it on the same day or not is moot, from my point of view.

Chair: Can I just gently remind, or chide, my colleagues that we now know there will be a second reading on these bills in September, so we do not need to do our second reading speeches today when we are trying to get information from our esteemed witnesses!

Nick Boles: I could not be less interested in the timing of the referendum. What I am interested in is why you seem to think that it is likely that people will choose to answer the question posed rather than expressly looking in on something else completely different. Is it not the case that in referenda around the world there is lots of evidence that actually the voters take it as an opportunity to send a quite different message than the one that they have been asked?

Tristram Hunt: Very briefly, in your evidence to the Committee on Standards in Public Life, Dr Pinto-Duschinsky, you, first of all, make an interesting critique of the Electoral Commission in terms of its decision about where the £5 million grant is given to the campaigning organisations and, secondly, you say that there are problems concerning the definition of 'foreign' and 'in-kind' donations.

Q33 Chair: I will ask a third question. I have been passionately interested over many years in pre-legislative scrutiny and I believe that, since legislative scrutiny does not work, we need to invent something that does, so we call it 'pre-legislative scrutiny'. Sir George Young, in a letter to the Liaison Committee yesterday, reinforced his view that every bill should receive 12 weeks' pre-leg scrutiny. We have managed, by forcing this issue, to get probably two, possibly three, weeks' pre-leg, and I know particularly, Mr Facey, that you urged that the second reading be held extremely quickly, so my question to you is: do you think this is denying the educative effect that pre-legislative scrutiny can have on Members of Parliament and the public? Finally, what do you think the question should look like on that referendum paper? There are four questions there, and I am sorry

to take them all in a bunch, but comment on them as you wish.

Dr Steven: In relation to, yes, the common practice that referenda are votes to hurt the Government, that is going to be more complicated on this occasion because the coalition is somewhat split in terms of this, so it probably does not apply, I suppose. I cannot comment on the second or the third questions really. In relation to the question, it would probably be wrong of to make up on the hoof what I think the question should be in terms of the wording. There is no question that the Electoral Reform Society will be happy to make a written submission in terms of what they think the form of words should be, but I probably should not do that now.

Q34 Chair: Maybe some civil servants have already made it up on the hoof! It may be that that is so, so you should not feel embarrassed about having a go yourself!

Dr Pinto-Duschinsky: To my understanding, there has been an agreement within the coalition about the wording, but in terms of pre-legislative scrutiny, I think I would absolutely back what you have said, that the whole Bill is very complicated and it would be a mistake to rush it through. I think the second reading in September, as I have said before, is certainly premature and we cannot look through all of the issues that need to be looked at during the recess in August, there is a lot of work to be done, so I think it would be very much against the public interest to have that in September. I was very grateful to Dr Hunt for looking in detail at several points to do with this Bill, and about the registers as well, which I have read with interest and taken very seriously his comments. About the Electoral Commission choosing the group, it is not my criticism of them. Sam Younger himself looked at that problem and it is an inherent problem there. On the question of foreign donations, I think, you have a ban on foreign donations and you also have a definition that a donation can be 'in-kind'. Now, what this means, for example, is that, if some foreign politician, say, they got somebody from Australia over, speaking would be an in-kind donation and, according to the definition, you have to count a service as a donation if it is done in office hours, so, for example, we would have to reckon whether, if an Australian was doing it, it was our office hours or Australian. The fact is that the law, the whole of that chapter of PPERA that was passed in 2000 which went against a number of the recommendations of the Neill Commission in 1998, it was just passed very, very quickly and I think that there are a whole lot of questions. When does the campaign period start? I read, and would have to go back to, the very admirable Oonagh Gay who wrote a parliamentary note on this as to what happens. I think the laws on expenses will probably be unworkable and unenforceable, and really do, unless they just be a dead letter which is a possibility, need to be looked at very carefully before we move to second reading.

Q35 Tristram Hunt: We will give IPSA that job!

Mr Facey: You said something to me earlier which implied that I speak on behalf of the British public. I would not be so arrogant. I speak on behalf of our members and a few more than that. In terms of the question about referenda and whether people vote on the question, to be honest, it is a very difficult one to answer, but in general elections I am not sure they vote on the question either. There is not a lot of evidence that they vote on manifestos. Your smile is equally as important to a voter as the issue. I believe passionately, ultimately, that people are sovereign and I believe that people have the ability to take decisions on things, and I think that they are capable of doing it. Does that mean that everybody voting will vote with the same degree of interest or be as studious

about it? No, and it is a fault of democracy, but I think democracy is a better system than any other we have and I think that, if you are going to change a voting system, voters deciding in a referendum is probably the best way we have, however faulty that may be. In terms of the Chair's question about pre-legislative scrutiny, I have two difficulties. One is, I absolutely agree with you, that pre-legislative scrutiny is extremely important, and we have said so on numerous occasions, and I believe that in this case it is equally important. Speaking as a campaigner, I need to know as soon as possible when the referendum is going to be, particularly as someone who first started planning a referendum on electoral reform back, as the questioner pointed out, nearly 15 years ago when we were first promised a referendum and, as someone who has constantly been on tenterhooks as to when we will get it, you can understand my enthusiasm to actually have a date when I know that it is going to happen rather than simply a promise by politicians in a manifesto that it may happen because, unfortunately, so far my hopes about those promises have always been dashed and, therefore, I want to see the legislation.

Q36 Chair: And on the question?

Mr Facey: On the question, I am a great believer in Ronseal(?), that things should be as simple and clear as possible. The way the present system works is that the Electoral Commission itself will have to be consulted on the question, and I think it should be something as simple as, "Are you in favour of changing the electoral system for the House of Commons to the alternative vote?" but I accept, as someone who has declared an interest that I will be campaigning on one side, that maybe I am not the best person to decide on the question.

Chair: We now move on to boundary changes and a smaller House of Commons.

Q37 Mr Turner: I have 110,000 constituents, my colleagues have 25,000 or 35,000 and many, many colleagues have between 50,000 and 88,000, so there is a huge variety of single-Member constituencies. Does that matter?

Dr Steven: Does it matter that there are different sizes of constituency?

Q38 Mr Turner: Yes.

Dr Steven: Well, I was aware that you were going to ask this in advance and I have thought about it a little bit. There are really only 40 constituencies that are, if you like, outliers. Most constituencies are within about plus or minus 20% in terms of the average. There are really only about 40 constituencies, by my reckoning, that are really incredibly big or incredibly small, so it is a question of whether the issue is significant enough to require attention.

Dr Pinto-Duschinsky: It matters in democratic theory because votes should have the same value, and we have not only one person, one vote, but, if theoretically you had a constituency, as we had before many years ago, of two people and another one of 50,000, then obviously the votes would have a different weighting. Now, we have got to a ratio of roughly four to one or five to one with the outliers, so it matters for that reason of theory. I think that it is accepted in some of the international conventions that you can go away from equality as long as that has no predictable party-political effect, but, if those inequalities do tend to favour particular parties, then the democratic process is being, in some way, skewed in an undesirable way. There is argument among academics as to how

far the Conservative Party is damaged by the inequalities, and I think it is accepted that they do tend to lose out at the moment.

Mr Facey: I think it is desirable, if at all possible, that constituencies are approximately the same size, all things being equal. If you can achieve that, then it is something which will be a positive. I also accept that there are other considerations, not just simply the absolute number of constituents, in that nobody is advocating that we should have a seat which crosses the English-Scottish border as something which would be desirable and, therefore, I think there are other considerations which we have to take into account as well, but it is certainly desirable that they are approximately the same size.

Dr Pinto-Duschinsky: I think it is the case that your constituency is in a very special position, being an island and of having a number of voters that is very large, electors, in comparison, so we do have a dilemma because, if you divide it in two, it is under quota and, if you leave it as it is, it is over quota. I think that the trouble is that it is really a one-off problem and the question that arises then is whether you give special treatment directly and say that the Isle of Wight will be an exception, and I can see some possible merit in doing that. I think the problem could be that, once you get into exceptions, and I think that there have been arguments in negotiations for 15 exceptions, then you start destroying the whole point of equalisation if everybody has the exception. I think it is the reality that the Isle of Wight has probably the strongest case of the over-populated seats, and I sympathise with it. Whether you then want to go down a road that actually destroys the whole scheme of equality is a difficult one, and I think that is the real dilemma.

Q39 Mr Turner: Can I suggest another way, and that is that we, all of us, all the Members of Parliament, cast, in my case, 110,000 votes and others 25,000 votes or 55,000 votes or whatever, and they go through the lobbies and zap the cards to say how much we have, and that seems to be sensible.

Mr Facey: I think it is a very interesting idea. I have to say, though, that I normally hear from advocates of proportional representation who argue that Liberal Democrat MPs and Green, because they have so many thousands more votes per those parties, should effectively be able to go through, tap in, and effectively a Liberal Democrat MP equals 12 Labour or Tory, so, if we go down that route, it is going to be a more interesting debate. One simple practicality would be that we would have to turn [this building] into a museum because we could not use the existing corridors and voting chamber and everything else, and we would have to move to Solihull and whatever else. The difficulty is that, as soon as you go away from the concept that effectively a Member of Parliament has an equal value, you are having, in an extreme way, different types of parliamentarian in a way which is even more extreme than some of the complaints about Scotland or Wales or wherever else, and I think the better way of dealing with it would be to move to a multi-Member system whereby actually some of these problems would actually be less of a problem than they are under the single-Member system, but that is not an option which we have before us.

Q40 Chair: Should all the votes be cast in the same way of course? There may be different views in the Isle of Wight on a particular issue and they may be split through that system.

Mr Facey: That would be an interesting thing for parliamentarians to try to work out.

Q41 Chair: Dr Steven, any comment on that?

Dr Steven: Just given what I said in response to the last question, I would probably view it as being a sledgehammer to crack a nut and perhaps unnecessary. I can understand why it is more important for you, as I say, in the Isle of Wight and I am sympathetic to that. Jenkins actually discussed this in his report and he talked relatively in a passage about how the MPs with the biggest seats would walk around like prize bulls because they would have the most power. I suppose that does predate the swipe card where you just put it in. I suppose in that he was maybe making the serious point about the practical implications for how that would work.

Q42 Simon Hart: I am going to ask for an opinion rather than express one, you will be pleased to hear! What is your view on assessing boundaries on the basis of registered voters as opposed to constituency population? Is there an angle we have missed here which we should be pursuing? Secondly, what, in your view, is a seemly timetable to review safely and reasonably 649 constituencies and reduce them to 600? What, do you think, would be a sensible timetable over which that process should be undertaken?

Mr Facey: Sorry, the first part of your question was?

Q43 Simon Hart: The distinction between registered voters in a constituency and the population.

Mr Facey: The reality is that our current electoral register is not fit for purpose, and let us be clear about that. There are huge numbers of people, particularly in some constituencies, and some academics estimate that that might be as much as 25%, who are not registered in some constituencies and, therefore, simply using the current electoral register, unless we are convinced that that register is completely accurate, as the sole mechanism for deciding constituency size, I think, is unwise, particularly when this Government, which I congratulated it on because I campaigned for the change, is committed to changing the way in which registration works. Therefore, to rush through a major change using what the Government itself recognises is an inaccurate electoral register as the sole mechanism to have for new boundaries could mean that we end up with equally unusable boundaries at the next election as a result of it. I think it would be better to use a number of indicators in terms of the constituency size, and population would be one of them, which would actually produce more accurate constituencies and probably constituencies would last longer in terms of having longevity.

Q44 Simon Hart: And the timescale?

Mr Facey: Maybe with the exception of pre-legislative scrutiny in relation to this Bill, as has kindly been pointed out to me, I am a great believer that, on the whole, we need to have proper consultation and ability to actually scrutinise, and I am concerned that, if we try to rush this, we will have something which is worse than we have at the moment. I accept that actually we need fundamental reform in this area. I think the difficulty is that, if we get it wrong, we will find ourselves doing this again after the next election in terms of the shapes of the constituencies and I think it would be extremely traumatic for Members of Parliament, not that, I have to say, your trauma is normally my major concern, but I know that, when you have boundary changes and effectively are reducing 50 seats out of the current one, it will mean that every single MP will have to effect major changes. I also am slightly worried that, and do not know why, we have gone for 600

seats. I would have preferred a debate about what the function of the House of Commons should be and what the appropriate number of MPs should be for that function and then having the debate about the number of constituencies because that, for me, would seem to be the appropriate order of things, and I have a slight fear that we have put the cart before the horse, that we are simply saying that we cut the number and then we discuss afterwards what the appropriate functions are.

Dr Steven: This is not an electoral systems matter specifically, so the amount I can say about it is probably more limited, but the Electoral Reform Society has in the past written about, and researched, the importance of the natural quality of a boundary, so people feeling a sense of possession of where they live, so a constituency like Glasgow or (?), the people know what that means more than they know what Glasgow North means; there is a significance there. In terms of what you are alluding to, the idea of going down a more, I suppose, quasi-American model of almost making it more difficult to vote, and I know that is not what you are meaning, but sort of tying the boundaries to, if you like, who actually votes, is probably not one that we would warm to. I could also say in passing that the American system has much more of a sort of equal quality and of course there is also evidence of gerrymandering there, so there are different issues which probably need to be separated out. I probably cannot comment on the seemingly timetable.

Q45 Simon Hart: I think the answer to the first part of the question has rather answered the second part actually.

Dr Pinto-Duschinsky: This is a subject that I have gone into quite a bit, so I can answer. First, the political reality of it is that there is a coalition agreement that the referendum and the equalisation are like two horses bound in a yoke, and I think it is probably right to say that the Liberal Democrat side would want to advocate what Peter Facey has advocated, namely to go faster on the referendum and to go slower, if at all, on the equalisation. It is interesting how contrasting his answers are on the speed of the referendum to being slow on the boundary changes. I think that my own thought is that it is all a bit too fast. I think that, as far as the boundaries are concerned, we have a system of redoing boundaries that is one of the slowest in the world, the Boundary Commission's, and the people who have studied this a lot, people like David Butler, Professor Iain McLean and others, are pretty well all agreed, and this is from different party families, et cetera, that the Boundary Commission's system has passed its time and that we ought to go to something else. Now, the Australian system, and we are not talking about the AV, but redrawing boundaries, has been strongly recommended and I understand that the British Academy Working Group is looking very seriously at this over the summer and will come in with recommendations in September. I think that, if you change the system whereby we draw up the boundaries, then the experience of Australia is that it can be done in a year, and it is done in a year because you have periods of public consultation, but the timetable is set out and you have the authority that is then with an expert commission, and I think we need to look very carefully at that method. If we change the method to one that will allow the process to be faster, then we have a bit more time to discuss it. Now, let us come then to the question of how we go into the constituency boundaries. Now, the whole philosophy of equalisation must be based on the notion that you have a reasonably reliable and politically neutral way of reckoning what the population is and, if you had a reckoning of electorates that itself had an underlying political bias, then that would be as bad as the bias we have now for other means and, therefore, I did sympathise with what Jack Straw said in the House on 5 July and what Tristram Hunt has said in *The Guardian* more recently. I think, in practice, the problem is

a bit less than they have made out because there are two problems with the register. One is people who are left off who should be on, and this is the problem of under-registration which Jack Straw mentioned in the House of Commons, but there is another problem which is of redundant names, people who are on, but should not be there, either they have moved, died or various other things. Now, the research that was done really the last time, and this is many years ago, showed that those numbers were roughly equal. Now, more recently, we do not have that research about the number of redundant names. Dr Wilks-Heeg has done some work with the Electoral Commission and I spoke to him about this. Some of his tables, and this is my conclusion from his work and not his, suggest that the places with most under-representation are also the places where there are the most redundant names, so the problem is somewhat less than it might be otherwise. Now, having said that and having said that I think you should take both into account, that does not mean that there is not a problem, and I think that you then come to the question of: is there any alternative to the electoral register as a measure of population? Now, in Australia, they do use estimated population and that works there. My impression is that this is more difficult in Britain for technical reasons and this is because we have a population estimate each year by the Office of National Statistics that is based on the previous year, going right back to a Census with certain known adjustments, but those adjustments only go to local authority level, so, to come down to ward level, you would have to ask local authorities to tell you what was going on in the wards, so there is not any ready way of doing that, so the alternative that is available in Australia of using population statistics is probably difficult in Britain and that is why I added my paragraph 34 late last night. However, there are two other things that you can do with the register. One is to have a special scheme for encouraging registration in areas where the register appears to be bad, and I certainly think that you should do that, and the second is the question of using other forms of information for registration. There were some legal objections to that a couple of years ago, but I do think that, if there are other indicators, like a rent book or some others, which can make the register better, then we should use those, so I think that we could use the register, but we must use it in a very proactive and responsible way in order to take account of what are legitimate concerns.

Stephen Williams: I want to follow up what Andrew and Simon were questioning you on. I represent 82,728 electors in a city-centre constituency and I am second to Andrew around this table, but, because of the under-representation and because it is a cosmopolitan seat where there are thousands of asylum-seekers, I represent rather more people than live on the Isle of Wight, I would say, because a lot of what I do here, what I advocate, is on their behalf and they cannot vote or they are not registered to vote, or they are on the register, but they have moved away a long time ago, so our register is not a perfect tool for evening up constituencies. I would like to tease out what Dr Pinto-Duschinsky was just saying which was very interesting. Given that there are various factors we could build together to have the building block of a constituency, there might actually be, and I am thinking off the top of my head here, different tolerance limits away from the register of electors as the building block in some seats as to others. I can imagine you are reasonably certain of who lives there in the same way as the electoral register, and Anglesey would be another example of an island, but in a city, and Stoke-on-Trent may be the same, you cannot be that certain, so maybe there should be different tolerance limits away from the 75,000 norm, within 5%.

Mrs Laing: This issue of the integrity of the register and the comprehensiveness of the register is one that has bothered many of us for a long time, but I will not make a political point. IVR is now coming in and that will improve things, or so it is generally accepted,

unless any of you experts suggest otherwise, but this issue of the comprehensiveness and the accuracy of the register, is it not being overplayed because we have just fought the General Election on that register which has certain drawbacks, we know that there are people who are not registered, we know that, as Dr Pinto-Duschinsky has just said, there are people who are still on the register who are dead or who have moved away, we know that those inaccuracies are there, but nobody is saying that, because of those inaccuracies, the result of the last General Election is invalid, so how can it be argued that, because of those inaccuracies, the boundaries cannot be drawn? Is that a reasonable argument? Should we suspend democracy entirely until we are sure of the exact accuracy of the register?

Q46 Sir Peter Soulsby: Accepting that the Boundary Commission is now perhaps cumbersome and the approach needs to be changed, do you accept that, whatever the system of reviewing the boundaries, there does need to be meaningful and effective local consultation, that this is the opportunity for local people to have an input into the shape of the areas and the constituencies that will come from those?

Dr Pinto-Duschinsky: Yes, and I think it is possible to have that very effectively without going through our current inquiries which actually, in practice, change very little. I think that you can have all of the benefits without the disadvantages of delay. I think that, as far as Stephen's point is concerned, remember that asylum-seekers may be something that are your responsibility, as an MP, but presumably they are not eligible electors, so that, I think, is possibly one of the weaker points for this debate. If we look at the register and the problems of the register, we know roughly where the problem areas are. For example, very much in inner London we have voter problems in certain conurbations, but in those areas one of the problems is that they do not spend money on follow-up canvassing, so, if we look, I imagine there would be about 50 to 100 constituencies that are potentially problem areas and that we could make sure that the Government, the Ministry of Justice, required them, as indeed it is entitled to do by law, to carry out a house-to-house, or other sufficient, inquiry in which it has not used its powers of direction before and, if there is any financial argument about their ability to pay for the canvass, that, I think, should be carried out. I think they can be given assistance as far as the use of other data is concerned, which has been objected to by various people, including the electoral officials on other grounds when the Audit Commission wanted to do it. Therefore, I think that we can look for a practical answer that will make those registration exercises credible. I would prefer to have a year extra to do it and to do it on the next registration exercise, namely in 2011-12, but I think we can only do that, we can only afford to wait a year if we move to an Australian-type system of boundaries because then at the end of 2011 we could get, by 2012, to the new boundaries, so that is what I would prefer, to move to the Australian system, having the actual exercise carried out in a year and the boundaries ready in two years.

Dr Steven: I cannot comment on the first two questions as authoritatively as Dr Pinto-Duschinsky, so I am not going to. I can address Sir Peter's point, though, about the local consultation just very briefly and say that in the UK now we have basically multi-level governance with the European level, Westminster, the devolved and then local of course. I think again something the Electoral Reform Society has tried to flag up in the past is consistency. It is quite confusing, I think, for voters where, if you like, they basically live in the same constituency roughly for the purposes of certainly three of the four tiers, but they all have entirely different names, and I think that dimension is one which needs attention.

Q47 Stephen Williams: There is just one question I forgot to ask earlier. Do you believe that we should get rid of the dual franchise that some people have, and students in universities would be one example and holiday home-owners in Cornwall, say, would be another, where some people have two MPs and two votes?

Mr Facey: They are entitled to vote in two places, but they should not obviously have two votes because that would be a criminal offence. Also, members of the Armed Services are in the same category because they can again also choose to do that. I am not sure, and I do not have a firm view on, whether or not we should actually change that. I think particularly for certain groups, like the Armed Services, it would actually be quite complicated and quite difficult if you simply went to one form of registration, but it is not something which I have given any huge amount of thought to. In terms of one of the areas of people, like asylum-seekers, we should bear in mind that, because we have one of the largest franchises in the world in terms of people who are eligible to vote, if you are an asylum-seeker from a Commonwealth country, so Sierra Leone, then they will be actually one of your voters because they would be eligible to vote because they would actually be here and they would then be on the electoral register, so it is not as clear-cut in terms of that. In terms of the accuracy, the question of whether that is a sufficient reason for delay, one of the difficulties is that I would have much preferred that this were two bills, the referendum on one side, which is a relatively simple piece of legislation actually in the last Parliament, and the question of the boundaries and the size. I understand politically why they are connected, I am not that naïve, but it does cause complications. I am not saying that we cannot have reform and I am not actually against more equalised constituencies or a reduction, but the difficulty, I fear, is that, if we rush this, we will have to do the same exercise again in the same way in a few years' time straight after the next election because, effectively, we will have as inaccurate constituencies as we now have. I just question whether or not in taking on this issue, because there are already lots of things in train, that we actually take a little bit more time on it. I accept that ultimately nobody is going to challenge, and I certainly would not challenge, the results of the next election, if it is under new boundaries, on the basis of those boundaries, but I do have concerns that there is a lot of heat being exercised on this issue and, if I look at Parliament, there is probably a lot more heat on this issue than there is on the question about whether there should be a referendum on an alternative vote which is a fairly simple change. On the question of consultation, the Government is dutybound to have consultation on these sorts of issues. It is important that that consultation is actually meaningful. Now, one of the problems with consultation traditionally around constituency boundaries is that they actually have become political exercises between council groups, political parties, et cetera, and I think we need to look at how we do that so that we actually get consultation, not only with political parties, which is important, but also with actual voters in terms of that. Consultation needs to be meaningful and, for consultation to be meaningful, particularly with the electorate, it has to have sufficient time for that to happen, and that goes across all aspects of government and I would apply that equally to constituency boundaries.

Chair: Can we move on to fixed-term parliaments.

Q48 Tristram Hunt: In a sense, it is a rather simple question which is: when the majority of British parliamentary terms over the last 150 years been at around the four-year mark and when the vast majority of other international examples, barring quite a few exceptions, are at or around the four-year or below mark, what are your views on the five-year term as opposed to the four-year term?

Dr Steven: On the face of it, it is slightly incongruous from our comparative perspective and four years is the convention. I would imagine that it is linked to the fact that the precedent has often been five years in terms of, in reality, how long British parliaments have run for, or I think five, but maybe not, I am just guessing, so yes, on the face of it, four years for fixed terms would probably be more obvious.

Mr Facey: I would prefer four years. I accept that, if we have fixed-term parliaments for five years, that is a progressive and a good change in terms of having fixed terms of parliaments, but, if you ask me the question as to five or four, I think it would make much more sense, in terms of local elections and devolved assembly elections and everywhere else we have fixed terms in the United Kingdom, that it is four in terms of our domestic legislation, that Parliament should fall in line with that, but I am not going to oppose the change because it is five rather than four.

Dr Pinto-Duschinsky: The legislation that we have had is for Parliament to last five years, but with an option for the Prime Minister to go to the Monarch to ask for a dissolution before, so that, I suppose, is why that was chosen. Clearly, in one way, fixed-term parliaments take away a certain prerogative, possibly an unfair one, of the Government of the day having a snap election, that it can know the best point for the economy and certainly the electoral economic cycle, which has been one that has caused problems in the past, so I can understand that argument and I think there is something in that. However, at the end of the day, a government has got to be able to govern in Parliament, so you can have a fixed Parliament, but, if it loses a working majority, then the logic is that you have an election and I think, even if you do have a fixed Parliament, if you were to reach a situation of deadlock in Parliament, then that would break down in practice.

Q49 Tristram Hunt: Is it your understanding that this, well, we will see the legislation this afternoon, that it binds further parliaments, which is a rather constitutional innovation in terms of the British system?

Dr Pinto-Duschinsky: Well, the trouble is that we are going to have this question arising, say, on a sovereignty bill or anything to do with, say, European legislation, that, if a Parliament decides that it will bind itself, then under the doctrine of parliamentary sovereignty you only have to have another vote by an ordinary majority to unbind you. There is a certain sort of problem of logic there.

Q50 Chair: You are bound until unbound?

Dr Pinto-Duschinsky: Yes, so I do not know what is the validity. If Parliament says, "We will need a 90% majority" or whatever, if it then decides by an ordinary majority to repeal that legislation, then it repeals it by an ordinary majority.

Mr Turner: Can I just remind you of what happened in 2001. The General Election, which everybody expected to take place in May, took place in June and the reason was foot-and-mouth which was quite a significant problem in a minority of constituencies, but I do think that that was the genuine reason, and indeed they moved local elections to June for the same purpose. How do you see that affecting?

Q51 Chair: I was wondering whether I would answer that one. I have an answer!

Mr Facey: Your answer would be better than mine because, I have to admit, it is a

question I had not considered. It is an interesting thing about the British Constitution that actually, though we are obliged to have an election, the actual date in terms of when the election is is not fixed. Parliament is fixed, but actually you can have an election a lot later, but you just cannot pass any new laws in that time. One of the problems in our system is that we do confuse a lot the difference between governing and legislating, so I do not see a problem where we cannot pass any legislation for an extra month because we have postponed it, but actually Parliament cannot legislate for any new laws. At some times, it is actually helpful for us to think that we have two things which go on, one is governing and one is legislating, and they are not the same. Simply passing laws and more and more laws is not necessarily good governance, and actually you can be a strong government which does not actually pass more new laws, so I do not think in this circumstance, and I have not given it a huge amount of thought, that actually it should be a huge problem. President Obama governs, but does not actually pass laws; it is the job of Congress to do that.

Q52 Chair: I think we could go beyond five years with the consent of both Houses, using the 1911 Parliament Act. That would be my answer, but no doubt I am now going to be corrected by either Dr Steven or Dr Pinto-Duschinsky!

Dr Pinto-Duschinsky: Woe betide me! No, I do not think so. Clearly, if we have a fixed-term Parliament, then considerations, such as the ones you have suggested, would become more difficult to take account of, which I think is the point of your question, but I suppose again the issue is whether the advantage in terms of fairness of a fixed term outweighs certain other disadvantages. The way that I see it is that, of the three parts of this Bill, the fixed-term parliaments now is maybe the least contentious of those, apart from the question of the majority needed, and I do not see that as decisive because I think in those hypothetical events it would not be decisive anyway, but I do slightly disagree with Peter Facey because I think it is not that the referendum is simple and that the boundaries are complicated, but I do think we will find that we are not really prepared in the laws just for a referendum and that we ought not to take for granted that the PPERA is actually in good shape, because I do not think it is.

Dr Steven: There is a certain consistency with looking at this and also looking at the other aspects because, if we are starting from the premise that there is a lack of trust or, if you like, the quality of democracy in Britain needs to be improved, then potentially taking the decision about when there is a general election out of the hands of one person, effectively, or the Government and making it more uniform or standard does have a certain integrity to it. Personally, and this is my personal view, I do think the reason why the previous Prime Minister was so damaged politically by his decision not to go for an election was not because he was perceived to be indecisive, but because he was perceived to be playing games and he was perceived to be self-interested, so I think any Prime Minister who, if you like, has that decision taken off him or her probably outweighs potential natural disasters or foot-and-mouth situations if you are going to weigh up the advantages against the disadvantages.

Chair: We are going to move on from fixed-term parliaments and we will come back to this with our other witnesses next week. I am going to move forward to the legislative timetable.

Q53 Sir Peter Soulsby: We have already said quite a lot about the timetable and heard quite a lot from the witnesses about the legislative programme for this, but what we have

today is a single Bill being published for the referendum and for the number and size of parliamentary constituencies. Now, given that that is what we are getting, can I draw together the evidence you have already given us and just ask you to confirm that you are all of the opinion that there needs to be a timetable which allows for that Bill to have proper pre-legislative scrutiny and full debate before it is pushed through and, notwithstanding Unlock Democracy's early enthusiasm for a second reading this side of the recess, actually, now that the two are linked together, they need to be given the time and the full debate that is necessary? I see Mr Facey is nodding to that.

Mr Facey: I want a referendum and I want a fixed date for it as soon as possible because of earlier experience, as I have said, but we have always argued that the process of making laws is important and that it needs to be given as much time as appropriate and, therefore, the same commitments to pre-legislative scrutiny have to apply in this case, even if that does mean ultimately that the referendum has to be moved back, but the whole point about these changes is to make governance better and you cannot do that if you start then shredding up the acts of good governance in that process. It is still really possible to meet the dates, but I do not think at this stage it is organisations like Unlock Democracy's job to say that, to get the change, we are going to cut corners in terms of the democratic process because that would be inappropriate and it would be wrong.

Q54 Chair: Had we, as a committee, not moved quickly, it is quite possible there would have been no evidence-taking or pre-leg scrutiny prior to second reading, which I think tells a story.

Dr Steven: The Electoral Reform Society was quite critical of the way in which this whole issue, well, certainly electoral reform, appeared to come up at the last minute and at the tail end of the last parliamentary session and in the so-called 'wash-up'. There was something unfortunate about that, I think. The other thing I would say is that, generally, if there were as much coverage and awareness of the way in which Parliament works in this setting, consensual, considered, cross-party, as there is about Prime Minister's Questions, I think the public trust of politicians would be improved.

Dr Pinto-Duschinsky: As you will have gathered, my answer to your question is simply yes, that it is too early. I would add, though, that I think there is a genuine lack of preparation going from the side of the Executive in having answers to some of the questions. I think there are issues that really need to be looked at more carefully in order to avoid practical problems and in dealing with good government. You do have to look at the details in a responsible way, and we cannot do that by September.

Stephen Williams: I would like to ask the witnesses whether they think the Scotland Act 1997 and the Wales Act 1997 were botched legislation and that the Scottish Parliament and the Welsh Assembly lack legitimacy because the referenda were both held in September 1997, barely three and a half months before the recess in between of the Labour Government taking office?

Nick Boles: I would like to ask you a question, Chairman.

Chair: Of course.

Nick Boles: My understanding of the reason for the rush is the fear that the part of the Bill that matters to my Party, which is the equalisation of boundaries and constituency sizes,

will take too long and will not be ready before an election. I think that Dr Pinto-Duschinsky has made a very eloquent argument and a very strong case that, if we change the boundaries in any way, it seems to be a nonsense and incredibly time-consuming and expensive, and we could then have more time. Would it be appropriate for this Committee to make that as a strong representation to the next Prime Minister that, whilst we are not trying to undercut the Government's desire to achieve those new boundaries in time for an election, there might be another process which would achieve better parliamentary scrutiny and the timetable that we definitely need?

Chair: If I can briefly interject before the panel, we have made representations, as the Committee has heard in its informal meetings and its formal meetings, that there should be adequate time without slowing down the actual referendum date, not to delay the legislation, but to actually incorporate within the legislative timetable sufficient time to do our job thoroughly.

Nick Boles: It is just the specific point of the change to the Boundary Commission unlocking that.

Q55 Chair: I would like to consider that and perhaps we can have a few moments after we rise, but perhaps we can quickly scoot across the panel who have been extremely helpful in their contributions today.

Dr Pinto-Duschinsky: On the last point that was made, I do believe that you can get constituencies and the reorganisation done earlier than the current timetable and still start later and that the big gap that is left is because of this outdated boundary system, so I feel that that is the key both to more scrutiny and making sure that the changes are made properly and of getting there early because MPs do need to know where they stand for their constituencies and constituency parties well before the next election. We want to change the boundary system anyway, so now is a very good way of doing that. I do feel, though, that this Committee has a vital role to play, as does Parliament, in making sure, not in the principles, but that the details are fully discussed, so it has been, for me, a privilege to be able to see this new Committee at work and to congratulate you and wish you well.

Q56 Chair: Thank you very much.

Dr Steven: The Electoral Reform Society does not have an official position on the legitimacy of the Scotland and Wales Acts. I think the second question is for the Chair and I cannot comment on that, but thank you very much for inviting the Electoral Reform Society.

Mr Facey: I would definitely not say that the Scotland and Wales Acts were botched legislation; it would be very dangerous of me to say so to what is north of the border. There is something to bear in mind, though, particularly in relation to Scotland, that the legislation came out of a process which was actually a lot longer, so it is true that it was very quick legislation, but the idea that that legislation was kind of newly drafted in a few months is not actually the case in the case of Scotland. It is a lesser argument in Wales and elsewhere, but in Scotland there was a long process which produced that, and I know some constitutional advocates in Scotland who would argue that that process was one which lasted 100-odd years in terms of the changes, so you can have quick legislation which is good legislation, but there is a kind of rule of thumb which normally says that

the quicker the legislation, the worse the law at the end of it, normally, and that, therefore, it needs to be considered. In the case of the referendum, it is something where actually in the referendum part of this Bill, and of course we have not actually seen the Bill, there was, effectively, a draft of that which was in the last Parliament, so that element again is not actually that particularly quick, but, on the whole, legislation does need to be scrutinised properly.

Chair: Mr Facey, Dr Steven and Dr Pinto-Duschinsky, thank you very much. We could have gone on for another hour. The answers you gave were extremely helpful to us and I will ensure that the evidence you have given is available to every Member of Parliament, not merely the members of this Committee. Thank you so much for coming.
