

HOUSE OF LORDS
MINUTES OF EVIDENCE
TAKEN BEFORE
THE SELECT COMMITTEE ON THE CONSTITUTION

REFERENDUMS INQUIRY

WEDNESDAY 10 FEBRUARY 2010

RT HON MICHAEL WILLS MP

Evidence heard in Public

Questions 209 - 266

USE OF THE TRANSCRIPT

1. This is an uncorrected and unpublished transcript of evidence taken in public and reported to the House.
2. The transcript is not yet an approved formal record of these proceedings. Any public use of, or reference to, the contents should make clear that neither Members nor witnesses have had the opportunity to correct the record. If in doubt as to the propriety of using the transcript, please contact the Clerk to the Committee.
3. *Members* who receive this for the purpose of correcting questions addressed by them to witnesses are asked to send corrections to the Clerk to the Committee.
4. *Prospective witnesses* may receive this in preparation for any written or oral evidence they may in due course give to the Committee.
5. Transcribed by the Official Shorthand Writers to the Houses of Parliament:
W B Gurney & Sons LLP, Hope House, 45 Great Peter Street, London, SW1P 3LT
Telephone Number: 020 7233 1935

WEDNESDAY 10 FEBRUARY 2010

Present

Goodlad, L (Chairman)
Hart of Chilton, L
Irvine of Lairg, L
Norton of Louth, L
Pannick, L
Quin, B
Shaw of Northstead, L
Wallace of Tankerness, L
Woolf, L

Witness: **Mr Michael Wills**, Member of the House of Commons, Minister of State, Ministry of Justice on the Referendums, examined.

Q209 Chairman: Minister, can I welcome you most warmly to the Committee; thank you very much for joining us. We are being audio-visually recorded; so may I ask you, please – as if it were necessary, which I am sure it is not – to formally identify yourself for the record.

Mr Wills: Michael Wills, Minister of State for the Ministry of Justice with responsibility for constitutional affairs.

Q210 Chairman: Thank you. Can I begin by asking you how you see the strengths and weaknesses of referendums as a political and constitutional tool? Do you think that they are compatible with representative parliamentary democracy?

Mr Wills: To take the last part of your question first, I think that they are compatible but only used sparingly and fully in recognition of the central importance of representative democracy, by which I mean representatives elected to Parliament and who are there to exercise their judgment as well as their industry, if I could paraphrase further. Obviously referendums can exist alongside that but only if they are used very sparingly. The strength of them is that on occasion – rare occasions – I think there are times when it is important, when issues have not

been covered in the manifesto, for example, which arise, or indeed where they are so important, they are somehow so fundamental primarily to our constitutional arrangements, that they merit consideration on their own away from all the noise and fury of a General Election campaign.

Q211 Lord Norton of Louth: To pick up on both what is in your submission and, in fact, what you have just said about the circumstances in which a referendum may be held, because in the submission you say only where fundamental change in the constitution of the country is under consideration but a few moments ago you seemed to be slightly broadening that. I wonder how you would narrow down the definition? In other words, where do we draw the dividing line? You say only fundamental change but in the submission push up responsibility and say that there is no objective test and it should be on a case by case basis. If we were looking at issues, if one accepts that there are cases where there may be a need for a referendum, where do we draw the dividing line?

Mr Wills: That is a very good question and one which we agonised about for some time in the Department. Two years ago when this Prime Minister took office he put constitutional reform very much at the centre of his agenda and it was quite clear that our constitutional system continues to need overhauling, for reasons which are clearly known to this Committee. We did feel that we needed to augment the traditional systems of representative democracy, so we did look at this in some detail. My instinct is always to tidy things up and, as you say, have nice clear dividing lines so that everyone knows this is when you hold a referendum and this is when you do you not, and so on. We did try to define exactly those lines – this side of the line yes and this side of the line no – and it actually proved impossible in any meaningful sense. Every time we tried to come up with a definition that would be sustainable and be consistent with representative democracy we failed and the outcome of our failure or our attempt to mitigate our failure is in the framework for the Citizen Engagement – I cannot

remember the title exactly. We put out a document which tried to set out the circumstances in which various forms of engagement with the citizen would be relevant, with the referendums on the one hand, citizens' juries, citizens' summits – a whole range of methods of engagement. In the end, I am afraid, we came up with what is inevitably going to be a subjective test. It does not mean that it is without value; I think that most people broadly understand the principles behind holding a referendum and they are pretty much what I have said. There will be sometimes very rigorous political disagreements, over the Lisbon Treaty, for example, and whether it is appropriate or not; and I am not proposing to revisit that here unless you want me to. But for the most part I think that people understand that. For example, the debate we had yesterday on the Alternative Vote system, I think that most people – whether they think it is a good system or not, whether they think we should be embarking upon it now or not – would accept that if we were to change the voting system in some way that there should be a referendum.

Q212 Lord Norton of Louth: I take the point that you take an example and you can illustrate it by saying, “This is an issue which clearly is of fundamental constitutional importance” and there are others which would be generally regarded as minor; but you still have the problem of the grey area and I just wonder if there is not a problem, that if you concede a referendum on one topic then on other issues about which people feel very strongly they will say, “This is not legitimate; we have not had a referendum,” and that is always going to be an inherent problem once you have conceded that there should be.

Mr Wills: There is indeed a problem; you are quite right. There is a problem and that will be the case with any subjective test, any case by case basis. The problems on the other side are equally great, if not greater, and that is why in the end we opted for the line that we took. If you apply a strict set of formula for holding a referendum there will be cases, inevitably, where actually it is not appropriate – it turns out not to be appropriate. Inevitably, however

carefully you define this, however brilliantly “lawyered” the definition is, there will be equally brilliant lawyers who will find very good reasons why that definition should not apply. You do not actually escape the question of judgment, however you do it. If this Committee has a better approach we would really welcome it. We tried; I tried and failed, but if you can do a better job then we would be very grateful.

Q213 Chairman: Do you think, Minister, about a possible referendum on potential changes to the House of Lords?

Mr Wills: At the moment, as you know, we are proposing change to the House of Lords, but we are not proposing a change in its functions. My own view on that is changes to the way it is composed do not necessarily require a referendum; some may argue it does but that is not my view. If we were to look fundamentally at changing the powers of the House of Lords, which is not, I think, being proposed anywhere at the moment – but if we were to – then I think that we would almost certainly require a referendum on that. Even if we were not to change the powers fundamentally but if at some point in the future – and I think this is a fairly distant prospect at the moment but a prospect on which we are engaged in realising at some point – we were to fully codify our constitution, I think then even if the powers of the House of Lords stayed fundamentally the same we would almost certainly want to have a referendum on that move to a fully codified constitution, of which the role of the House of Lords and the composition of the House of Lords would obviously be part.

Q214 Baroness Quin: Given that we do not have a written constitution, do you think that there should be at least some kind of legislation about when referendums are appropriate? Or, failing that, should there be some attempt to at least get a cross party consensus over when referendums are appropriate in our constitution?

Mr Wills: Certainly I think that the case for the latter is very strong and, by and large as a Government, we have always tried to seek consensus on constitutional matters. It is not always possible, but in the protracted progress of the Constitutional Reform and Governance Bill, for example, which has cumulated measures of constitutional reform as it goes, we have always striven for consensus. It is not always possible, as we saw yesterday, but we have striven for it because constitutional change by definition should try and proceed on the basis of consensus otherwise you get the wiring rewired every other election or so and that is not healthy. You need constitutions to have time to bed down and endure, so change needs to be careful and consensual as far as possible. As far as some sort of legislative framework, we try to look at whether this was possible. Clarity is always a good thing, axiomatically a good thing. The dangers are of trying to be too prescriptive about something which, for reasons that I have said earlier, I think should only be held rarely, we are not looking at regular use of referendums. If we were, if it was firmly to become embedded in our constitutional arrangements then the case for some sort of legislative framework would be very strong, but it is not and nor should it be, in my view.

Q215 Lord Woolf: Can I just press you slightly to try and see whether one can see in the landscape issues which are pointers to when the pragmatic approach should lead to a referendum, and can I go back to the House of Lords? If there was a change to making the House a wholly elected House, that surely would be a fundamental change?

Mr Wills: It would be a fundamental change in the composition; it is not our view that it would be a fundamental change in the revising and scrutinising role of the House.

Q216 Lord Woolf: I accept that it does not apply to the role at all necessarily, but surely changing the nature of one of the Houses of Parliament as to the way Members are appointed, would you not regard that as a fundamental change?

Mr Wills: I think it is a fundamental change; I think it goes back to what I said at the beginning about when a referendum might be appropriate, again with all the caveats hedged around that. If you have had a matter which has been the subject for political debate, which is contained in a manifesto – and the changes to the composition of the House of Lords have been the subject of a very protracted political debate for 100 years or so – we would only proceed on the basis of a clear manifesto commitment, and it would be so clear and so fundamental, and probably – probably – it will go across all the main parties as well, I am not sure that there is a case for a referendum in those circumstances. I think that the role and powers of the House of Lords is an even more fundamental change and a very complex change. With all respect, this is a relatively simple change which does not require a huge amount of constitutional sophistication to form a view on whether you want a wholly or partially elected House of Lords or not.

Q217 Lord Woolf: Does not the fact that it is a clearly definable issue make it more suitable to a referendum than a complex issue that has a number of sub issues?

Mr Wills: We are moving on to a slightly different area now. Part of the case by case analysis, as it were, that we would always put in in deciding whether there should be a referendum is, by and large, it is preferable that it should be a simple issue which is susceptible to a yes or no answer rather than a complex nuanced issue; and of course that is right. I go back to the fundamental proposition that referendums are not or should not be any kind of replacement for representative democracy; they are an augmentation of it in circumstances where there are fundamental changes.

Q218 Lord Woolf: Would you agree that what I am putting to you is a fundamental change?

Mr Wills: It is a fundamental change but there are some sub clauses which define that. It is not just a question of the fundamental change, a fundamental change which has not been subject to a manifesto commitment and there are a lot of fundamental changes which, nevertheless, do not significantly rewire the constitution, and I think the sub clauses are important.

Q219 Lord Irvine of Lairg: I have some difficulty in understanding your answer about the nature of a fundamental change because another way of putting Lord Woolf's question would be to say that if you create a new directly or indirectly elected tier of new appointed politicians alongside the House of Commons in its present form, why is that not a fundamental constitutional change appropriate for a referendum?

Mr Wills: It is a fundamental constitutional change.

Q220 Lord Irvine of Lairg: And appropriate for a referendum.

Mr Wills: In our view, nevertheless, it is not appropriate for a referendum. If I may I will try and spell out my answer again in a perhaps slightly fuller way. It could be appropriate for a referendum, this is a judgment and that is one of the problems we have with not having a clear legislative framework for when to hold a referendum, nevertheless I suspect there would still be an argument about whether this was an appropriate subject for a referendum. We have a case by case approach and inevitably there will be differences about when cases fit into that approach. Our view at the moment is that although it is a fundamental constitutional change it is a change that will have been pre-figured in a manifesto commitment, in fact in several manifesto commitments. It will be, we think, probably an all party commitment in all main parties' manifestos. The people of this country will have had decades to consider this change over time, it is not a change that has suddenly emerged. Even the European Union, the issue of membership of the EEC as it then was, was a relatively recent issue for the nation

compared with this particular issue. The arguments for, as it were, supplementing a system of representative democracy where MPs are elected to come here and exercise their judgment is not strong enough in our view in this case, for those reasons.

Q221 Lord Irvine of Lairg: But that is just a political judgment, it is not a principled judgment that you can express in any way.

Mr Wills: With respect, I think it is a principled judgment because I said that it is not the case for supplementing our system of representative democracy. Look, if it was a straight political judgment there would be no issue about it; we would have a referendum and without any doubt, I think, we would win the referendum on the case for a wholly or partly elected House of Lords. I think that once this issue was put in front of the population they believe in having the right to elect their representatives. It is not a political judgment; it is, we think, a principled judgment, a principled judgment with which you may disagree, and that is one of the problems with a case by case basis. But as I said, even if we had a fairly rigid and rigorous structure which prescribed when referendums should be held I suspect there would still be disagreement on individual cases about whether they fitted that individual framework. Brilliant as lawyers are they nevertheless still find plenty of room to argue.

Q222 Lord Wallace of Tankerness: Very briefly following up on these points, it perhaps illustrates the difficulty in trying to decide as a matter of principle. I am interested to know what the principle is which justifies a referendum in the case of changing the system of election for one House of Parliament but not having a referendum to move from a wholesale unelected to wholesale elected in the other House of Parliament.

Mr Wills: If I can just go back to the importance of representative democracy. We elect MPs to exercise their judgment. There is something, we felt, slightly distasteful, if you like, about MPs deciding for themselves without any validation from the public as a whole how they

should be constituted. It is the self-legislating aspect of this particularly because it relates to the House of Commons who are the primary chamber, that is the reason for that. People may say that exactly the same criteria should apply in these cases but in this case it is a longstanding manifesto commitment for whatever reason, good or bad, that we should have a referendum on any change to the voting system, and the principled reason behind it is that MPs should not decide themselves alone how they should be constituted; how their chamber should be constituted, and that is the reason for that. The House of Lords is in a different position. There is no right or wrong answer in this; there is a judgment and you may disagree with our judgment on this but that is the reason for it.

Q223 Lord Norton of Louth: Really Lord Wallace has just asked the question I was going to put because if you are going to modify the system of choice of either House that has to be approved by Act of Parliament, it goes through both Houses. It is the same situation, which you are suggesting in one case requires a referendum because you are changing the mode of choosing one House but you do not require a referendum when you change far more fundamentally the composition of the other.

Mr Wills: Look, of course you are right. In the end referendums do not bind Parliament unless Parliament decides that they should be so bound, and of course that is right. Nevertheless, it is a question as much of perception and legitimacy. Perception matters in these matters and we felt that in this particular case, in the case of changing the voting system in the House of Lords – and this goes back many, many years now – that it would be a better and more legitimate process if the people themselves directly had a say on any change in the way that they elected the primary chamber.

Q224 Lord Norton of Louth: If we take the other criterion and you can change to something like AV for the House of Commons, you are not going to change fundamentally

what the House of Commons does with its powers. You can argue that if you change to an elected second chamber a consequence is likely to be a significant change in the relationship between the two Houses and, therefore, have more significant constitutional implications than a modification of the electoral system for the House of Commons.

Mr Wills: That might be the case; there are many who say that is not necessarily the case actually. Some have argued quite powerfully in the House of Commons at least that the current House of Lords in its composition is a very effective scrutineer and if we were to move to elections it would become less effective, and you will be familiar with those debates. That again is a matter of judgment; it is not axiomatic and that is why we take the view that we do.

Q225 Lord Norton of Louth: It could be less effective but would still change fundamentally the relationship between the two Houses.

Mr Wills: It may not change the relationship at all but it would mean that Members of this place would be more accountable directly to the people; therefore, it may be a way of legitimating this chamber in the public eye. It may not be; many people would argue that it would have the opposite effect. That is not our view, but there is a very strong point of view that elections would not aid the legitimacy of this place.

Baroness Quin: Just so that you do not feel entirely beleaguered I happen to agree with you on this, although I am sure I am a minority among colleagues. Given what you have said, and given the fact that the House of Lords and the House of Commons have just evolved as our constitution has evolved, and our constitution has shown itself to be very flexible I think to changing circumstances, is there not a case for just saying that the whole of this idea of having referendums was a mistake and we should go back to a fully representative democracy.

Q226 Lord Norton of Louth: Hear, hear!

Mr Wills: There is a case for it and it is not a case with which I agree. I think that by and large referendums do have a role to play, but I do think we need to be clear about what role that is. I do not want to digress too much but we are living in a period of quite intense constitutional change, not driven entirely by the Government but actually by the changing nature of our democracy and the way that people relate to their representatives and what people expect; and historically we are now three, four generations on from universal suffrage and people have a different attitude towards their vote than they did in the mid-twentieth century, for example, when universal suffrage was still fairly fresh. Cultural change always takes a long time, several generations to feed through, and I think we are at a stage where people's attitudes towards politicians – not just to do with expenses but actually going back many years before this – is changing fundamentally. There is a real risk – and you hear voices in the House of Commons and you hear politicians speaking about this all the time – that somehow it is more legitimate to bypass Parliament and go straight to measures of direct democracy, and this is now technologically possible in a way that it just was not even 20 years ago. If you wanted to have regular referendums 20 years ago with a big, complex society like this it would have been unbelievably expensive, and there were large practical difficulties in organising your governance around the basis of direct democracy. It is not true now. 70 per cent of the country has broadband and that will go up very much and it is at the click of a button, and often we face the prospect – and I keep raising this fear, but it is a very real fear for me – where very powerful, rich people can organise campaigns very, very simply through the Internet, so that measures upon which the House of Commons has taken a settled view, difficult sometimes social issues but which are very susceptible to popular agitation – and it can be to do with financial matters or social issues – can be whipped up very quickly. Big advertising campaigns – all you have to do is go on the Internet and one click and you

send a message to your elected representative; and you can target it, you can target people with marginal seats and suddenly you have a majority of 5,000, and you get 20,000 emails – not once but every month – until you have put your name to a motion in the House of Commons and so on, it is quite frightening, and how many elected representatives in those circumstances one, two years before an election are actually going to hold to that Burkean precept of owing your voters your judgment as well as your industry? It is very tough. When you had the old system where people sent in postcards and charities and the third sector sent in a postcard every Minister knew that you would get one postcard because actually you have to go and get the postcard, you have to go out and buy the stamp and go out into the cold, wet evening and put that postcard in the box. People do not do it very often. If you talk to campaigning organisations they know you have one hit. With this stuff you sit at home in the warmth of your living room and click click. You only have to do it once but you still get the email every month and how do we know as MPs? This is a very real threat and this is deeply damaging to our democracy, potentially, because what it means is that the whole system can be hijacked by populist and often very wealthy, very powerful people who can afford to run these campaigns, and we have to be very careful about this. We have to be very clear about the fundamental place of our representative democracy but we also have to be engaged with this appetite that people have to have a more direct say in policy making and formation of policy between elections and not just simply voting once every four or five years. There is a very careful balance to be struck. I do not think we can close the door completely on referendums because there is an appetite in certain circumstances for this, and although I disagreed with it there was a very significant popular outcry for a referendum on the Lisbon Treaty, for example. I think that was misguided and I am glad that we did hold the line on that but people want to vote and you cannot draw up a drawbridge on it altogether – only in certain circumstances. I am sorry, a very long answer.

Q227 Baroness Quin: Some people wanted it; it is a moot point whether that was the majority of people or not. Also, can one not use the new technologies in involving people in other ways? One of our previous witnesses talked about the importance of Citizens' Forums and various ways of encouraging the feeding in of views between elections to elected representatives. Actually there seem to be a number of ways in which we could look at that, short of holding referendums on this, that and the other.

Mr Wills: I very much agree with that, absolutely, and that is where the document, the Framework for Democratic Engagement – I am sorry, I probably got the title wrong earlier, the title went through various permutations – that we published did that and it set out circumstances in which we felt that they might be appropriate as well, again, largely on a case-by-case basis and not too rigorous guidelines but very much so. That is precisely what we are doing with the Statement of Values. The Prime Minister decided that he thought it would be a good idea to have the Statement of Values that bind us together as a nation and what we have done is, rather than the Government coming up with such a statement in the normal kind of way that Governments do, quite deliberately given the responsibility for deciding, first of all, whether we should have such a statement; secondly, if so, what it should be and how it should be used to guide people through a series of deliberative forums. These are 450 people in five regional venues coming together demographically representative in terms of gender, age, ethnicity and so on, and they spend a whole day discussing this issue and actually they will in the end have spent three whole days with all the arguments for and against deliberating on these issues, not as a focus group, not even as a citizens' jury, but completely openly with the arguments put for and against, the core questions put to them, and they are deciding. We have made it quite clear that if they decide they do not want one we will not have one. There is an example of how a representative sample over time of British people had a chance properly to get to grips with the issue and make that fundamental

decision. It will not be appropriate in all sorts of areas and it is not really appropriate to make all the complex trade-offs that Government has to do, but it is a way of doing exactly what you are suggesting and we very much support that.

Q228 Lord Pannick: I am concerned by the argument that whether there is a manifesto commitment should be highly material to whether we have a referendum on major constitutional change. Does that not inevitably politicise a process which should depend on the significance of the reform which is proposed?

Mr Wills: To some extent. The key words you used were “highly material”; but not decisive is what I would say – not decisive. Of course it is material and any referendum actually will still be political, inevitably; these are politicians making the decisions and that is not a bad thing. We are elected to represent certain values and I think all of us would think that our own party represents a distinctive set of values and that is why we stand for election and it is right that those values should be brought into play in deciding what is an appropriate subject for a referendum or not.

Q229 Lord Pannick: It is very easy, is it not, for a party to put in its manifesto a commitment and to use that as an argument why very substantial constitutional change should not require a referendum?

Mr Wills: “Very easy” I think is too strong, but I think the arguments against any party doing that are evident from any study over time of history. The reason why a referendum is important, just to go back to it, is to legitimate a significant change, primarily in our constitutional arrangements. If the judgment is wrong, if the scenario which I think you are painting were to materialise and a party were to somehow seek to avoid the judgment of the people on an issue of profound constitutional significance and politicise it and try and bury it in a whole plethora of manifesto pledges, it would backfire. If they got that judgment wrong

in the way that you are suggesting, because it would politicise an issue which would then become a matter for party political controversy governments change – they do change – and an incoming government which had been on the wrong side of that particular debate, that had lost the election which that manifesto pledges in part, would change it. That, axiomatically, is a bad thing. When profound constitutional change of the sort that merits a referendum becomes a party political football I think that most people would agree that is damaging to the country – it is damaging. If it is so fundamental then it needs to endure and it only endures if there has been substantial cross-party consensus and/or – preferably both – the legitimisation in a referendum by the people.

Q230 Lord Hart of Chilton: On February 2 the Prime Minister, in his speech, Transforming Politics said this: “But we are agreed that there should be a referendum at a date in the near future...” – this is on AV – “...because any decision on something as fundamental as electoral reform must not be the subject of an executive decision endorsed by Parliament but rather than a question for the British people in a referendum, and I will argue and campaign for such a change. And because this is a major change in our democratic arrangements we are today publishing the key clauses we are tabling as part of the Constitutional Reform and Governance Bill and that Bill will have the effect of introducing the primary legislation required to hold a referendum on moving to the Alternative Vote system, which we intend should be held before October 2011.” So two questions. First of all, electoral reform is seen here as a fundamental change, and last night you put the provisions in the Bill. To inform the public to make a decision on electoral reform, they will only be given one choice of electoral reform. Do you not think that there will be an argument that in fact it should be widened out to other systems of electoral reform so that a proper choice could be offered to the public?

Mr Wills: There is an argument – and it was made quite forcefully yesterday in the House of Commons – that there is always going to be a question of judgment. There is always going to be a judgment about when referendums should be held, but there is also going to be a judgment about what the choice should be in a referendum. As you know, the Electoral Commission has a responsibility for framing the question but we – any government – will be responsible for setting the parameters of the choice. We made it quite clear why we took the view that this choice should be made in this particular way. There is a fundamental commitment of my party – this Government – to what could be called, I supposed, a majoritarian system of voting, and primarily the constitutional reason for that is because of the importance in our view of the direct accountability of a Member of Parliament to their constituents. That accountability is fundamental in our view and it is an accountability which underpins both first past the post and the Alternative Vote system, but does not apply in the same way to a Proportional Voting system. That is why we framed the choice in the way that we did, but it will be a matter of political debate, I am sure, in the forthcoming General Election campaign. Obviously if my party loses we cannot bind the next Parliament to it and it will be up to them to take a different view.

Q231 Lord Hart of Chilton: My second question is in relation to that. This Constitutional Reform Bill has been from its conception a very long period of gestation, and it is some two years ago that the first draft appeared. It is going to come to this House pretty late in this electoral cycle and although it may get a second reading it is pretty unlikely that it will get through all of its phases and will then have to go into the washer. What do you think is going to happen in relation to this proposal if you do not succeed in getting it through? Does it not all fall away?

Mr Wills: Clearly it falls away until the result of the General Election is known if we do not get it through this place – clearly it does. If you ask me what I think is going to happen, I wish I knew.

Q232 Lord Wallace of Tankerness: To follow up briefly on Lord Hart’s first question, resisting the temptation to go into the merits of different systems of proportional representation, what consideration did you and your Department give to the New Zealand experience when they decided to change their electoral system and the referendum process that they went through, about which we have heard some evidence?

Mr Wills: A bit. Inevitably one always takes account of what happens elsewhere in the world, but the circumstances are so different and specific here and there are very specific needs that we feel are driving this that we would not claim that it was a decisive influence.

Q233 Lord Pannick: Minister, you spoke earlier about the difficulty of defining a governing principle as to when a referendum should be held, but what is wrong with a governing principle that states something like there is a strong presumption that there should be a referendum on major constitutional change but it would be inappropriate to hold a referendum on any other subject? That at least would frame the debate as to whether a particular case fell within those criteria and that would serve a valuable purpose, would it not?

Mr Wills: There is nothing wrong with it and I think you are right, it would serve a valuable purpose. It is the sort of thing that we attempted to do in the Framework for Democratic Engagement and your wording may well be better. It is not, with all respect, what I would say is a rigorous set of principles into which you can put any measure and say, “This fits, this does not.” There are a lot of value judgments.

Q234 Lord Pannick: Of course.

Mr Wills: You used the word “major”, for example. That, again, is a matter of some debate. We have had a debate today about whether changes to the composition of this place is major or not, fundamental or not. It still leaves open a huge amount of area for debate and that is really the issue. Do you have something which, as it were, is sufficiently rigorous that the courts could in the end interpret whether it fits or not? Our view is that the dangers of trying to do that significantly outweigh the case-by-case basis. Your formulation may well be better than ours but it still, with respect, in the end ends up as a case-by-case basis.

Q235 Lord Pannick: I entirely accept that, but a principle would serve a valuable purpose in directing the debate.

Mr Wills: Look, I agree; I agree entirely. What we have tried to do is to frame such principles. Now, I am absolutely open to them being framed far better than we have been able to do and if in your report you come up with a better framing device we will be delighted.

Q236 Baroness Quin: In previous evidence sessions a number of witnesses have talked about the way that we have used the referendum in the UK as being essentially a political tool, and very, very largely in the hands of the Government. Would you accept that as a description of how referendums have been used in the UK?

Mr Wills: I would certainly accept the first, but I do not see anything wrong with it at all. It sounds as if your previous witnesses may have used that in a pejorative sense and I would not regard it as that at all. Politics can be a noble profession; it does, at its best, represent the battle of competing values and ideals and ideologies and I think that is healthy, that is what healthy democracies consist of. I do not see anything wrong in it – it is clearly political. Whether or not it is in the hands of the Government is another matter. Clearly the government of the day can decide how to apply the case-by-case criteria that we have just

been discussing, so to that extent of course the government, the executive always has a hand in framing political direction in this country. Whether the government can dictate the outcome I think is highly dubious. You will remember the referendum on the Regional Assembly in the North East where the Government had a very clear view of what was desirable and the people took a very different view and a view which solidified over the progress of that referendum campaign. I do not think that the government has control over it and, as you will be aware, we have taken steps to try and remove the government out of the process for holding the referendum, with a great deal of responsibility given to the Electoral Commission, which means that we cannot rush into it and there has to be proper consultation on the question and that, as far as we can, there are proportions against governments rigging the questions or skewing them in any way. I accept the first part; I do not accept it as a pejorative categorisation, and I do not really accept the second part of that proposition.

Q237 Baroness Quin: Nonetheless, a lot of reference was made to the first referendum that we had in the UK on the continued membership of the EEC and the fact that that was very much politically driven actually by internal considerations within the Labour Party rather than anything else. Do you think that there can or should be any kind of external safeguard as to what triggers a referendum, or is it satisfactory for it to be entirely left in the government of the day's hands, with obviously the sanction of Parliament, but if the government has a majority in Parliament then it tends to get its way.

Mr Wills: The question really of whether there should be a trigger, some sort of automatic trigger, really goes to the question of whether you can define adequately the circumstances and almost by definition if you take a case-by-case basis there cannot be any automatic triggers. One of the key things about this is that there is this sort of discussion, which is why I very much welcome this Committee's investigation into this area. If there is enough discussion and debate about this and we have these sorts of exchanges more regularly than we

currently do as politicians, then clearly people will come to have an expectation. It may not be rigorously defined. It may not be as a lawyer would draw it up, but there is a general political expectation about the sorts of areas – and this is deliberately vague – in which a referendum should be held. People do have these views; as I say, a lot of people had the view – whether they were the majority or not – that there should have been one on the Lisbon Treaty, and the debate over that was very healthy, I think, democratically even though it was uncomfortable for the Government from time to time, but it was still healthy in terms of democracy because it did get an airing for the times in which the debate should be held.

Q238 Baroness Quin: The Lisbon Treaty itself was a long and complex document which indeed it seemed that some of the people who were dealing with it had not read it. That also therefore begs the question, which we were talking about before, as to how straightforward a question should be in a referendum. Whilst some European Treaties do have fundamental changes, so therefore they presumably would come in the principled approach that Lord Pannick was describing earlier, there is the problem with long Treaties which Parliament may have considered in great detail but actually it is hardly realistic to expect everyone to have read a 300-page Treaty, and so many other issues can get caught up in it. Do you feel that you can make a case for Treaties like that from being exempt from the referendum process?

Mr Wills: No, I do not think you can make such a case. The reason, we would argue, that the Lisbon Treaty was not suitable for a referendum was because it was an amending Treaty and the fact that it was an amending Treaty I think is at least in part responsible for the enormous length and complexity of the document at stake. It was the fact that it was an amending Treaty. To the broader point, if we accept for now Lord Pannick's definition, that only for constitutional issues should a referendum be held, constitutional issues are almost by definition at one step removed from the daily concerns of voters, they are not housing, jobs, these sorts of issues, they are quite often arcane, quite complicated, technical legal issues; but

at root there are always fundamental principles, all these complex technical issues can with effort, hard work, rigour, intelligence be distilled down to certain key principles and choices. I fundamentally believe that. It is not easy and politicians often – perhaps even usually – fail to do that act of distillation. To distil without distorting is a great craft; it is very arduous, but it is necessary and we can do it – it is not impossible at all – and we should never admit defeat because in the end people have to make these judgments, and I think it would be a terribly retrograde step to take the view that some issues are just too complicated to bother the people’s heads with. That would be a return to an aristocratic principle of government that we have, fortunately, long since rejected in this country. It is difficult. It is difficult and it requires a great deal of attention and I am sure that the measures we have taken, for example, to give the Electoral Commission the responsibility for framing the question and the duty to consult and so on will be important in that process. It is tough but not impossible.

Q239 Lord Shaw of Northstead: Two basic questions, if I may. The first one relates to the regulatory framework. Is the statutory provision on referendums set out in the Political Parties, Elections and Referendums Act 2000 effective and can it be improved?

Mr Wills: Our view is that it is effective and correct but inevitably it has not been put to the test that often, so clearly we will keep it under review and we will always be open to suggestions for improving it.

Q240 Lord Shaw of Northstead: A small point perhaps, but it has intrigued me. The House of Commons now has a lot of pre-legislative committees sitting. If we are going to set up forms of referendum, in setting them up do we have a pre-legislative committee before that, or do we have it after the referendum has taken place? Or do we have any at all? Would this not help to clear the ground if there was a discussion with witnesses coming from all over to get a bigger background for the public?

Mr Wills: I think it may well be a very valuable innovation. It is not one which we are currently engaged in considering, but we will now that you have raised it.

Q241 Lord Shaw of Northstead: Have you found pre-legislative committees useful or not?

Mr Wills: Yes, without any doubt.

Q242 Lord Shaw of Northstead: We seem to have survived without them years ago.

Mr Wills: We did, but I think that constitutions evolve and the procedures certainly of the House of Commons are arcane and not really as effective as they might be in scrutinising the Executive and I have no doubt that pre-legislative scrutiny is improving the scrutiny of the Executive. Post-legislative scrutiny I think will do more as well. These are evolving mechanisms; I do not think they are anywhere near reaching a settled destination yet and problems will undoubtedly emerge with them as we go and we will have to adapt as we go. I think the suggestion is a valuable one and we will investigate it.

Q243 Chairman: The Electoral Commission has made some recommendations following its review of the 2004 Referendum Review in the North East, advocating possible changes to the 2000 Act, pursuant to which you tabled some amendments to the Constitutional Reform Bill. You are therefore familiar with the content of what the Electoral Commission is recommending. Is there anything that you would like to add to what the amendments are putting forward?

Mr Wills: Not really, no. I think we are broadly supportive of the approach that the Commission are taking and there is not much more I want to say.

Q244 Lord Pannick: Can I ask you specifically about spending limits in relation to referendums. Do you think that the current system is an effective one? Do you think that it is

realistic to think that you can control what disparate groups do in fact spend in promoting or opposing a particular view on a referendum?

Mr Wills: Realistic, optimistic, having wrestled with the whole issue of party funding for far longer than I should have done in relation to the PPE Act last year, this is very fungible really. We do our best; it is a moving target and it continues to move and every time you legislate it moves somewhere else and it is very difficult. We do our best is what I would say.

Q245 Lord Pannick: Your obvious concern about the efficacy of the system may suggest that the lack of control undermines the fairness of any referendum result.

Mr Wills: No, no, I was trying to be frank in answering your question. I would not push my concerns as far as that. Part of political spending of all sorts, whether it is for referendums, elections, is enormously difficult – not just in this country, but every democracy wrestles with this problem and goes on wrestling with it. It is an eternal labour, I am afraid. We have done our best, we have tried to improve the system – I think we have improved it a bit. I do not want to pretend that there will not be any problems – there always are – but I do not think it invalidates the result. One has to constantly labour to improve the systems and remove obvious problems with it. Those problems are not always obvious from the beginning, they surface and we have to deal with them and that will, I am afraid, in all honesty, just continue.

Q246 Lord Wallace of Tankerness: With regard to referendum questions, what do you think is the appropriate balance of responsibility between Ministers and the Electoral Commission? Do you think any changes are required in the present arrangements?

Mr Wills: As I say, we are broadly comfortable with the current arrangements; we have done our best. They are not tested very often, which is one of the problems, and until they are tested it is hard to say. With all constitutional reform we have to keep an open mind and go on evolving and that is the way we have always done it in this country, and by and large it

works. It is a careful, cautious way of making progress. I do not want to sound complacent about this, but I think broadly the combination is right. It is right that the ultimate authority should lie with Parliament, with the Government of the day framing the question of secondary legislation, but, of course, it is crucial that the Electoral Commission has the role that it does in deciding on the intelligibility of the question, which is fundamental to it being perceived as a fair process. Obviously you will be aware that exactly how the question is phrased can have quite a significant bearing on the outcome and, as we know from opinion polls, if you ask a question one way you get one answer and if you ask a question a slightly different way in relation to exactly the same issue you get a very different answer from the public.

Q247 Lord Wallace of Tankerness: Do you envisage circumstances where you think that Ministers and Parliament could diverge significantly depending on what recommendation came from the Electoral Commission?

Mr Wills: Could?

Q248 Lord Wallace of Tankerness: Diverge overturn the recommendation.

Mr Wills: I think it would be politically extremely unwise. I cannot imagine any sensible politician doing that – it would defeat the whole purpose of having a referendum in the first place, which is to legitimise the decision. To have a controversy, a row with the Electoral Commission would be foolish.

Q249 Lord Wallace of Tankerness: Has any thinking been done within your Department about multi-option referendums? We could have a multi-option referendum on systems of proportional representation, for example.

Mr Wills: We are open, as I say, to all sorts of views. I personally would be very worried about that. As far as we can we have to distil, as I was saying earlier, to clear straightforward

propositions which do not distort; distilling without distorting is the objective. As soon as you get multi-option referendums it becomes very, very difficult. Again, I think that those sorts of complex issues, which inevitably involve making trade-offs, are more suited for more traditional processes of representative democracy – that is what Parliament is really for, to debate complex options and multi-options, if you like.

Q250 Lord Norton of Louth: My first question relates to the government's role once a referendum campaign has been triggered and what role do you think the government should play once it is underway? Should it have a role in informing the public; should itself be an actor in the process?

Mr Wills: Again, I think this is a matter for a case-by-case basis; but again personally I would think that once a referendum is called then by its very nature I would hope that the government of the day would feel free to let its Members campaign as they thought fit on either side of the referendum. By its nature these should be fundamental issues. They will inevitably be political because of, as I say, their values, but not necessarily party political; parties have wide divergences of opinion on all the issues actually that have come up for referendum, certainly on Europe and on voting systems for example. There are wide divergences of opinion within all parties actually, I think maybe with the exception of the Liberal Democrats, who seem fairly united on voting systems. Otherwise, I think there is a wide divergence of opinion. My own view is that I would hope that the government of the day would allow its Members to campaign as they thought fit.

Q251 Lord Norton of Louth: So your view is that the government would have a hands-off approach and leave it to individual Members to campaign as they wish?

Mr Wills: That would be my view.

Q252 Lord Norton of Louth: So it would be a fundamental constitutional issue but one on which the Government was not taking a view?

Mr Wills: I think we would have taken a view that we should have a referendum on it; to that extent it needed that sort of legitimisation. The Government has taken a view on the fact that we should have a referendum. The Prime Minister has expressed his own personal preference for the Alternative Vote system and that is my own view as well, I would prefer to see a move. I would expect some Members of the Cabinet – if the current Cabinet is still the Cabinet at the time of the referendum – to take a different view, and I would certainly not feel that they should not do anything other than express that view forcefully and try and persuade the British people to support them.

Q253 Lord Norton of Louth: The second question relates to thresholds because obviously practices have varied there. It relates to your earlier point about the aspect of legitimacy. If you have a very low turnout does that really not then raise questions about the legitimacy of the outcome? If you take, say, the referendum on electing the Mayor of London – and I note you seem to regard, therefore, electing the Mayor of London as a fundamental constitutional issue as electing Members of the second chamber is not – if you take the turnout there it was extremely low. Should there be a threshold to determine whether an outcome actually proceeds because if it is a very low turnout then of course you are just getting a minority actually determining what can be a fundamental issue?

Mr Wills: Again, at the risk of returning to the mantra, it has to be a case-by-case basis. Again, a judgment has to be made about why you are holding the referendum and what legitimates it. There will be cases for threshold – they have been held in the past, not usually but they have been implied in the past. I think the crucial thing here is that the referendum does not bind Parliament. In the end Parliament will make its own decision on that. That is really where the question of judgment of Members of Parliament comes into play. Clearly a

high turnout and a decisive vote for or against something and/or a decisive vote will be a very clear signal to Parliament, and it would be an imprudent Member of Parliament who ignored that and took a different view. It may be a brave Member of Parliament may take such a view – maybe many brave Members of Parliament – but given that they would subject themselves to the wish of the electorate it might be imprudent. Conversely, on a low turnout, a very low turnout or a very evenly split result, I think Members of Parliament would feel much more empowered to exercise their own independent judgment, and it is probably right and proper that it should be so, and that is a flexible and responsive system and personally I think that is where we should be.

Q254 Lord Norton of Louth: Is not the logic of that, though, that you do not need a threshold because since it is not binding it is then up to Parliament to assess turnout as just one of the factors that it takes into account in making its decision?

Mr Wills: As you have probably gathered I am quite sceptical personally about thresholds, but I would not ever go as far as to say never. I can imagine certain circumstances, but by and large, for the reason I have just given, I would suggest that I would personally need to be quite rigorously persuaded. I am always persuadable, but it would need quite a lot of persuasion in this case.

Q255 Lord Norton of Louth: If you have a threshold in one referendum and not in another you can see the problems that would cause where if you do not have one people will say, “We should have one.”

Mr Wills: The problem with a case-by-case basis is that precedent is always going to be difficult for us. We will always be informed and one of the things that will inform the judgment is that if you have similar issues arising, an issue similar to that already which has been a referendum, it would be hard to resist that case, but one of the issues about not having

that is that people will always seek to produce a similarity between previous referendums and the issue under consideration and in some ways having the kind of rigorous framework for when you hold an election would make it much easier for governments, but I do not think it would remove the difficulty altogether, as I have said.

Q256 Lord Wallace of Tankerness: The referendums that we have had to date for a “yes” campaign and a “no” campaign, without putting forward their own arguments, do you think that there is a case for there to be some sort of public information, the education process which is independent and neutral from the respecting campaigning sides, so that information can be put forward for the public in an objective way? If so, who do you think should have the responsibility for doing that?

Mr Wills: The question that you have asked raises the difficulties with that. Look, my own view is that it is very difficult to do that in the context of a campaign and almost by definition if the only time that you bring this public information or campaign forward is in the context of a campaign it is going to make it very difficult. Let me go back. I think there is clearly a case for the public to be objectively informed about the issues – that is certainly the case. The clauses that we have laid provide that the Electoral Commission can do that if necessary. My own view, strongly, though, is that we need to do better at informing the public about all these issues outside the hurly burly of General Election or referendum campaigns. That is really a fundamental democratic obligation which Governments and politicians have not been great at. We have tried to introduce citizenship classes into schools and it is beginning to work but we need to do a lot more on that. The Electoral Commission can do it, if necessary. I think it is necessary but not that it should be conceived of as a continuing process, and by the very nature of any referendum it will be so fundamental that the issues involved ought to be the subject of continuing public education outside any referendum.

Q257 Lord Wallace of Tankerness: Can I just be specific on the referendum which is most currently in Parliament – the House of Commons voted last night. Quite aside from the arguments for and against electoral reform and the Alternative Vote, is any thinking being done, any plans being laid, so that the public actually knows what the Alternative Vote would mean, if it was to be adopted and they had polling stations that they would know how to vote in an Alternative Vote? It is purely factual information as to what the Alternative Vote is and how it works.

Mr Wills: Of course there will have to be such a programme of education and information. As I say, the Electoral Commission is probably best fitted to do that. In terms of whether the Government has laid any specific plans beyond those broad outlines – not yet. Let us get the legislation through.

Q258 Lord Wallace of Tankerness: You have not elected a new body to do it?

Mr Wills: I think it would be a mistake to set up a new body because it would inevitably become more raucous if it was a political operation. The Electoral Commission is established and we conducted significant reforms to it last year which we think will enhance its credibility still further. It is doing a good job as far as we can see; it is the obvious place to do this. The duty to do this – and it is a duty – goes beyond the Electoral Commission in this specific issue.

Q259 Chairman: Minister, you mentioned earlier in passing citizens' initiatives. Can you amplify what your view is on citizens' initiatives and other consultative mechanisms and how they relate to referendums?

Mr Wills: The terminology of these things is quite difficult because they are used interchangeably. We again have tried, and perhaps imperfectly, in the framework that we published to try and produce some definitions for this. The usual language, when you think

about this – and the Government has been responsible for some of the misunderstandings in this area in the past, I have to say – is that they are focus groups which are snapshots of opinion. You give people a set of propositions and then you monitor their responses to their propositions. There is a place for them. I do not think that they are particularly valuable in any profound constitutional way. What I think is far more valuable are what I would call deliberative events which fall into various categories, but by that what I mean is that a demographically representative sample of people – I think the minimum would be 100, 500 is probably optimum for a decision making body as opposed to an advisory panel and 1,000 possibly – which is given the information that Parliament would be given, for example, and then deliberates on it with expert moderators to steer the discussion, but, nevertheless, they are given a wide range of information, both printed and, in an ideal world, they are given the ability to interrogate expert witnesses in the same way as committees in this place and the other place do, and they then reach a decision on that. That decision can either be advisory on government or it can be binding on government. I think that there is a very considerable role for such bodies. It is quite clear that people increasingly want a say in the formulation of policy between elections; that the old view where they exercise their democratic rights once every four or five years and have either kept their current MP or chucked them out and got somebody else, remains fundamentally important but actually people want a bit more and we need to find ways of augmenting it. This is a way that could be implemented, that gives people a real say, that over time I think would add to the credibility and validity of our entire system of a representative democracy, in much the way that the jury system does enhance the credibility of the criminal justice system. Very few people proportionately, I think, overall serve on a jury but over centuries it has commanded respect; it is seen as a fair way of dispensing justice and, as a result, we have for the most part a fairly high degree of confidence in that system and I think the model is replicable in the political world as well in

this way. As I say, we have started this process with these deliberative events on the Statement of Values. It is a fairly limited area. We have given the power of decision taking away to them. The process is nearing its completion; we will be publishing a report very shortly on the process. It has been independently run by an independent market research organisation – the Government has not interfered with the process at all, just to make that clear – and the results will be there for people to judge. We believe that it has been a successful exercise and we hope others will too and will replicate it in future for other areas of public policy.

Q260 Baroness Quin: I listened to what you said on local initiatives, but on local referendums does the Government have any plans for increasing or bringing in a system of local referendums on such things as council tax levels or any other proposals that might come from the local area?

Mr Wills: I think local authorities already have those powers under the 2003 Act and they do have that and it is a matter for them to use it. I hope they will. Some local authorities are doing this very well already. Inevitably with 350 local authorities there is a patchiness of performance, but some local authorities are very adventurous in consulting their residents about services, levels of service, levels of council tax, different priorities and central Government has a lot to learn from those local authorities. In the same way there are some local authorities who remain arrogant and complacent and stuck in the old ways of doing things without any real concern for their residents and they need to change.

Q261 Baroness Quin: Is the consultation binding? Is the outcome of such local referendums binding?

Mr Wills: No, and nor should they be. I think it is important both locally and nationally that the representative and those representatives elected to do that job should in the end still be

able to exercise their judgment. In the end practically and politically – and it goes back to Lord Norton’s questions about thresholds – if these referendums are conducted properly with high levels of turnout with a decisive vote for or against something it would be a very unwise politician who ignored it.

Q262 Chairman: Minister, in 2003 Parliament legislated for “an express power enabling local authorities to conduct an advisory poll or referendum... on any matter relating to the services for which it is responsible”. This gives rise to a number of questions of which I will, if I may, confine myself to three. Firstly, on what grounds are the Government willing to facilitate referendums at local level on a broader range of issues than at national level? Secondly, how do the Government’s warnings about the impact on representative democracy of – and I quote the Government’s words – “the excessive use of referendums” apply at local level? Thirdly, should the Electoral Commission have a role in the conduct of local referendums?

Mr Wills: No, I do not think so. As I have said, we sought last year really to define the role of the Electoral Commission in a way that focuses their role more precisely and I think if we were to give them a role in local referendums that would run counter to that. I do not think we would do that; and there would be cost implications as well. We would not submit it to the Electoral Commission. Again, given essentially the local and limited nature of such referendums, they are categorically different from great national referendums, do we really see much need for it. I am sorry, would you remind me of the first question?

Q263 Chairman: Government facilitation of local referendums.

Mr Wills: I think it is for local authorities to decide that, as I have said. We hope that they will adopt them and, indeed, other mechanisms for consulting the residents more frequently. The main value of this it that it improves the services. Where everyone is looking to give the

taxpayer value for money it is the local resident who has the best view of how services can best be deployed.

Q264 Chairman: If there was a proliferation of such referendums this would not trespass on the Government's ruling against the excessive use of referendums?

Mr Wills: No, it would not. As I have said, there is a categorical difference between local referendums and great national referendums. All the remarks I made earlier were to do with the great national issues. In terms of locally, referendums have a place just as they do nationally, but what I am primarily concerned about is local authorities should engage more vigorously to seek the views of their residents. The sorts of citizens' initiatives that we discussed a few moments ago are very important in this as well. Referendums have their place, but so do they. The key thing is that they engage vigorously with their residents about the services that they provide.

Q265 Lord Wallace of Tankerness: Are there any international examples which you would like to put before the Committee either as good examples of the use of referendums or bad examples of the use of referendums?

Mr Wills: No. Not really. It is not appropriate for me really, if you will forgive me.

Q266 Chairman: Minister, you have been most generous with your time, thank you very much indeed. This is the final evidence session of this inquiry and it has been for us a most interesting one. You expressed confidence that the referendum on the House of Lords reform would be one, which gives rise to the question: why not have one? I do not think that it is entirely within the scope of our inquiry.

Mr Wills: Because politicians sometimes do things for the right reasons and not just to win elections. I realise that might be a slightly heretical view but I think that it is very important,

if I may just conclude? Can I just thank you for conducting this investigation. I hope you have gathered from what I say that I think this issue is (a) fundamentally important, and (b) it requires this sort of public debate. As I say, we have tried to construct, as it were, a taxonomy of when such constitutional arrangements should be called into play. We may well have not got it quite right and I think that anything which advances the public's understanding of these issues is greatly to be welcomed, so I am very grateful to you for that. Can I just conclude by repeating something that I mentioned earlier, which is my worry about getting the balance right between representative democracy and direct democracy. I am really alarmed sometimes when I hear some politicians speak as if measures of direct democracy are panaceas for all the political challenges that we face. They are not. We have to adapt, we have to reform, and I hope I have given you some evidence that we want to do that and we are actively engaged in doing that, but we cannot sacrifice the principles of representative democracy for all sorts of reasons, which I am sure will be clear to this Committee. There is an example – I just said to Lord Wallace that I did not want to draw international comparisons – there is a quote, and I hope I am quoting him correctly, by the Chief Justice of California – and in many ways California 100 or so years ago was subject to a great political crisis with people feeling that politicians were being hijacked by the wealthy and powerful and a whole plethora of populist measures were brought in bringing a large number of direct democratic measures, and as a result of this the state of California has great difficulty in funding all sorts of essential services like the university system – and very recently the Chief Justice of California referred to the system of governance in California as “dysfunctional”. I think that is the correct quote. That is a lesson that we should draw. We have to engage people, we have to be more accountable to the people we serve and we have to remember the virtues of a representative democracy in doing so. With that homily I conclude.

Chairman: Minister, thank you very much indeed for being with us this morning and thank you very much for the evidence you have given the Committee.