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The *Parliamentary Voting System and Constituencies Bill*

[Bill No 63 of 2010-11]

RESEARCH PAPER 10/55 01 September 2010

This Bill seeks to enable the next general election to be fought under the Alternative Vote, provided this change is endorsed in a referendum on 5 May 2011 and boundary changes have been made to reduce the size of the House of Commons to 600. New Rules for the Redistribution of Seats are designed to give primacy to numerical equality in constituencies and regular redistributions would take place every five years. The Bill is due for Second Reading on 6 September 2010; this Paper has been prepared to give background to that debate.

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Summary

The Bill enables the next general election to be fought under the Alternative Vote (AV) electoral system, provided that the change is endorsed in a referendum to be held on 5 May 2011. The referendum would therefore be held after the legislation has been enacted, but the legislation will not come into force unless there is a simple majority for a change among those voting in the referendum. The Bill also provides for the introduction of AV to be linked with the proposed reduction of the size of the House of Commons to 600. The Bill prevents the introduction of AV until boundary changes have taken place. However, the boundary changes provided for in the Bill take effect, whatever the result of the referendum, at the time of the next general election.

If AV is introduced, this will be another new electoral system introduced since 1997 into the UK, together with the Single Transferable Vote system, the Additional Member system, the Closed Party List system and the Supplementary Vote system. The form of AV proposed for Parliamentary elections in the UK allows voters to express a preference for as many or as few candidates as they wish.

The referendum question is set out in the legislation, but the Electoral Commission still has to comment on its intelligibility. This was a role given to it under the *Political Parties, Elections and Referendums Act* 2000, known as PPERA, and its report is expected in early September. The Commission has a role in administering the expense limits in the campaign under PPERA and in nominating umbrella organisations for the Yes and No campaigns. The Bill gives the Commission a role in organising the counting of the referendum and a duty to promote public awareness; there are also detailed adaptations of the election rules to make them applicable for a referendum poll. The referendum period for the purposes of PPERA will begin at Royal Assent; this is relevant for regulating campaign expenditure.

It is estimated that 39 million electors will already have the right to vote in scheduled elections in May 2011, for the Scottish Parliament, National Assembly of Wales, Northern Ireland Assembly and local elections in England and Northern Ireland. There has been some controversy as to whether the referendum ought to be combined with such polls. There are concerns that this will lead to voter confusion and differential turnout. The Electoral Commission has said that combination is possible in principle, provided there is careful planning. There have also been suggestions that there ought to be a minimum turnout or a threshold which should be reached in a referendum before such a major constitutional change is introduced. It is clear that the separate parties within the Coalition Government will campaign for different outcomes in the referendum poll and this raises issues of collective responsibility and agreements to differ.

The Bill introduces new Rules for the Redistribution of Seats, beginning with a prescribed number of 600 seats for the whole of the UK. As well as reducing the number of MPs, the Bill aims to reduce inequalities of electors per seat. There is to be a uniform electoral quota for the UK, taken from the beginning of the review on 1 December 2010. This data will not take account of voters missing from the register, currently estimated by the Electoral Commission at around 3.5 million for England and Wales.

Each constituent part of the UK would be allocated a number of whole seats under the quota, using the Sainte-Laguë formula. A rule ensuring that seats should not vary by more than five per cent above or below the quota would have primacy and only after this would the four Boundary Commissions have regard to local boundaries and ties. There would be very limited separate arrangements in Northern Ireland, the smallest constituent part of the UK, to allow more variation around the average electorate there. Na h-Eileanan An Iar (Western Isles) and the Orkneys and Shetland constituencies are to be protected, and no constituency may be larger than 13,000 sq kilometres, the size of the current Ross, Skye and Lochaber

constituency. The boundary reviews are to be completed by 1 October 2013 and are to be implemented as a package. The Bill abolishes powers to hold interim reviews and requires the Commissions to submit progress reports to the Speaker of the House of Commons while a report is pending. Local inquiries are to be abolished, in favour of a written consultation period of 12 weeks.

Boundary reviews would take place every five years thereafter; given that fixed-term Parliaments are to be introduced in a separate bill, this would mean that reviews would take place in the first three years of every Parliament. This cycle would be disrupted if there were to be an early dissolution, since the *Fixed-term Parliaments Bill 2010-11* provides that another election would normally take place five years after an early election. Major changes in constituency boundaries are expected to result from this first review under the new Rules.

Provisions in the Bill would require the constituencies for the National Assembly for Wales to be decoupled from those for Westminster, as the new quota is expected to lead to a substantial reduction in seats in Wales and would otherwise reduce the Assembly to around 45 seats. There are no similar provisions for the Northern Ireland Assembly and unless these are introduced, the Assembly seats which be reduced in number to around 90, as they are also based on Westminster constituencies.

1 Introduction

The *Parliamentary Voting System and Constituencies Bill 2010-11* legislates for two main policy proposals:

- A referendum on the question of introducing the Alternative Vote (AV) for elections to the House of Commons

- Measures to reduce the number of seats in the House of Commons by changing the rules for Parliamentary boundary reviews.

These apparently separate policies are linked in the Bill, since the proposals emanate from the Coalition Agreement made in May 2010. The Alternative Vote may not be introduced unless or until the Order for boundary changes has been agreed. However, the boundary changes are not dependent on the introduction of AV.

1.1 Policy background

There were calls, supported by all major party leaders, for a transformation of politics following the expenses scandal of 2009. Among the proposals which surfaced were ideas for cutting the cost of politics by reducing the number of MPs and for introducing a new form of voting system for the Commons. In February 2010 the then Prime Minister, Gordon Brown, announced that the Labour Government would hold a referendum on introducing the Alternative Vote in September 2011. In the event, this provision was removed from the *Constitutional Reform and Governance Bill* before enactment, during the wash-up just before the general election. Background is available in Library Standard Note SN/PC 5570 *Reducing the size of the House of Commons.*

The number of MPs in the House of Commons is currently 650 (England 533; Northern Ireland 18; Scotland 59; Wales 40). The number of MPs was increased by four following the fifth periodical reviews of Parliamentary constituencies in England, Wales and Northern Ireland which came into effect at the 2010 general election.[1] The size of the House of Commons had been 646 since the 2005 general election when the number of seats for Scotland was reduced by 13 following the completion of the fifth periodical review there.

The Conservative Party manifesto for the 2010 general election said that a Conservative government would reduce the number of MPs by 10 per cent. The Liberal Democrats stated in their manifesto that if the Single Transferable Vote (STV) was introduced for elections to the Commons, the number of MPs could be reduced by 150. During the negotiations between the Conservatives and the Liberal Democrats immediately following the election, electoral reform was a key issue. The Coalition Government's programme, published in May 2010, included a commitment to introduce a Referendum Bill on electoral reform but this was to be a referendum on the replacement of the First Past the Post System by the Alternative Vote System, not STV. The Deputy Prime Minister, Nick Clegg, made a statement on the Government's proposals for Parliamentary reform on 5 July 2010[2] and the Bill was introduced on 22 July 2010.

The Constitution Unit of UCL has published an analysis of the Coalition Government's agenda for constitutional and political reform. Professor Robert Hazell, Director of the Constitution Unit, commented on the Government's commitment to introduce an electoral reform bill:

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1 For further information about the fifth review, see Standard Note SN/PC/3222

2 HC Deb 5 July 2010 c23

> A referendum on the Alternative Vote (AV) represents a big compromise for both parties. The Conservatives are staunch supporters of First past the Post (FPTP) and see no need for change. The Liberal Democrats have long supported the Single Transferable Vote (STV), and will see AV as a very poor substitute, since it is not a proportional system. Hence the provision [in the coalition agreement] that after being whipped to support a referendum on AV in Parliament, the parties will be free to fight on opposing sides during the referendum campaign. Ironically the one party which does formally support a referendum on AV is the Labour party, although in practice the Labour party are divided on the issue.
>
> The Conservatives and Liberal Democrats are closer together in wishing to reduce the size of the House of Commons: the Conservatives to 585, the Lib Dems to 500. This is a more difficult proposal to implement, because it involves a wholesale redrawing of all constituency boundaries, which is difficult to do inside one parliament.[3]

1.2 Scrutiny of the Bill

The Bill was introduced on 22 July and is due for its Second Reading on 6 September 2010. A programme motion has been published which allows for five days in Committee of the Whole House and two days for Report and Third Reading.[4]

There has been concern at the pace at which the legislation is designed to pass through Parliament, especially as another important constitutional bill, the *Fixed- term Parliaments Bill*, is also due for a second reading on 13 September. The Political and Constitutional Reform Select Committee issued a report on 2 August which complained about the lack of time available for scrutiny. The Committee hoped to take further evidence in September and report substantively on the Bill before its Committee stage.[5]

In a letter to the Deputy Prime Minister, the Committee Chair, Graham Allen said:

> Your legislative timetable has put me and my committee in an extremely difficult position. When the House agreed to establish the committee, it did so, in the words of the Deputy Leader of the House, "to ensure that the House is able to scrutinise the work of the Deputy Prime Minister". In the case of these two bills you have denied us any adequate opportunity to conduct this scrutiny.[6]

Professor Hazell has argued that both bills were introduced without any formal consultation in the form of green or white papers, and that they raise important constitutional issues demanding proper scrutiny.[7] Witnesses to the Political and Constitutional Reform Committee and to the Lords Constitution Committee have suggested that more thought needs to be given to the type of proportional representation put before voters and the rules under which the referendum will be fought, as well as greater consideration about the changes in the Rules for the Redistribution of Seats.[8]

The Opposition have tabled a reasoned amendment as follows:

> That this House, whilst affirming its belief that there should be a referendum on moving to the Alternative Vote system for elections to the House of Commons, declines to give

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3 *The Conservative-Liberal Democrat agenda for constitutional and political reform* by Professor Robert Hazell, The Constitution Unit, UCL, June 2010

4 *Order of Business* 6 September 2010

5 The transcripts of the evidence sessions held by the Committee in July are available on the Committee's web pages

6 HC 422 2010-11

7 "Political reform bills face stormy passage, says Constitution Unit" 22 July 2010 *Constitution Unit Press Notice*

8 Uncorrected evidence to the House of Lords Constitution Committee 21 July 2010

> a Second Reading to the Parliamentary Voting System and Constituencies Bill because it combines that objective with entirely unrelated provisions designed to gerrymander constituencies by imposing a top-down, hasty and undemocratic review of boundaries, the effect of which would be to exclude millions of eligible but unregistered voters from the calculation of the electoral average and to deprive local communities of their long-established right to trigger open and transparent public inquiries into the recommendations of a Boundary Commission, thereby destroying a bi-partisan system of drawing boundaries which has been the envy of countries across the world; and is strongly of the opinion that the publication of such a Bill should have been preceded by a full process of pre-legislative scrutiny of a draft Bill.

The SNP and Plaid Cymru have also put down a reasoned amendment:

> That this House declines to give a Second Reading to the Parliamentary Voting System and Constituencies Bill because it plans to reduce the number of Members of Parliament in a way that could disproportionately disadvantage Wales and Scotland, does not seek the consent of devolved administrations regarding the date of the referendum, fails to take into account the recommendations of the Gould Report into the 2007 Scottish elections by placing the referendum vote on 5 May 2011, the same day as devolved government elections, requiring multiple ballot papers which will further obfuscate the elections of those regions, resulting in possible chaos at polling stations, and provides for a referendum on UK-wide voting systems which would dilute interest in the elections of the devolved governments, and fails to include an option to choose a proportionate electoral system. [9]

The form of the Bill has been affected by the timetable for the referendum. It contains detailed changes to the electoral rules which are more commonly found in a referendum order which is issued once the primary legislation has achieved royal assent. The Bill also includes the necessary changes to electoral legislation to implement AV, without the need for further primary legislation, should the referendum result in a Yes vote.

1.3 Territorial extent and human rights issues

The Bill extends to the whole of the UK, with the exception of Schedule 3, part 2, which relates to Northern Ireland only. The *Explanatory Notes* state that the Bill does not contain any provisions which fall within the terms of the Sewel (legislative consent) Convention. The Deputy Prime Minister has stated that in his opinion the Bill is compatible with the European Convention on Human Rights. The *Explanatory Notes* provide a detailed commentary, which covers topics such as prisoners' voting rights, voters' personal data, time limits on proceedings questioning the conduct of the referendum, and the type of electoral system and boundary redistribution used.

2 The referendum

2.1 Background

The Labour Government of 1997 was elected on a commitment to hold a referendum on electoral reform, which was never implemented. The Prime Minister, Tony Blair, set up a commission under the Liberal Democrat peer Lord Jenkins of Hillhead, to recommend an alternative to the existing system of First Past the Post to be put before voters in a referendum. The Independent Commission on the Voting System reported in October 1998 and recommended a new system known as Alternative Vote Plus, but the Government did not hold a referendum. The question of voting systems reform for Westminster did not become a major political issue again until the new Prime Minister, Gordon Brown, promised a

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9 *Order of Business 6 September 2010*

referendum on the Alternative Vote system in February 2010. Full background is given in Library Standard Note 5317 *AV and electoral reform.* Clauses to hold a referendum on the question of introducing the Alternative Vote were added to the *Constitutional Reform and Governance Bill 2009-10*, but were then removed as part of inter-party negotiations during the wash-up period just before the dissolution of Parliament. These clauses allowed for a referendum to be held in advance of the legislative changes necessary to introduce AV at an election. This form of referendum is known as pre-legislative.

2.2 The Coalition Government's proposals

The Coalition Government announced on 20 May 2010 that it would bring forward a Bill on electoral reform which would make provision for the creation of fewer and more equal sized constituencies as well as for a referendum on the introduction of the Alternative Vote system for Parliamentary elections. The Deputy Prime Minister subsequently gave further details on 5 July 2010, indicating that the main provisions in the bill would be as follows:

- The referendum would be held on 5 May 2011, the same day as elections to the devolved legislatures in Scotland, Wales and Northern Ireland, and local elections in England.

- The referendum would be decided on the basis of a simple majority

There was some immediate criticism of these proposals from opponents of a referendum on AV, and from the Executives in Scotland and Wales. There was opposition to the holding of a poll on the same day as elections to the devolved institutions, and concern that the combination might result in a differential turnout across the United Kingdom. These issues are considered below, together with the question as to whether the referendum should be subject to a threshold, or minimum turnout requirement.

The *Parliamentary Voting System and Constituencies Bill* was introduced on 22 July 2010, and provides for legislative changes to enable the next general election to be held under the AV system, provided that a majority of those voting in a referendum support the use of AV rather than First Past the Post for Parliamentary elections. The referendum is to be held on 5 May 2011. This referendum would therefore be post-legislative, that is, it would be held to validate by popular consent an AV system already set out in this bill.

2.3 The referendum in the UK

Many states have provisions to hold referendums in relation to major constitutional changes and in recent decades the UK has also used the device, despite having no codified constitutional rules requiring its use. The only nationwide referendum was the one held on membership of the EEC in 1975, and referendums were held in 1979 in Scotland and Wales and in 1973 in Northern Ireland. The Labour Government used referendums in relation to building support for devolution in 1997-2001, when they were held in Scotland, Wales and in Greater London. There was also a referendum in Northern Ireland and the Republic of Ireland to confirm support for the Belfast (Good Friday) Agreement. All of these referendums since 1997 were pre-legislative in form. Results of each referendum held since 1975 are set out in Library Research Paper 08/12 *Election Statistics 1918-1997,* part VIII.

As part of an inquiry into political finance, the Committee on Standards in Public Life recommended that the holding of referendums be regulated by an independent Electoral Commission,[10] and this was enacted in the *Political Parties, Elections and Referendums Act 2000* (PPERA). Only one referendum has been held subsequently, on the question of a regional assembly for the North East. Therefore, the legislation remains largely untested.

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[10] *The Funding of Political Parties in the United Kingdom*, Cm 4057

PPERA provides the framework of the regulation of the referendum, governing issues such as:

- A referendum campaign period in which the expenditure of campaigning organisations, or permitted participants, is regulated by the Electoral Commission;
- The wording of the question, which is subject to review by the Electoral Commission which is required to publish a statement on intelligibility;
- The creation of Yes and No campaigning bodies, which are designated by the Electoral Commission and are offered some public financing; they are subject to a £5m spending limit;
- A 28 day regulated period before the poll during which Government publicity is subject to restrictions;
- A role for the Electoral Commission chair as Chief Counting Officer, responsible for the conduct of the referendum.

The Electoral Commission has published a statement on its role in regulating referendums.[11] Full details are given in Library Standard Note 5142 *Referendum on electoral reform.*

The *Parliamentary Voting Systems and Constituencies Bill 2010-11* contains details of the question, the date and the franchise to be used. These are discussed in greater detail below.

2.4 Combination of referendum with other elections

The announcement by Nick Clegg that the referendum would be held on 5 May 2011 led to discussion as to the merits or otherwise of combining referendums with elections. There were two separate areas of concern:

- Commentators suggested that the combination of polls for the elections to Scottish Parliament and National Assembly for Wales, as well as the Northern Ireland Assembly might lead to differential turnouts across the UK.[12] Although there are local elections taking place across England, none are in London. There are also local elections in Northern Ireland.
- The devolved Executives expressed concern that voters in their areas would be confused by the simultaneous polls. In 2007 there had been unexpected numbers of spoilt ballot papers when the Scottish Parliament elections were combined with local elections, where the Single Transferable Vote had been used for the first time. A subsequent inquiry, led by the Canadian elections expert, Ron Gould, recommended against last minute changes to electoral rules and the Scottish Parliament passed legislation decoupling the two forms of election.[13] Alex Salmond, the Scottish First Minister, has accused the UK Government of lack of consultation and of disrespect to Scotland.[14]
- In addition, the Welsh Executive is preparing for a referendum on transferring legislative powers to Wales in March 2011. There have been suggestions that the National Assembly could be moved to June 2011. However, the Presiding Officer of the National

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11 The Electoral Commission-Key Principles for Referendums 2010

12 See comments by David Davis HC Deb 5 July 2010 c30

13 *Independent review of the Scottish Parliamentary and local government elections (The Gould Report)* October 2007

14 "Coalition seeks changes to Scots Parliament rules" *Scotsman* 15 August 2010

> Assembly for Wales, Dafydd Elis Thomas, has suggested that the referendum on electoral reform could be held on the same day as the referendum on devolution.[15]

In response, Nick Clegg argued in evidence on 15 July to the Constitutional and Political Reform Committee that he was puzzled by the reaction in Scotland, noting that the 2007 problems had been due to a highly complicated ballot paper. He also noted that about 84 per cent of voters in England would have the opportunity to vote in May 2011.[16] Library Standard Note 5665 gives details of elections, both devolved and local, which are scheduled for May 2011.

It has also been suggested that there will need to be amendments to the *Scottish Parliament (Elections etc) Order* 2007 to combine a Scottish parliamentary poll with another poll.[17] The Association of Electoral Administrators published an issues paper on 15 August on the combination of polls in England, which pointed out that several areas are also due to vote in parish and town council polls and in mayoral referendums. It called for clear rules on combinations to be devised, drawing attention to the complexities of the current regulations and recommended against postponing parish polls.[18]

More than 44 MPs have signed EDM 613 sponsored by Bernard Jenkin (Conservative), Chair of the Public Administration Select Committee, which draws attention to the change of position by the Electoral Commission on combination, and which expresses fears that the turnout would be artificially inflated in certain parts of the UK, as a result of the combination.[19]

The question of combining referendums with elections has been controversial internationally on occasion. In New Zealand the question of changing the electoral system was combined with a general election in 1993. The combination increased turnout for the referendum considerably to a figure of 82.6 per cent. A consultative referendum held on electoral systems in 1992 had produced a turnout of 55 per cent in 1992.[20]

The position of the Electoral Commission

The Electoral Commission chair, Jenny Watson, made a statement on 22 July 2010 indicating that it should be possible to combine a referendum with other scheduled elections.

> It is possible to successfully deliver these different polls on 5 May, but only if the risks associated with doing so are properly managed. We've set out what we think these risks are and will make it clear during the passage of the Bill if we do not feel they have been adequately addressed.[21]

The Electoral Commission published its position statement on 22 July, giving greater detail.[22] It included requirements that the rules on the conduct of the referendum be clear six months in advance, and that there are adequate public awareness provisions in place.

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15 "Concern at UK and Wales polls clash" *Western Mail* 6 July 2010*;* "Cross party challenge to May date of AV referendum could hit moves to reduce the number of MPs" *Guardian* 6 July 2010*; "*Call for assembly powers poll on day of two other votes" *BBC News* 11 July 2010

16 Evidence by Nick Clegg to the Political and Constitutional Reform Committee 15 July 2010 (uncorrected transcript)

17 "Coalition seeks changes to Scots Parliament rules" *Scotsman* 15 August 2010

18 http://www.aea-elections.co.uk/downloads/aea_issues_paper_1_parish_poll_postponement_2011.pdf

19 "Rifkind joins Tory MPs in challenge to election-day referendum plan," *Scotsman* 28 July 2010

20 For further details, see Library Research Paper 98/112, *Voting Systems: The Jenkins Report,* p13-14

21 http://www.electoralcommission.org.uk/news-and-media/news-releases/electoral-commission-media-centre/news-releases-referendums/electoral-commission-response-to-parliamentary-voting-system-and-constituencies-bill

22 http://www.electoralcommission.org.uk/__data/assets/pdf_file/0014/100661/Position-statement-Voting-at-different-polls-on-5-May-2011.pdf

This contrasted with its position in 2002 when it appeared that a referendum on the Euro might be held at the same time as elections in Scotland, Wales and Northern Ireland in May 2003. In evidence to the Transport, Local Government and the Regions Select Committee in 2002, the former Electoral Commission Chair, Sam Younger, drew attention to the 'danger of an election on a party basis cross cutting with a major issue of principle which is not on a party basis'.[23] The Commission subsequently confirmed this view in a press release on 12 July 2002.[24] However its latest position paper refers to a full review carried out by the Commission in November 2009 which led it to conclude that each specific proposal should be considered on its merits.

Combining expenditure limits for both devolved elections and a referendum may also prove complex. These matters, and others, were considered in detail in a Lords Constitution Committee report of April 2010 which recommended against holding referendums on the same day as general elections, but thought other combinations should be considered by the Electoral Commission on a case by case basis.[25]

2.5 A threshold for the referendum?

Discussion of the need for some form of threshold usually arises in the context of ensuring the legitimacy and acceptance of the outcome of a referendum exercise. Certain states require constitutional change to be validated by a special majority in a referendum. This incorporates the idea that major constitutional change is something more important than the result of ordinary elections, and therefore should be the outcome of something more than a simple plurality of the votes. The UK does not have a codified constitution and so any requirement for a threshold has to be included in the individual referendum legislation. Standard Note 2809 *Thresholds in Referendums* gives further details and provides comparative examples of the use of thresholds.

1979 referendums

Campaigners for a Yes vote in the referendums on devolution held in Scotland and Wales on 1 March 1979 failed to meet the requirement that forty per cent of all electors should vote in favour of change. This threshold had been inserted on 25 January 1978 during the passage of the relevant legislation against the wishes of the Labour Government as a result of action by a combination of Labour backbenchers opposed to devolution and the official Opposition. The Acts specified that where it appeared 'to the Secretary of State that less than 40 per cent of the persons entitled to vote in the referendum have voted "Yes"... or that a majority of the answers given in the referendum have been "No" he shall lay before Parliament the draft of an Order in Council for the repeal of this Act".[26] The Secretary of States were required to calculate the size of the total electorate and deductions were made to allow, for example, for the number of voters on the register who had died.[27] This process was inevitably somewhat rough and ready.

The current debate

Since 1979 no further referendums have been held using a threshold. However, the issue has been raised from time to time. The *Referendums (Scotland and Wales) Act 1997* received a rapid passage through Parliament, achieving Royal Assent on 31 July 1997. In the event, the campaigners for a Yes vote in Wales won by a very narrow margin. However,

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23 HC 1077-1 2001-2, Q44

24 http://www.electoralcommission.org.uk/news-and-media/news-releases/electoral-commission-media-centre/news-releases-referendums/combining-polls--the-referendum-on-the-euro-and-the-devolved-legislature-elections

25 HL Paper 99 2009-10, para 145

26 *Scotland Act 1998*, s.85 *Wales Act 1998* s.80

27 Further detail is available in *The Referendum Experience: Scotland 1979* ed John Bochel and *The Welsh Veto* ed David Foulkes

there was some concern about the possible turnout for the North East referendum; the then junior minister, Nick Raynsford reportedly said during the launch of the referendum campaign that ministers would not approve the creation of assemblies in regions where the turnout was "derisory".[28] This term was not further defined. In the event, when the poll was held on 4 November 2004, there was a turnout of 47.8 per cent and 78 per cent of voters rejected a North East Assembly.[29]

A number of Members have expressed support for a threshold in any referendum on the voting system. Eleanor Laing questioned Nick Clegg during his appearance before the Political and Constitutional Reform Committee as follows:

> To come to thresholds, since the concern is for the validity of the outcome of the referendum - I am sure you agree that if you are to change something as important as the voting system it must not be open to challenge - you cannot spend the next four, 10 or 12 years defending what has happened; it must be definite. At what point is the threshold invalid? If 30% of people who can vote come out to vote and 51% of those decide to make a change that is only 15% of the population who vote in favour of change. Is that valid?[30]

In response, Nick Clegg expressed his opposition to thresholds:

> I believe the experience of the one occasion when a referendum with a threshold was held is that you create an incentive for the no vote to encourage people not to vote because an abstention in effect becomes tantamount to a no vote. I believe that to be a wrong dynamic. Surely, we have an interest in a referendum to encourage people to be engaged. You and I may disagree about how you go about doing it, but I hope we agree that if you are to hold a referendum you should not create a perverse incentive for one side of the argument to discourage people from participating at all. I believe that in principle that is not right.[31]

In his evidence to the Political and Constitutional Reform Committee, Dr Michael Pinto-Duschinsky argued in favour of 40 per cent threshold of the registered electorate for the AV referendum as “wholly reasonable” for a major constitutional change.[32]

2.6 Agreements to differ in a referendum campaign

Media reports have indicated that the Prime Minister, David Cameron, would not support a Yes vote,[33] whereas the Deputy Prime Minister would be campaigning for such a vote. The junior minister, Mark Harper (Conservative), who will be responsible for piloting the Bill through the Commons has indicated that he would campaign for a No vote in the referendum.[34] The Coalition Agreement of 20 May 2010 noted:

> We will whip both Parliamentary parties in both Houses to support a simple majority referendum on the Alternative Vote, without prejudice to the positions parties will take during a referendum. [35]

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28 See e.g. “Parliaments for the north: Prescott takes plans to the people”, *Independent*, 4 November 2003 p8

29 “North East votes ‘no’ to assembly” BBC News 5 November 2004

30 Evidence by Nick Clegg to Political and Constitutional Reform Committee 15 July 2010, Q33

31 Ibid, Q37

32 Memorandum from Dr Michael Pinto-Duschinsky to Political and Constitutional Reform Committee July 2010 AV 5

33 “Cameron will complain against vote system change” *BBC News* 2 July 2010

34 “Mark Harper backs first past the post” *Guardian* 12 August 2010

35 Coalition Programme, p27

This agreement to differ may introduce some strains to the principle of cabinet collective responsibility, but there are a number of precedents.

The three most recent 'agreements to differ' which suspended the principle of Cabinet collective responsibility were over Tariff policy in 1932, on the EEC referendum in 1975, and on the issue of direct elections to the European Assembly in 1977. These are outlined in Library Research Paper 04/82 *The collective responsibility of Ministers- an outline of the issue.* A brief summary is given below of the first two.

Tariffs policy (1932)

The first official 'agreement to differ' occurred in 1932 because of disagreements in the National Government between Conservative ministers and their coalition partners over tariff reform. Although no referendum was held, a brief description is given since this agreement to differ took place within the context of a peacetime coalition government. In the October 1931 general election the coalition candidates agreed not to stand in opposition to each other despite the clear split over tariffs. After the election, four members of Cabinet disagreed with the decision to impose a general tariff and proposed to resign.[36] The Prime Minister, Ramsay MacDonald, persuaded them not to do so by offering to allow them to express their disagreement publicly. The dissenters demanded that they be free to speak and vote against any tariff proposals, that MPs should have the same freedom and that the whips should not exert any influence to persuade Members to support the Government line.[37] The official terms of the 'agreement to differ' were published in *The Times* of 23 January 1932:

> This novel constitutional situation was debated in both Houses. In the Commons on 8 February, on a no-confidence motion,
>
> That this House can have no confidence in a Government which confesses its inability to decide upon a united policy and proposed to violate the long-established constitutional principle of Cabinet responsibility by embarking upon tariff measures of far-reaching effect which several of His Majesty's Ministers declare will be disastrous to the trade and industry of the country:[38]

For the Government, Stanley Baldwin said that the British constitution was a 'living organism' whose flexibility was beneficial to the country, and surveyed the history of Cabinet responsibility. The fact that the Government was a 'National' rather than a party one, and one with a huge majority (493), meant that the usual constitutional conventions of collective responsibility were not at stake: "The fate of no party is at stake in making a fresh precedent for a National Government. Had the precedent been made for a party Government, it would have been quite new, and it would have been absolutely dangerous for that party".[39] He continued:

> Is our action constitutional? Who can say what is constitutional in the conduct of a national Government? It is a precedent, an experiment, a new practice, to meet a new emergency, a new condition of things, and we have collective responsibility for the departure from collective action.[40]

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36 They were Lord Snowden, Lord Privy Seal (National Labour); Sir Donald Maclean, President of the Board of Education; Sir Archibald Sinclair, Scottish Secretary; and Sir Herbert Samuel, Home Secretary (all Liberals).

37 see I Jennings, *Cabinet government,* 3rd ed, 1965, pp 279-81

38 HC Deb 8 February 1932 cc515-630

39 Ibid c534

40 Ibid c535; see also the winding up speech of the Attorney-General, cc618-626

1975 EEC Referendum

Perhaps the most familiar instance of the twentieth century agreements to differ is that over the referendum of June 1975 on EEC membership. Europe had caused divisions within as well as between the two major parties, and the Labour Government had come into office in 1974 pledged to renegotiate the terms of UK entry and to allow the people to vote on the outcome, either by referendum or general election. Three senior Cabinet Ministers - Michael Foot, Tony Benn and Peter Shore - wrote to the Prime Minister, Harold Wilson, in late November stating that "Ministers will have very deep convictions that cannot be shelved or set aside by the normal process of Cabinet decision-making ... The only solution might be to reach some understanding on the basis of 'agreement to differ' on this single issue and for a limited period".[41]

In a statement on 23 January 1975 the Prime Minister announced that a referendum would be held before the end of June, once the outcome of the renegotiation was known and the Government had made its recommendation. He stated:

> The circumstances of this referendum are unique, and the issue to be decided is one on which strong views have long been held which cross party lines. The Cabinet has, therefore, decided that, if when the time comes there are members of the Government, including members of the Cabinet, who do not feel able to accept and support the Government's recommendation; whatever it may be, they will, once the recommendation has been announced, be free to support and speak in favour of a different conclusion in the referendum campaign. [HON. MEMBERS: 'Oh!'] [42]

The Opposition Leader, Edward Heath, noted that in that "unique operation and a major question of our time the Government are not going to maintain collective responsibility". He asked several questions about how the Government would make a recommendation; whether it would set out which Cabinet ministers supported the recommendation; and on the course the Prime Minister would follow.[43]

In his response, the Prime Minister said:

> The right hon. Gentleman said that a major constitutional question had been raised by what I have announced. This matter has divided the country. People on both sides of the question hold their views very deeply, very sincerely and very strongly. That applies both in this House and in the country. … while there may be differences about the Common Market, there is no division on this side of the House, or in the Cabinet, on the major issue of the referendum. That is why I believe it right to take this step in this unique situation.[44]

On 7 April, Mr Wilson set out the guidelines for the agreement to differ, as approved by the Cabinet:

> In accordance with my statement in the House on 23rd January last, those Ministers who do not agree with the Government's recommendation in favour of continued membership of the European Community are, in the unique circumstances of the referendum, now free to advocate a different view during the referendum campaign in the country.

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41 *Tony Benn: a political biography,* by R Jenkins, 1980 p219; *Against the tide: diaries 1973-76*, by Tony Benn, 1990 pp274, 283

42 HC Deb 23 January 1975 c1746. See also Benn, *op cit* p305, and *The Castle diaries 1974-1976* by Barbara Castle, 1980 pp287-92

43 Ibid, c1748

44 Ibid, c1750

> This freedom does not extend to parliamentary proceedings and official business. Government business in Parliament will continue to be handled by all Ministers in accordance with Government policy. Ministers responsible for European aspects of Government business who themselves differ from the Government's recommendation on membership of the European Community will state the Government's position and will not be drawn into making points against the Government recommendation. Wherever necessary Questions will be transferred to other Ministers. At meetings of the Council of Ministers of the European Community and at other Community meetings, the United Kingdom position in all fields will continue to reflect Government policy. I have asked all Ministers to make their contributions to the public campaign in terms of issues, to avoid personalising or trivialising the argument, and not to allow themselves to appear in direct confrontation, on the same platform of programme, with another Minister who takes a different view on the Government recommendation.[45]

A Labour backbencher, Michael English, asked the Speaker if the announced guidelines were a contempt and breach of privilege, because they restricted ministerial freedom to participate in Parliamentary proceedings. He pointed out that such a restriction did not apply in the 1932 situation.[46]

However the Speaker ruled that "in general, I think that arrangements made within political parties in this House would be unlikely to raise questions of contempt or privilege. Also, the Chair must be careful not to appear to be trying to interfere in such arrangements". He believed that the guidelines meant that "the new element is freedom to dissent in the country, not any change in the normal practices in this House".[47]

The Prime Minister clearly set the limits of the 'agreement to differ' when, in response to a Parliamentary Question, he stated that it would end "on 5 June, when the referendum poll has been closed".[48]

2.7 The referendum provisions in the Bill

The question

Clause 1 sets out the question as follows, with a version in Welsh:

> Do you want the United Kingdom to adopt the "alternative vote" system instead of the current "first past the post" system for electing Members of Parliament to the House of Commons?

Under PPERA, the Electoral Commission is required to issue a statement as to the intelligibility of any referendum question. The Commission produced its *Referendum Question Assessment Guidelines* in November 2009, as an indication of the principles to be used in assessing intelligibility. The Commission are in the process of providing an opinion on the question in the Bill.[49] Its statement is not expected until early September and it is carrying out focus group research. The Government is not obliged to accept the opinion of the Commission, but clearly it has strong persuasive force.

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45 HC Deb 7 April 1975 c351W. Several dissenting Ministers had issued a statement at a press conference on 23 March explaining their reasons for disagreeing with the Government's recommendation: *Keesings*, 1975, p.27137. See also Mr Wilson's written answer of 20 March, HC Deb Vol 888 c.471W; Benn *op cit* pp339-56 and Castle, *op cit*, pp347-9

46 HC Deb 8 April 1975 c1018

47 HC Deb 9 April 1975 c1238

48 HC Deb 13 May 1975 c65W

49 *Proposed UK referendum on changing the electoral system,* Electoral Commission July 2010

The franchise

The franchise to be used is that for Parliamentary elections; that is, British citizens including overseas voters and Irish and Commonwealth citizens resident in the UK. In addition, peers will be able to vote, but not EU citizens. This is set out in **Clause 2.** In the case of the 1975 EC referendum, the electorate was the Parliamentary franchise, with the addition of peers and special arrangements for the armed forces electorate.[50] Since 1997, the local electorate has been used for referendums in Scotland, Wales and London, and the Parliamentary for the Northern Ireland referendum. This indicates that there is no set pattern.

The referendum (campaign) period

Schedule 1, para 1 provides that the referendum period would begin on the day of Royal Assent, ending with the poll. PPERA provides that there should be a minimum of 10 weeks for this period, to allow electors an opportunity to understand the issues. During this period donations to and expenditure by campaign bodies is regulated. Campaigners who are not registered as participants cannot spend over £10,000 in a referendum (campaign) period. Donations over £7500 must be registered with the Electoral Commission and donations over £500 from an impermissible source must be returned Record must be kept of donations received over £500.[51]

PPERA established maximum expenditure limits for regional and national referendums. This was contrary to the recommendations of the Committee on Standards in Public Life, which argued that controls would be impractical and might be considered an unwarranted restriction on freedom of speech.[52]

Groups (including political parties, campaign groups and other bodies) must register with the Electoral Commission if they plan to spend more than £10,000 during the referendum period. For permitted participants, the maximum expenditure is £0.5m, unless they are designated as the lead organisation for the Yes or No vote, in which case they can spend up to £5m. For political parties, the limit is related to share of the vote at the last general election, ranging up to £5m. Only the Conservatives qualify for the full £5m, as their share of the vote was 36.1 per cent. Labour and the Liberal Democrats quality for £4m, since their share of the vote was between 20 and 30 per cent. These limits are set out in Schedule 14 of PPERA. It may be questioned why expenditure on referendums should be related to share of the vote at a general election.

Permitted participants must submit returns of expenditure to the Electoral Commission, within six months of the poll. A question which has been raised in relation to this legislation is the possibility of permitted participants setting up a proliferation of organisations, each attracting a spending limit of £500,000. This would make expenditure control very difficult, particularly as such groups would have a transitory existence. [53]

A number of witnesses to the Lords Constitution Committee inquiry into referendums in 2010 made these concerns public. The Committee recommended the aggregation of spending limits for permitted participants who operate to a common plan.[54] Dr Michael Pinto-Duschinsky has argued before the Political and Constitutional Reform Committee that the PPERA rules have several practical issues which need to be resolved before the referendum takes place.

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50 *Referendums Act* 1975, s1(3),(5)

51 Section 20 of the *Political Parties and Elections Act 2009*, which amended the limits in PPERA

52 Cm 4057 12.46-12.47

53 Evidence to Select Committee on Transport, Local Government and the Regions, 10 July 2002, HC 1077-1, Session 2001-2, Q85

54 *Referendums in the United Kingdom* HC 99 2009-10, para 200

Professor Keith Ewing has also questioned the possible application of the regulation to print media. In his evidence to the Political and Constitutional Committee, he noted "the definition of referendum expenses does not expressly exclude 'the publication of any matter relating to an election, other than an advertisement, in ... a newspaper or periodical'.[55] The definition of expenditure for the purpose of a referendum is set out in Schedule 13 to PPERA.

The Bill in **clause 4 and schedule 5** regulates loans made to permitted participants in a similar way to the regulation imposed on parties following the *Electoral Administration Act 2006.*

Schedule 1, para 15 makes provisions on the aggregation of expenses by persons acting in concert at the referendum, ensuring that where organisations are acting together, expenditure controls should not be circumvented. This has the same intent as s94(6) of PPERA which regulates third parties at elections.

Schedule 1, paras 9-12, enables permitted participants to appoint referendum agents to regulate expenditure, but this is not a requirement. Referendum agents may attend polling stations and be present at the receipt or opening of postal ballot papers etc.

A registered party, as a permitted participant under sections 105 and 106 of PPERA, would need to indicate the policy it intended to adopt. S106(7) defines 'outcome' as 'a particular outcome in relation to any question asked in the referendum. The declaration must be signed by the 'responsible officers of the party', defined in s64(7) as the 'registered leader', the 'registered nominating officer' and any other registered officer. Under s106, it is necessary to make the declaration in order to become a permitted participant. This may present some issues for parties which do not have an agreed position on the AV referendum. They may decide not to campaign as a party, but rather form separate groupings for the Yes and No campaign.

The Bill, in **para 13, Schedule 1** ensures that a party treasurer, as a responsible person under the PPERA, cannot act for more than one permitted participant. The changes have the same effect as section 18 of the *Political Parties and Elections Act 2009* in prohibiting responsible persons from acting for more than one organisation when campaigning in an election.

Designation of umbrella organisation

The Electoral Commission may nominate designated or umbrella organisations for each side. These benefit from maximum grants of £600,000 to each organisation, combined with a free referendum address to every household and referendum campaign broadcasts. Designated organisations have a maximum spending limit of £5 million. The Commission may decide not to designate, where it does not consider that an organisation exists which represents the body of opinion on one side. It cannot designate one side only. In his evidence to the Political and Constitutional Reform Committee, Professor Keith Ewing noted that this would be a particularly difficult decision since the political debate was not in essence a simple choice:

> In many ways the referendum is not really a straightforward battle between supporters of first-past-the-post and supporters of AV, since there are other voting systems that could have been proposed, notably proportional representation. When multiple choice is limited to binary alternatives, the status quo can have an undue and artificial

[55] Memorandum by Dr Graeme Orr and Prof K D Ewing to Political and Constitutional Committee July 2010 AV 2

> advantage: for example supporters of first-past-the-post may make odd bedfellows with supporters of proportional representation, to defeat the 'compromise' option of AV.[56]

In his evidence to the Political and Constitutional Reform Committee Dr Michael Pinto-Duschinsky argued that there were a number of well-established and well-funded pro-proportional representation groups, compared to the absence of groups already in existence which would defend First Past the Post. This would create a possible imbalance in campaigning.[57] A No to AV campaign was launched in August 2010, and Matthew Elliott of the Taxpayers' Alliance has been appointed to head the organisation.[58]

Regulation of publicity

Under PPERA, there is a 28 day period before the poll where any Government or local government publicity is regulated to ensure that it is not biased in favour of a particular outcome. Clearly, there may be questions of interpretation. The Electoral Commission argued in its written evidence to the Lords Constitution Committee inquiry into referendums that the regulation should extend to the whole of the referendum period, or at the very least the 28 day period before postal ballots are despatched.[59]

In the Bill, **Schedule 1, paras 7 and 8** give the Electoral Commission the role of promoting public awareness about the referendum and requires the Chief Counting Officer (the Chair of the Commission) to take steps to encourage participation. These were powers which have been requested by the Electoral Commission.[60]

Administration of the referendum

PPERA provides that the Chief Counting Officer for the referendum is the chair of the Commission, who may delegate responsibility to counting officers for each local government relevant area.[61] The Commission has pressed for legislation to clarify delegation powers on a regional basis.[62] **Schedule 1, para 2** allows for the appointment of Regional Counting Officers, and requires local authorities to put their electoral services officers at the disposal of the Regional Counting Officers. **Schedule 1, para 3** appears to provide for publication of the result of the referendum by region.

Schedules 2 and 3 set out the rules for the conduct of the referendum, which are modelled on the Parliamentary election rules in Schedule 1 of the *Representation of the People Act 1983.* There are provisions for absent votes which are similar to those applicable in Parliamentary elections. Special arrangements are made for Northern Ireland, where there is no absent voting on demand. **Schedule 4** provides that the rules governing registration and conduct of elections would apply in the referendum.

The implementation of the result of the referendum

If more votes are cast for Yes than No in the referendum, then the Bill provides for the commencement of a series of provisions introducing AV into parliamentary elections. These are discussed in more detail below under section 3.5. **Clause 6** requires the relevant minister to make an Order bringing into force section 7, Schedule 6 and part 1 of Schedule 7.

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56 Memorandum by Dr Graeme Orr and Prof K D Ewing to Political and Constitutional Committee July 2010 AV 2

57 Memorandum from Dr Michael Pinto-Duschinsky to Political and Constitutional Reform Committee July 2010 AV 5

58 "Matthew Elliott to lead AV "No" campaign" 22 August 2010 No2AV http://no2av.org/100822pr.pdf

59 http://www.electoralcommission.org.uk/__data/assets/pdf_file/0005/87413/Written-evidence-to-the-Constitution-Committee.pdf

60 http://www.electoralcommission.org.uk/__data/assets/pdf_file/0005/87413/Written-evidence-to-the-Constitution-Committee.pdf

61 Section 128

62 HC 1077-I, 2001-2

However, as noted above, there is a further requirement that commencement cannot begin until the Order making the necessary boundary changes reducing the size of the House of Commons to 600 has been submitted to Her Majesty, following Parliamentary approval.

If there is not a majority vote for Yes, then the Minister must make an Order repealing the AV provisions.

3 The Alternative Vote system

3.1 Background

For a brief history of proposals to change the First Past the Post voting system to the AV system for Parliamentary elections in the UK see Section 5 of the Library Standard Note SN/PC/5317, *AV and electoral reform*.

In 1997 the Labour Party manifesto contained a commitment to hold a referendum on the voting system for the House of Commons and the Jenkins Commission subsequently made proposals for reform of the electoral system.

The remit of the Independent Commission on the Voting System, chaired by the Rt Hon Lord Jenkins of Hillhead, had been to recommend an alternative to the existing system for Parliamentary elections to be put before the people in a referendum. The report was published in October 1998.[63] The Commission's central recommendation was that

> ...the best alternative for Britain to the existing First Past the Post System is a two-vote mixed system which can be described as either limited AMS or AV Top-up. The majority of MPs (80-85%) would continue to be elected on an individual constituency basis, with the remainder elected on a corrective Top-Up basis which would significantly reduce the disproportionality and the geographical divisiveness which are inherent in FPTP.

The Jenkins Commission had rejected AV, *on its own*, as an alternative to the First Past the Post system for UK Parliamentary elections:

> 81. The simplest change would be from FPTP to the Alternative Vote (henceforth referred to as AV). This meets several of our four criteria. It would fully maintain the link between MPs and a single geographical constituency. It would increase voter choice in the sense that it would enable voters to express their second and sometimes third or fourth preferences, and thus free them from a bifurcating choice between realistic and ideological commitment or, as it sometimes is called, voting tactically. There is not the slightest reason to think that AV would reduce the stability of government; it might indeed lead to larger parliamentary majorities. This is a formidable list of assets, particularly in the context of our terms of reference. And there are at least two further ones. AV would involve no change of constituency boundaries, and could thus be implemented from the moment that Parliament accepted a positive vote in a referendum. It would also virtually ensure that each MP commanded at least majority acquiescence within his constituency, which is far from being the case under FPTP, where as we have seen nearly a half of members have more opponents than supporters, and, exceptionally, a member can be elected (as in Inverness in 1992) with as little as 26% of the vote. However, it is necessary to acknowledge the argument that the second or subsequent preferences of a losing candidate, if they are decisive, are seen by some as carrying less value (and even as arising almost accidentally) and so contributing less to the legitimacy of the result, than first preference votes (or indeed the second preferences of the most powerful candidates).

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63 Cm 4090

> 82. Beyond this AV on its own suffers from a stark objection. It offers little prospect of a move towards greater proportionality, and in some circumstances, and those the ones which certainly prevailed at the last election and may well do so for at least the next one, it is even less proportional that FPTP. Simulations of how the 1997 result might have come out under AV suggest that it would have significantly increased the size of the already swollen Labour majority. A 'best guess' projection of the shape of the current Parliament under AV suggests on one highly reputable estimate the following outcome with the actual FPTP figures given in brackets after the projected figures: Labour 452 (419), Conservative 96 (165), Liberal Democrats 82 (46), others 29 (29). The overall Labour majority could thus have risen from 169 to 245. On another equally reputable estimate the figures are given as Labour 436, Conservatives 110, Liberal Democrats 84 and others 29, an overall majority this time of 213. On either basis an injustice to the Liberal Democrats would have been nearly two-thirds corrected (their strictly proportional entitlement was 111 seats) but at the price of a still greater injustice to the Conservatives. The Conservative 30.7% of the votes should strictly have given them 202 seats. Instead FPTP gave them 165 or 25% of the seats, whereas AV would have given them on one estimate only 96 (or 14.6% of the seats), and on the more favourable one from their point of view 110 seats (or 16.7% of the total)....
>
> 85. The Commission's conclusions from these and other pieces of evidence about the operation of AV are threefold. First, it does not address one of our most important terms of reference. So far from doing much to relieve disproportionality, it is capable of substantially adding to it. Second, its effects (on its own without any corrective mechanism) are disturbingly unpredictable. Third, it would in the circumstances of the last election, which even if untypical is necessarily the one most vivid in the recollection of the public, and very likely in the circumstances of the next one too, be unacceptably unfair to the Conservatives. Fairness in representation is a complex concept, as we have seen in paragraph 6, and one to which the upholders of FPTP do not appear to attach great importance. But it is one which, apart from anything else, inhibits a Commission appointed by a Labour government and presided over by a Liberal Democrat from recommending a solution which at the last election might have left the Conservatives with less than half of their proportional entitlement. We therefore reject the AV as on its own a solution despite what many see as its very considerable advantage of ensuring that every constituency member gains majority acquiescence.

Library Research Paper 98/112, *Voting Systems: the Jenkins Report* gives further details of the report, which proposed an AV plus system, which supplemented AV with a party list system. The Labour Government did not respond formally to Jenkins but the report was the subject of a debate in the House of Commons on 5 November 1998.[64] The proposal for a Alternative Vote Plus system was not put to a referendum.

In 2001 the Labour Party manifesto promised a review of Britain's experience of the new PR voting systems introduced since 1997 before any consideration of changes to the electoral system for the House of Commons. An Independent Commission on PR was established by the Constitution Unit of University College London to assist that review and published *Changed Voting Changed Politics: lessons of Britain's experience of PR since 1997* in 2003**.** The co-chairs of the Independent Commission were David Butler and Peter Riddell and its members included Nick Clegg, then a MEP. The Commission did not aim to make a recommendation either for or against a change for Westminster and concluded that changing the electoral system for the House of Commons from First Past the Post to one of the variants of PR discussed in the report would have far-reaching effects:

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64 HC Deb 5 November 1998 c1032-1113

> First, there would probably be some increase in the number of smaller parties represented in the Commons, the exact number depending on the precise system used.
>
> Second, coalition or minority governments would be probable, involving a more co-operative and consultative style of politics.
>
> Third, changing the electoral system might, possibly, inspire more confidence in politicians, given the evidence that voters might welcome the opportunity to express more choice over whom should represent them.
>
> Fourth, a preferential system such as the Single Transferable Vote or open party lists would put a greater focus on individual candidates and encourage greater diversity.[65]

In 2005 the Labour Party manifesto stated that the party remained 'committed to reviewing the experience of the new electoral systems' and repeated the 2001 statement that a referendum remained the 'right way to agree any change for Westminster'.[66] The Labour Government's review of voting systems in the UK was subsequently published on 24 January 2008.[67] The publication of the review was announced in a Written Ministerial Statement by Michael Wills, then Minister of State at the Ministry of Justice.[68] Mr Wills said that the review provided:

> …a summary of the experiences of the new voting systems introduced over the past decade and on that basis sets out the advantages and disadvantages associated with each. It uses a range of commonly accepted criteria for assessing the experience of the new voting systems. These include the degree of proportionality under different systems, the impact on voters in terms of the choices available, voter turnout rates, the impact on political campaigning, social representation, Government formation and administration of elections under different systems.[69]

A Ministry of Justice press notice summarised the findings of the review:

- there is no clear causal relationship between proportional representation and a range of desirable outcomes;
- the new voting systems have led to more proportional allocation of seats in devolved administrations, which has resulted in more parties being represented in the elected bodies and given rise to a tendency towards coalition government;
- it has not been the experience of the UK that voter participation has risen with the introduction of proportional systems, although there is some evidence that proportional systems have a marginally higher turnout internationally;
- positive action policies have a greater impact on increasing women's representation than more proportional voting systems;
- there has been little change to party campaigning, with continued emphasis on winning constituency seats;

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65 *Changed Voting Changed Politics: lessons of Britain's experience of PR since 1997,* final report of the Independent Commission to Review Britain's Experience of PR Voting Systems, April 2003, p12

66 Labour Party manifesto, 2005

67 *Review of Voting Systems: the experience of new voting systems in the United Kingdom since 1997.* Cm 7304, January 2008

68 HC Deb 24 January 2008 c 61WS

69 Ibid

- changes to voting systems require significant research, planning and testing to ensure voters understand the system and can use their vote.[70]

3.2 The Constitutional Reform and Governance Bill 2009-10

The *Constitutional Reform and Governance Bill* was introduced in the 2008-09 session and carried over into the 2009-10 session. In response to a Parliamentary Question on 6 January 2010 the then Minister of State, Michael Wills, said:

> ... the Prime Minister has set out our commitment to a referendum being held early in the next Parliament for the people to decide whether they want to move to the Alternative Vote system for elections to the House of Commons, for which legislation will be required...[71]

On 2 February 2010 Gordon Brown announced in a speech to the Institute for Public Policy Research that the Labour Government was tabling amendments to the *Constitutional Reform and Governance Bill 2009-10* which would make provision for a referendum on changing to the AV system for UK Parliamentary elections. He said:

> I believe we should ask the people to look afresh at whether the electoral system can enhance the mandate of the constituency MP, as well as engaging people further in the choice they have at the ballot box. The alternative vote system has the advantage of maintaining the benefit of a strong constituency link; allowing MPs to be not simply policy makers, but also community leaders, community organisers, and the strongest champions for neighbourhoods they know and love.[72]

The Liberal Democrat Party tabled amendments to the new clauses substituting STV for the AV system. Dominic Grieve, speaking for the Conservative Party, claimed that the new clause had been tabled "following the Prime Minister's belated conversion to the cause of electoral reform".[73] Mr Grieve continued:

> My view, particularly in the light of his [Mr Straw's] remarks about the state into which the House has fallen, is that the electorate want the opportunity to express their views, and that if they happen to have a very adverse view of a Member of Parliament, they will want that Member to be removed. The last thing that they want is a situation in which the person against whom they have an adverse view comes second, but then magically comes first when the alternative votes are transferred.[74]

David Howarth commented for the Liberal Democrats:

> Although new clause 88 is far from perfect...and although we will seek to amend it radically, we will support it in the Lobby, at least so that it is read a Second time.[75]

Later on, he said that the Liberal Democrats would:

> ...vote for amendment (b) to Government new clause 88 so that the referendum is between first past the post and a proportional system. What will we do if that is defeated? Although the new clause is a very small step in the right direction, there are two truths. First, changing the electoral system is on the political agenda, which is a big and important point for us. Secondly, AV is a preferential system, which we are in

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70 "Governance of Britain – UK voting systems review", *Ministry of Justice press release*, 24 January 2008
71 HC Deb 6 January 2010 c433W
72 "Towards a new politics", Speech by Gordon Brown to the IPPR, 2 February 2010, pp7-8
73 Ibid c806
74 Ibid c807
75 Ibid c823

> favour of. The system we support-STV-is a preferential system, but it just happens to be proportional as well.[76]

At second reading in the House of Lords on 24 March 2010, Lord Bassam of Brighton, then Government Chief Whip, said that a referendum on electoral reform was needed due to the "crisis of confidence in our political system and our politicians".[77] He went on to say that a change to the AV system was:

> A credible alternative which would go with the grain of what the British people value in our current system and build on those strengths – particularly on the single-Member constituency, the directness and depth of the relationship between constituents and their representatives and the majoritarian system that is right for the House of Commons.[78]

The clauses in the Bill relating to a referendum on electoral reform were, however, removed as part of the wash-up process on 7 April 2010 before the dissolution of Parliament.[79]

3.3 How AV works

The Labour Government's review of voting systems in the UK, published in 2008 (see above), provided summaries of different voting systems. The section on AV is given below:

Alternative Vote (AV)

Summary

Voters fill in a ballot paper by marking their ballot paper 1,2,3 etc against their most preferred individual candidates in a single member seat. Winning candidates must get more than 50% of the votes as the second and later preferences of the least successful candidates are counted in turn.

Example:
Three parties stand for election – Party A, Party B and Party C. At the polling booth, voters list each party in order of preference. On election day, 120 people turn-out to cast their vote. The votes are counted and tallied as follows (third preferences have been omitted for the sake of simplicity):

	42 voters	17 voters	10 voters	51 voters
1st preference	Party B	Party A	Party A	Party C
2nd preference	Party A	Party B	Party C	Party A

The first preferences are counted and the results are:

Party A = 27, Party B = 42, Party C = 51

No candidate has the 61 votes needed to win an outright majority. Party A has the fewest votes, so is eliminated. The votes of those who put Party A as their first preference are then re-distributed to their second preference nominations. In this example, 17 votes are transferred to Party B and 10 votes are transferred to Party C. After this process, the new result is:

Party B = 59, Party C = 61

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76 Ibid c824
77 HL Deb 24 March 2010 c960-1
78 Ibid c961
79 HL Deb 7 April 2010 c1610

Winning candidates have to get more than 50% of the votes under the AV system. The tables below show the number of MPs elected at the 2005 and 2010 general elections with more than and less than 50% of the vote in their constituencies, under First Past the Post.

General election 2005

MPs by share of vote

Share of votes	Number	%
less than 50%	430	66.6%
50% or more	216	33.4%
Total	**646**	**100.0%**

General election 2010

MPs by share of vote

	Number	%
less than 50%	432	66.5%
50% or more	218	33.5%
Total	**650**	**100.0%**

Source: HC Library Elections Database

There are distinct types of AV. Voters may be required to rank all candidates on offer, as has been the case in Australia, or to simply indicate as many choices as they wish.[80] A variant of AV, the Supplementary Vote (in which voters express their first and second preferences only), is in use in the UK for the election of the London Mayor and local authority mayors. France uses the second ballot system, which can be seen as an elongated version of AV.[81]

Academics giving evidence to the Political and Constitutional Reform Committee differed in their assessment of the impact of AV on British politics and elections. Dr Pinto-Duschinsky argued that that it would lead to coalition governments, whereas Professor Justin Fisher of Brunel University thought the effects would be more limited and that it would take time for political parties to adapt; Professor Patrick Dunleavy of the LSE argued that the change simply reflected the decline of the two party system in the UK.[82]

3.4 Provisions in the Bill on AV

The Bill introduces a form of AV which does not require the voter to give preferences for every candidate. This is known technically as Optional Preferential Voting.[83] This is made clear in **clause 6** which inserts a new Rule 37A into the Parliamentary Election Rules requiring AV to be used. It also inserts Rule 45A which governs the counting of the votes. The *Explanatory Notes* to the Bill explain the process as follows:

> 33. Subsection (2) inserts a new rule 45A which sets out how votes are to be counted under the alternative vote system. The key principle (contained in new rule 45A(1)) is that votes should be counted to give effect to the preference or preferences that voters

80 See *About Australia: our electoral system* Australian Government 2008; see also How to Vote for House of Representatives page Australian Electoral Commission 2010

81 See evidence from Professor Patrick Dunleavy (AV7) and Dr Graeme Orr and Prof K D Ewing (AV) to the Political and Constitutional Reform Committee for technical descriptions of the variants of AV in July 2010

82 http://www.parliament.uk/business/committees/committees-a-z/commons-select/political-and-constitutional-reform-committee/

83 See Schedule 6, para 12 of the Bill for the form of the ballot paper making this clear

express when marking their ballot paper. The candidate who is elected is determined by allocating votes in line with those preferences. It may be necessary for more than one stage of counting to take place for this to happen. The remainder of new rule 45A describes the circumstances in which more than round may be needed and what is to happen during each round.

34. Paragraph (2) of the new rule provides that if after the counting of voters' first preferences, any candidate has more votes than the other candidates put together (i.e. more than 50% of the votes) then that candidate is elected.

35. Under paragraph (3) if no candidate has more than 50% of the votes at this stage, then there would be a further round of counting. The candidate with fewest votes is eliminated. If voters who chose that candidate as their first preference also expressed other preferences each vote originally allocated to the eliminated candidate is reallocated to the candidate remaining in the count that the voter ranked highest. Where a ballot paper does not express any further preferences, or the preferences relate to candidates who have already been eliminated, the ballot paper plays no further part in the counting. If a candidate has more than 50% of the votes left in the count once this reallocation of votes has taken place, the candidate is elected. If not, then a further round of counting will take place and the candidate now with fewest votes is eliminated and their votes reallocated. This process continues until one candidate has more than 50% of the votes left in the count and is elected.

36. New rule 45B (also inserted by subsection (2)) requires the returning officer to make publicly available a record of all the information listed in that rule at the end of each counting stage (except the final stage, at which the candidate is elected and the result is declared under rule 50) so that candidates and their agents and other persons at the count are aware of the state of play at the end of each counting stage.

Schedule 6 sets out other amendments to be made to the Parliamentary Elections Rules contained in Schedule 1 to the *Representation of the People Act 1983* to replace First Past the Post with the Alternative Vote system. These are not covered in detail in this Paper; the *Explanatory Notes* to the Bill give a detailed commentary. The amendments insert and amend existing rules, rather than create a new set of rules. One issue which may arise is the question of order of candidates on the ballot paper, currently alphabetical. The Australian practice is for the order to be decided by lot.

It is worth noting that para 8 of Schedule 6 requires the returning officer to give detailed information on the results of the ballot, including the stages at which candidates were eliminated and number of votes allocated to each candidate in accordance with voters' first preferences, and for each subsequent stage of counting. In his evidence to the Political and Constitutional Reform Committee on 27 July, Professor Patrick Dunleavy argued that the second preferences of all voters should be published, as in the elections for the London Mayor held under the Supplementary Vote system.

4 The size of the House of Commons

This part of the Paper looks at the background to the policy changes in the Bill and draws attention to the relevant clauses according to subject matter.

4.1 Historical background

'Constituencies are not merely areas bounded by a line on a map; they are living communities with a unity, a history and a personality of their own.' James Callaghan, HC Deb 19 June 1969 c742

Changes in the size of the House of Commons in the nineteenth century are summarised in a passage from *The Boundary Commissions: redrawing the UK's map of Parliamentary constituencies* by D.J. Rossiter et al as follows:-

> Each country was allocated a number of seats in the House of Commons when it joined what eventually became the United Kingdom. Scotland, for example, was allocated 45 by the Act of Union of the English and Scottish Parliaments in 1707…and this was raised to 53 in 1832, 72 in 1885 and 74 in 1918. Ireland was allocated 100 seats by the Act of Union in 1800; this was increased to 105 in 1832 but reduced to 103 in 1885; when the Irish Free State left the UK, 12 were retained for Northern Ireland, which was a less than proportionate number relative to either population or electors because a separate Assembly was established for Northern Ireland. Wales initially had 24 seats: including Monmouthshire it had 27 before the 1832 Reform Act and 31 after, and the number was increased to 33 in 1868, 34 in 1885 and 37 in 1918.[84]

Different entitlements for separate constituent parts of the UK were formalised in legislation in 1944 which guaranteed Wales a minimum of 35 seats and Scotland a minimum of 72, setting 613 as a target for the whole of the United Kingdom. This is discussed below in section 4.6.

During the twentieth century there was a steady increase in the number of Parliamentary constituencies from 615 in 1922 to 625 in 1950, 630 in 1955, 635 in 1974, 650 in 1983, 651 following the splitting of Milton Keynes in 1992 and 659 from 1997. The reasons for the incremental growth in the number of seats and the concerns that were voiced by the Home Affairs Select Committee in a report published in February 1987[85] are noted in chapter 3 of the guidance booklet from the Boundary Commission for England, which it published at the start of the fifth review in 2000:[86]

> 25. The cause of the incremental growth is the combined effect of the Rules for Redistribution of Seats contained in Schedule 2 of the Parliamentary Constituencies Act 1986... Rule 8 defines the electoral quota (the figure to which constituency electorates should approximate) as the total electorate of England divided by the existing number of seats. Any extra seats created under rules 5 and 6 (for reasons of electoral parity and geography) in one review are therefore included in the divisor for calculating the electoral quota for the next review, thus creating a ratchet effect.[87]

4.2 Attempts to reduce the size of the House of Commons

There have been a number of attempts in the last twenty five years to bring forward legislation to reduce the size of the House of Commons. Brief details of these Private Members' Bills are given below.

On 25 March 1986, Robert Rhodes James (Conservative) introduced the *Representation of the People (Amendment) Bill 1985-86* 'to provide for a reduction in the number of Parliamentary constituencies to 500, with a minimum constituency population of 100,000, and for connected purposes'. [88]

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84 Manchester University Press, 1999

85 *Redistribution of seats*. Home Affairs Select Committee second report with proceedings & appendices. HC 97 1986/87

86 *The Review of Parliamentary Constituencies in England,* Boundary Commission for England, 2000.

87 Ibid, p7

88 Bill 120 of 1985-86

Sir Peter Emery (Conservative) presented a Private Member's motion on 8 March 1991 calling for a reduction of 100 in the number of Members.[89]

In February 1995, Spencer Batiste (Conservative) sought unsuccessfully to introduce the *House of Commons (Distribution of Seats) Bill,* designed to fix the electoral quota throughout the UK at pre-1958 levels. This would have reduced the total number of Members to 629 and he proposed that that figure should henceforth be the maximum allowed.[90]

In January 1998, Richard Page (Conservative) introduced a Ten Minute Rule Bill - the *Parliamentary Boundary Commissions (Amendment) Bill*. He proposed a gradual reduction in the number of Members to about 400 to 450 with 100,000 people per Member of Parliament.[91]

On 15 October 2003 Andrew George (Liberal Democrat) introduced a Ten Minute Rule Bill, *Representation of the People (Consequences of Devolution)* on 15 October 2003.[92] He also secured a Westminster Hall debate on the size of the Commons on 22 June 2004.[93] Responding to the debate the then Parliamentary Under-Secretary for Constitutional Affairs, David Lammy, said

> In considering what the right number of MPs is, we need to examine both ends of the spectrum. How many MPs do we need to ensure that we do our jobs properly here, and how many to ensure that we do our jobs properly in our constituencies? The answers may well not be the same, so we have to balance the two sets of considerations. That is one of the issues that feeds into the work of the boundary commissions. We have, for many years, concluded that that balance is best kept with an average constituency size of about 70,000 electors...]
>
> I accept that perceived inefficiencies in Parliament may harm the relationship between politicians and the public, but increasing the size of constituencies may make Members more remote, reducing the personal element and their value. The personal link between a Member and his constituency is a central and valued part of our political democracy. It is important that we place that at the centre of the debate.[94]

In 2005 John Maples (Conservative) introduced a Ten Minute Rule Bill, the *Parliamentary Constituencies (Equalisation) Bill 2005-06*, which sought to equalise the size of all Parliamentary seats.[95] John Maples argued that

> …the quota must be paramount. There should be a United Kingdom quota, and the boundary commission should be instructed that it may not deviate by more than 5 per cent in either direction. There should be a single boundary commission for the whole United Kingdom, so that the same rules are seen to apply everywhere. Secondly, boundary reviews should happen more frequently. I suggest at least one review every four years—one for each Parliament. That would allow more frequent, but necessarily smaller, adjustments.[96]

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89 HC Deb 8 March 1991 cols 635-40
90 HC Deb 28 February 1995 cols 853-7
91 HC Deb 20 January 1998 cols 818-9
92 http://www.publications.parliament.uk/pa/cm200203/cmhansrd/vo031015/debtext/31015-03.htm#31015-03_head1
93 http://www.publications.parliament.uk/pa/cm200304/cmhansrd/vo040622/halltext/40622h03.htm#40622h03_head0
94 HC Deb 22 June 2004 c349WH
95 http://www.publications.parliament.uk/pa/cm200506/cmhansrd/vo051207/debtext/51207-04.htm#51207-04_spnew0
96 HC Deb 7 December 2005 c874

In 2004 Andrew Tyrie MP (Conservative) wrote a pamphlet, *Pruning the politicians: the case for a smaller House of Commons* in which he called for a 20% reduction in the number of constituencies, in two tranches ten years apart ,and for constituencies to be of equal size.[97] Mr Tyrie's publication of 2006 revealed that the Conservatives were considering a small reduction in the number of MPs and noted that "even a modest reduction of, say, 10%, would bring annual public expenditure savings of £10-15 million".[98]

Shortly after the publication of Andrew Tyrie's pamphlet, Lord Baker of Dorking (Conservative) introduced a Private Member's Bill, the *Parliamentary Constituencies Bill (Amendment) Bill [HL] 2006-07,* in the House of Lords on 5 February 2007. During his speech in the second reading debate Lord Baker said that the provisions in his Bill would mean that

> …an average size of constituent electorate for all the United Kingdom would be 76,000 per constituency, which would have the following effect: under a general reduction to 581 MPs, England would have 486, 43 fewer than now; Wales would have 29, 11 fewer; Scotland would have 51, 8 fewer; and Northern Ireland would have 15, three fewer. All countries would lose some seats, but they would be a standard electorate size, which is only just and fair. Votes are worth the same wherever they are throughout the United Kingdom. It has always been said that we should overcompensate for Wales and Scotland. I do not think that that is fair, and there is always the issue of very large constituencies. One MP in Western Australia represents a constituency which is the size of the whole of western Europe, although I am not suggesting anything quite so radical for Scotland.
>
> I believe that this is a sensible suggestion. It was put forward in 1988 by Roy Jenkins in his report, which is still revered somewhere in the Liberal party, on electoral reform; namely, that there should be a single electoral quota, 76,000.[99]

4.3 Conservative Party policy before the 2010 general election

In his speech on political reform on 26 May 2009, David Cameron said that a Conservative government would reduce the number of MPs:

> Today, we've got far too many MPs in Westminster. More people sit in the House of Commons than in any other comparable elected chamber in the world. This is neither cost-effective nor politically effective: just more people finding more interfering ways to spend more of your money. I think we can do a better job with fewer MPs: we can, to coin a phrase, deliver more for less. So at the election we will include proposals in our manifesto to ask the Boundary Commission to reduce the House of Commons, initially by 10 per cent. And while they're at it, to get rid of the unfair distortions in the system today, so that every constituency is the same size in each of the nations of the UK.[100]

The Conservative party manifesto for 2010 subsequently said that a Conservative government would reduce the number of MPs by 10 per cent.[101]

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97 *Pruning the Politicians: the case for a smaller House of Commons* by Andrew Tyrie MP, Conservative Mainstream, 2004

98 Andrew Tyrie, *The Conservative Party's proposals for the funding of political parties*, March 2006, p7

99 HL Deb 18 May 2007 c399 For a discussion of the proposals in Lord Baker's bill, see *Can the Boundary Commissions help the Conservative Party? Constituency size and electoral bias in the United Kingdom*, by Ron Johnston, Iain McLean, Charles Pattie and David Rossiter. Political Quarterly, Vol 80, No 4, October-December 2009

100 http://www.conservatives.com/News/Speeches/2009/05/David_Cameron_Fixing_Broken_Politics.aspx

101 Conservative Party manifesto 2010, p8

A Conservative amendment was tabled to the *Constitutional Reform and Governance Bill 2009-10* on the sixth day in Committee (9 February 2010) which outlined the Conservative Party's plans to reduce the size of the House of Commons by 10 per cent. The amendment was not called. It is reproduced in Library Standard Note SN/PC 5570, *Reducing the size of the House of Commons*.

4.4 2010 General Election manifestos on redistribution

Labour proposed a non-partisan Parliamentary Boundary Review to examine the rules for the redistribution of seats, together with a referendum on introducing the Alternative Vote (AV) system for elections to the Commons. The Party's 2010 manifesto stated:

> The cost of politics to the taxpayer must be minimised, but we reject using this as an excuse to gerrymander constituency boundaries in the interests of one political party. We will establish a non-partisan Parliamentary Boundaries Review to examine the rules for constructing parliamentary constituencies.[102]

The Liberal Democrats have a long standing policy of electoral reform, preferring the Single Transferable Vote system and the Party's manifesto in 2010 stated that the Liberal Democrats would:

> Change politics and abolish safe seats by introducing a fair, more proportional voting system for MPs. Our preferred Single Transferable Vote system gives people the choice between candidates as well as parties. Under the new system, we will be able to reduce the number of MPs by 150.[103]

4.5 The policy of the Coalition Government

In his 5 July statement, Mr Clegg announced that the number of seats would be reduced from 650 to 600.[104] Previously, it had been expected by commentators that the reduction would be to 585, which represented a ten per cent reduction. However, the Coalition Government programme of 20 May 2010 had spoken only of a commitment to create fewer and more equal sized constituencies.[105] There has been some interest in the choice of 600 as the optimum size of the Commons. The number has not resulted from public consultation, nor is it to be the subject of a referendum. The following sections summarise how the size of the Commons has altered in historical terms and how redistributions have taken place until these new proposals. The allocation of seats to the constituent parts of the United Kingdom is also addressed, together the implications of the Bill for Scotland, Wales and Northern Ireland, both at Westminster and for their devolved bodies.

4.6 A brief history of redistribution

Library Standard Note SN/PC/5628, *The Rules for Redistribution of Seats – history and reform*, sets out how the current Rules for the Redistribution of Seats in the Commons have evolved from the Speaker's Conference in 1944 and looks at calls for reform of the Rules. A brief history of redistribution is given below.

Before the present machinery was set up four great redistributions took place, in 1832, 1868, 1885 and 1918. All of them were done on an 'ad hoc' basis and all were linked to extensions of the franchise. Initially the franchise was so restricted that the anomalies in seat distribution were not so apparent but as the franchise was extended these anomalies became more obvious. It came to be accepted that equal voting rights needed to be

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[102] Labour Party Manifesto 2010
[103] Liberal Democrat Manifesto 2010
[104] HC Deb 5 July 2010 c23
[105] The Coalition: Our Programme in Government 20 May 2010

accompanied by equality of representation which meant that there needed to be numerical equality of electors between constituencies. By 1917 this had become a settled principle and the report of the Speaker's Conference of that year stated that "each vote shall as far as possible, command an equal share of representation in the House of Commons."[106]

In January 1942 a committee was appointed to inquire into various electoral matters. This committee was chaired by the Registrar General, Sir Sylvanus Vivian. In its report, published in December 1942, the committee commented that the equal representative status of MPs and the territorial nature of representation were essential features of the British electoral system. The Committee recommended that there should be three permanent statutory Boundary Commissions, one for England and Wales, one for Scotland and one for Northern Ireland. The committee also recommended that the commissions should carry out a general review of constituencies once in the lifetime of every full term Parliament.[107]

The Speaker's Conference of 1944, which was asked to consider the question of detailed rules for the Boundary Commissions to follow, subsequently agreed that there should be four Commissions (one for each of the four constituent parts of the UK) and that these Commissions would carry out reviews at intervals of not less than three and not more than seven years. This was provided for in the *House of Commons (Redistribution of Seats) Act 1944*. The Conference had also recommended that there should be a division of the abnormally large constituencies and that redistribution should be on the basis of an electoral quota for Great Britain calculated from the qualified electorate and with 25% tolerance on either side; local and Parliamentary boundaries would coincide 'where convenient' and the Commissioners were to be permitted to depart from the strict application of the rules if they felt that this was desirable because of special geographical considerations such as area, shape and accessibility of a constituency.

The initial review 1947

A more thorough redistribution took place after the end of the Second World War and the return of service men and the compilation of new electoral registers. The recommendations of the initial review were published in 1947.[108] This formed the basis of the *Representation of the People Act 1948*.[109] The following year the *House of Commons (Redistribution of Seats) Act 1949* was passed, which repealed the 1944 Act, but took the principle of periodic review forward and established the rules for the reviews.[110]

Writing in 1963, David Butler looked back at the 1948 redistribution and commented:

> A tribute to the fairness of the 1948 redistribution is perhaps to be found in the fact that in 1950 the average electorate in seats won by the Conservatives was only a fraction more than in seats won by the Labour Party (55,270 compared to 55,161). Estimates made by the parties and a careful check of individual boundary changes suggest that the 1948 redistribution may have cost the Labour Party thirty seats. One of the benefits of continuous redistribution is that no party is likely to suffer so sharply in future.[111]

The provision for 25% tolerance on either side in the Rules for Redistribution had been removed by the *House of Commons (Redistribution of Seats) Act 1947* after informal complaints from the Commissioners.

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106 Cd 8463

107 Report of the Committee on Electoral Machinery, Cmd 6408, 1942

108 *Boundary Commission for England Constituted in accordance with the House of Commons (Redistribution of Seat) Act 1944 Initial Report*, Cmd 7260, October 1947

109 *Representation of the People Act 1948,* (11 & 12 Geo 6, chapter 65)

110 The *House of Commons (Redistribution of Seats) Act 1949* (12 & 13 Geo 6 chapter 66)

111 *The Electoral System in Britain since 1918* by David Butler, 2nd ed., 1963, p219

First Periodical Review 1954

Under the 1944 rules incorporated into the 1949 Act a further general review was due between three and seven years after the Act implementing the initial review, i.e. not earlier than 1951 or later than 1955. Subsequent reviews were to be dated from the submission of the previous report. The publication of the final reports of the Boundary Commissions in 1954 aroused controversy. David Butler summarised the main problems:

1. There was no administrative procedure for appeal from the Commissioners' revised recommendations.

2. The English Boundary Commissioners (unlike the others) failed to explain their decisions.

3. The redistribution took place too soon. There were few gross anomalies, but the rigorous pursuit of mathematical equality meant that, after only five years, 170 constituencies had their boundaries altered, often drastically.

4. There was no real possibility of Parliament or the Government altering the Commissioners' recommendations, so that the debates on them became farcical.

5. In several major respects, the rules laid down for the Boundary Commissions were ambiguous, contradictory, or inadequate.[112]

Recourse was had to the courts in December 1954 in attempts to block the implementation of the Commissions' proposals. In *Harper v the Home Secretary* a challenge was made to a draft Order in Council which had been approved by the Commissions relating to one of the recommendations made by the Boundary Commission for England. The plaintiffs claimed that the report did not comply with the Rules for Redistribution as the English Boundary Commission had wrongly calculated the electoral quota. An interim injunction was granted but this was overturned by the Court of Appeal which held that questions as to whether the Boundary Commissions had followed the correct procedure were for Parliament rather than the courts and that it had been unable to detect any error in the Commission's approach.

The First Periodic Review had caused strong opposition to change; after five years, 170 constituencies had had their boundaries altered, often in a major way.[113] There had been 43 separate Orders for England and Wales brought forward separately; 31 of these were debated in two all-night sittings on 16 December 1954 and 26 January 1955. This was the last time that separate Orders were laid before the House.[114] In contrast, the 1958 Act enjoyed broad political support, following inter-party consultations in 1956 and 1957 which led to all party support for changes made in the *House of Commons (Redistribution of Seats) Act 1958.* The Home Secretary, R.A Butler, said on second reading: "the effect of the Bill is to bring in a presumption against making changes unless there is a very strong case for them".[115]The main changes were as follows:

- The electoral quota was to be calculated separately in each of the four parts of the UK.

- The interval between general redistributions was increased from 3-7 to 10-15 years.

- The composition of the Commissions was changed, reducing membership from five to three, with the Registrars General and directors of the Ordnance Survey becoming

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[112] *The electoral system in Britain since 1918*, by David Butler, 2nd ed., 1963

[113] For accounts of the difficulties, see *The Boundary Commissions* pp92-94

[114] See Standard Note 3222 Parliamentary Constituency Boundaries; The Fifth Periodic Review, part 6 for the details of parliamentary debates on redistribution legislation and orders since 1832

[115] HC Deb 11 February 1958 c230

Assessors instead of Commissioners. The Speaker continued to be the *ex-officio* Chairman but lost the power to select the Deputy Chairman who was henceforth to be a High Court judge (Court of Session judge in Scotland).

- The Boundary Commissioners were given greater latitude to depart from the electoral quota to leave constituencies undisturbed.

- Provision was made for more local inquiries (mandatory in certain circumstances) and two rounds of representations.

Second Periodical Review

When the Boundary Commissions reported in June 1969 the then Home Secretary, James Callaghan, announced that the government had decided not to implement the proposals in full in view of the impending reorganisation of local government. Callaghan introduced a bill to suspend the alteration to constituencies until this reorganisation was completed. There were many accusations of gerrymandering[116] and the bill was eventually blocked in the House of Lords in October 1969. The Labour government abandoned the bill but used its majority to defeat the Orders implementing the Boundary Commissions' recommendations in November 1969. The 1970 general election was therefore fought on unchanged boundaries. The Conservatives had promised in their manifesto to implement the Commissions' recommendations in full and this was done on 28 and 29 October 1970. The recommendations did not take effect until the next general election in February 1974, nearly five years after the Commissions' final reports.

Third Periodical Review

The third periodical review followed the reorganisation of local government between 1972 and 1974 and the redrawing of local boundaries. The general review of English constituencies began early in 1976 and it was hoped that it might be completed in time for a general election in the autumn of 1978.

The review ran into trouble; the Local Government Boundary Commissions were behind in their timetable for boundary reviews and there were delays in getting the local figures to the Boundary Commission for England. There were challenges in the courts over the Local Government Boundary Commission's proposals for Enfield and then challenges to the Boundary Commission for England's recommendations for Tyne and Wear. The Boundary Commission for England had just completed its review and was preparing to submit its report to the Home Secretary in 1982 when Michael Foot, then leader of the Labour Party, Michael Cocks, the Chief Whip, Jim Mortimer, the general secretary and David Hughes, the national agent, acting in a personal capacity, challenged the Commission's findings in a large number of constituencies. This was on the grounds that the Commission had failed to use its discretion to cross county and London borough boundaries and in consequence had recommended constituencies very disparate in size, failing to give proper weight to the principle of equal representation in Rule 5. The challenge was dismissed by the High Court

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[116] An Encyclopaedia of Parliament by Wilding and Laundy defines gerrymandering as dividing a country into electoral districts in such a way as to give a political advantage to the party in power and gives details of the term's origin:

> The word perpetuates the memory of Governor Gerry of Massachusetts, who resorted to this stratagem in 1812, and is formed by coupling his name with the latter half of the word 'salamander'. The story runs that while a group of politicians were studying an electoral map one of them, commenting on the unusual shape of one of the constituencies, remarked, 'It looks like a salamander,' whereupon another rejoined, 'You mean a gerrymander!'

on 21 December 1982 and the judgment was upheld by the Court of Appeal on 25 January 1983. The Court of Appeal found that there were 'no grounds for thinking that the Commission has misunderstood Parliament's instructions or has ignored them.'[117] The judgment allowed the Commission considerable discretion in interpreting the rules.

The Orders implementing the Boundary Commissions' recommendations for England, Scotland and Wales were made on 16 March 1983; the Order for Northern Ireland had been made on 22 December 1982. The recommendations took effect at the general election on 9 June 1983.

Fourth Periodical Review

The Fourth Periodical Review recommended an increase of five seats in England, from 524 to 529; an increase of two seats in Wales, from 38 to 40 and an increase of one seat in Northern Ireland, from 17 to 18. Scotland continued to have 72 seats. The size of the House of Commons was therefore increased from 651 to 659. The Boundary Commission for England had initially intended to limit increases in the number of seats; in its introductory booklet, published in 1991, the Commission stated that it took the view that 'where it is necessary to do so in order to give effect to Rule 1 (total number of constituencies) it would be proper for them in the exercise of the discretion given to them in Rules 5, 6 and 7 to limit any further increase in the number of seats.' The Fourth Review was speeded up by the *Boundary Commissions Act 1992;* this legislation was introduced by the Major Government shortly after the 1992 general election to bring forward the submission date of the review and to reduce the time period between reviews to between 8 and 12 years; the argument being that the reviews were being based on out of date electoral registration data.[118]

Fifth Periodical Review

The Boundary Commission for England completed its fifth general review of the Parliamentary constituencies in England. The *Parliamentary Constituencies (England) Order 2007* came into force on 27 June 2007 and the new constituencies came into being at the 2010 general election. The Boundary Commission for Scotland had submitted its final report to the Secretary of State for Scotland on 30 November 2004 and the new constituencies came into being at the general election on 5 May 2005. Usually the recommendations of the Boundary Commissions' periodical reviews come into effect at the same time; this was the first time that a review was implemented at an earlier general election than the reviews of the three other constituent parts of the UK.

The Boundary Commission for Wales submitted its final report on 31 January 2005; the Order was made on 11 April 2006. The Boundary Commission for Northern Ireland submitted its final report on 14 September 2007 and this was approved by Parliament in 2008. For further information about the Fifth Review see Library Standard Note, SN/PC/3222, *Parliamentary constituency boundaries: the fifth periodical review.* This illustrates the delays that may occur between report and implementation- even though section 3(5) of the *Parliamentary Constituencies Act 1986* refers to the reports being laid before Parliament as soon as possible by the Secretary of State.

4.7 Scotland

The 1707 Union (Art XXII) gave Scotland 45 seats in the new 558 seat Parliament of Great Britain. This was less than a strict population-based allocation would have provided, but this concept, over 100 years before the Reform Act of 1832, was far less relevant in the early 18th century than in later, more democratic times. This underrepresentation diminished

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[117] *R v Boundary Commission for England ex parte Foot* [1983 QB600]

[118] *The Review of Parliamentary constituencies*, Boundary Commission for England, Chapter 3 para 19 and *the Boundary Commissions* ed D J Rossiter et al pp125-127

through the 18th century, due to changes in the relative populations of the home countries, and was further reduced by the Union with Ireland in 1801, when Ireland, with almost one third of the new UK's population, was granted only 100 of the 658 seats.

Further changes were made in the 19th century through the various Reform Acts and related legislation. The 1832 reforms gave Scotland eight extra seats and Wales, including Monmouthshire, four more seats. The overall size of the House remained at 658, of which Scotland had 53 and Wales 31. At this stage Scotland was under-represented in terms of population, with 8% of the UK's seats but 10% of its population, while Wales was overrepresented, with nearly 5% of the UK's seats but less than 4% of the UK's population. In terms of electorate, however, matters were different: Scotland had 8% of the total electorate and so was proportionately represented, while Wales had just over 5% of the UK's electorate and so was slightly under-represented.

Reorganisation in 1867-8 increased Scotland's share to 60 and Wales's to 33 within the 658 seat House. At this date, both countries were slightly under-represented. The 1884-5 reforms raised the number of seats in Scotland and Wales yet again, by 12 and 1 respectively in a House of 670, and this moved both countries into a position of relative over-representation. Scotland had 10.7% of the UK's seats but only 10.0% of its electorate while Wales had 5.1% of the seats but only 4.9% of the electorate.

The combination of further changes in the numbers of seats and changes in the electorates of the home countries meant that, by 1918, Scotland's share of both seats and electorate in the UK were almost equal and the country was proportionately represented, while Wales's share of seats was lower than its share of electorate: it had become under-represented again. There was a re-balancing when the seats for the Irish Free State were removed in the early 1920s leaving only 13 seats (including a university seat) for Northern Ireland and a House of 615 seats. In 1922, Scotland had 12.0% of the total seats but only 10.8% of the electorate and Wales had 6.0% of the seats and 5.9% of the electorate.[119]

The Speaker's Conference of 1944 was crucial to the development of the territorial representation in Westminster, as it led to the institutionalisation of the 'over-representation' of Scotland and Wales within the modern boundary review system and, according to Iain McLean in his influential article published in 1995, '*Are Scotland and Wales overrepresented in the House of Commons',* thus began the myth that the Union legislation of 1706-7 guaranteed Scottish over-representation.[120] The changes that came into effect in 1945 meant that Scotland had 11.6% of the UK's seats but only 10.2% of its electorate and Wales had 5.8% of the seats and 5.4% of the electorate. After that, Scotland had more than 11% of the total seats in the UK until the 1997 boundary changes, when its share fell to 10.9%. Scotland's share of the UK electorate had fallen to 9.0% in 1997. Since the war Wales has maintained its share of seats - this rose to 6.1% in 1997 - and electorate. McLean concludes from his historical survey that "the over-representation of Scotland and Wales arises not from considerations of principle, but from the bargained compromises of 1944, which have been frozen into the legislation governing the allocation of seats." Further detail on this point is available in Library Standard Note SN/PC/5628 on the development of the rules for redistribution.

Following the devolution settlement, the Boundary Commission for Scotland had to take account of changes to the Rules for Redistribution of Seats made by the *Scotland Act 1998*. These changes provided for the electoral quota for England to be used in the fifth review rather than the electoral quota for Scotland which was used in previous reviews. The

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[119] Are Scotland and Wales overrepresented in the House of Commons', *Political Quarterly* 1995 Vol 66 no 4
[120] Ibid

electoral quota for England was higher than an electoral quota for Scotland would have been and meant that the number of seats in Scotland was reduced from 72 to 59.

The Scottish Parliament (Constituencies) Act 2004

The *Scottish Parliament (Constituencies) Act 2004* removed the statutory link between the constituencies for the Scottish Parliament and those for the House of Commons. The constituency boundaries were no longer coterminous once the recommendations in the Boundary Commission for Scotland's fifth review had been implemented at the May 2005 General Election. Concerns about the operation of different boundaries for Westminster and Holyrood led to the establishment of an independent commission by the Labour Government to examine and make recommendations on issues caused by different boundaries in Scotland.

The Commission on Boundary Differences and Voting Systems was set up in July 2004 under the chairmanship of Professor Sir John Arbuthnott and its report, *Putting Citizens First: Boundaries, Voting and Representation in Scotland,* was published on 19 January 2006. The Commission recommended that the constituency and regional boundaries for the Scottish Parliament should be based on local authority areas rather than Westminster constituencies, with the regions revised to better reflect natural local communities. This recommendation has not yet been implemented. For further information about the Arbuthnott report see Library Standard Note SN/PC/3918, *The Arbuthnott report and Scottish elections*. The Boundary Commission for Scotland reported in May 2010 on proposed new boundaries for the Scottish Parliament constituencies.[121]

4.8 Wales

Early Representation

Before 1832 Wales returned 24 MPs to the House of Commons. Each of the 12 counties were represented by one Member, with the remaining 12 MPs representing Parliamentary boroughs. This remained the pattern of representation until the Parliamentary reforms of the nineteenth century. After the reforms of 1832 each county in Wales continued to return a single Member, with the exception of Carmarthenshire, Denbighshire and Glamorganshire which each returned two. The Act also created two new Parliamentary boroughs: Merthyr Tydfil and Swansea. The total number of MPs returned for Wales after 1832 was therefore 32. By 1918 this had increased to 37. As related above, representation for Wales was set at the 1944 Speaker's Conference as a minimum of 35 and now stands at 40. In contrast with Scotland, there was no reduction in the number of seats in Wales at Westminster following devolution in the *Government of Wales Act 1998.* It was argued at the time that the fact that primary law- making powers remained at Westminster meant that no reduction was required.

National Assembly for Wales - provisions in the Bill

Provisions in the Bill (in **Clause 11**) would require the constituencies for the National Assembly for Wales to be decoupled from those at Westminster, as the new quota is expected to lead to a substantial reduction in seats in Wales and would otherwise reduce the Assembly to around 45 seats. This is because Section 2 of the *Government of Wales Act 2006* provides that the constituencies for the National Assembly for Wales are the same as the Parliamentary constituencies for Wales (and the number of Assembly regional seats is tied to the number of Assembly constituency seats). These are currently set out in the *Parliamentary Constituencies and Assembly Electoral Regions (Wales) Order 2006*[122], as amended by the *Parliamentary Constituencies and Assembly Electoral Regions (Wales)*

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[121] *Report on the first periodic review of Scottish Parliament boundaries* Boundary Commission for Scotland May 2010

[122] SI 2006/1041

(Amendment) Order 2008.[123] The original *Government of Wales Act 1998* also had the same constituencies for the Assembly and Parliament.

Any change to the Parliamentary constituencies for Wales would therefore feed through to the Assembly seats, unless the *Government of Wales Act 2006* were modified. At present there are 40 constituency seats and 20 regional seats in the National Assembly for Wales.[124] Any substantial reduction in the number of Assembly Members might have an impact on the effectiveness of the Assembly, for instance by reducing the pool for membership of committees, Ministers and Deputy Ministers, and an effective opposition. The Electoral Reform Society (Wales) has produced a pamphlet which discusses the issues in greater detail.[125]

Subsections (1) and (2) of **Clause 11** of the Bill seek to amend Section 2 of the *Government of Wales Act 2006* to specify that the Assembly constituencies are the constituencies specified in the *Parliamentary Constituencies and Assembly Electoral Regions (Wales) Order 2006,* as amended. The effect would be that any future changes to Parliamentary constituencies made under the new rules introduced by the Bill (see Clauses 8 to 10) would not change Assembly constituencies. On the other hand, if changes to the Assembly constituencies, or to its size, were sought, these would have to be effected through primary legislation at Westminster, since elections to the Assembly remain a reserved matter under the current devolution settlement. Since a new Assembly is due to be elected in 2011, before the boundary review is completed, this next Assembly would continue to have seats co-terminous with those for Westminster.

Subsections (3) to (7) of **Clause 11** make transitional provision to deal with interim reviews of constituencies in Wales which are ongoing or have not been implemented at the time when Part 2 of the Bill comes into force. (The Boundary Commission for Wales announced a review of the boundaries of the Parliamentary county constituencies of Cardiff North and Cardiff South and Penarth, Ogmore and Pontypridd and Cardiff South and Penarth and the Vale of Glamorgan on 1 August 2010. A review of the boundaries of the Parliamentary county constituencies of Merthyr Tydfil and Rhymney and Brecon and Radnorshire is under way. Provisional recommendations were published on 1 June 2010 and the final date for the submission of representations was 1 July 2010).[126]

4.9 Northern Ireland

Irish constituencies have been represented in the UK Parliament since 1801. Before 1801 Ireland had its own Parliament even though the kingdoms of England and Ireland had been unified under the same monarch since the time of Henry VIII. The Irish Parliament dates back to the Norman period and was bicameral. The Irish House of Commons had two MPs from each of the 32 ancient Irish counties, 116 boroughs returning 234 MPs and two university MPs representing Trinity College, Dublin.[127] This number of MPs was fixed from 1692 to the abolition of the Irish Parliament in 1800.[128]

Political union occurred in 1800 following the Acts of Union passed in both the British Parliament and the Irish Parliament. This abolished the Irish Parliament and gave Ireland seats in both Houses of the British Parliament, which became known as the United Kingdom Parliament. The Act provided for the election of twenty eight representative Irish peers to sit

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123 SI 2008/1791

124 For background see Lewis Baston and Owain Llyr ap Gareth, *'Reduce and Equalise' and the Governance of Wales,* Electoral Reform Society Wales, May 2010

125 *Reduce and Equalise and the Governance of Wales* May 2010 Electoral Reform Society

126 For further details see: http://www.bcomm-wales.gov.uk/index.htm

127 RG Thorne, *The House of Commons 1790-1820 Vol I,* History of Parliament Trust, 1986, pp100-5

128 Edward Porritt, *The Unreformed House of Commons Vol II: Scotland and Ireland,* 1909, pp185-91

in the House of Lords in the UK Parliament for life.[129] The 32 Irish counties each returned two MPs to the UK Parliament, both representing the whole county, as had happened in the Irish Parliament. The borough constituencies were significantly reduced and in total there were 100 Irish seats in the House of Commons. In 1832 this was increased to 103 and then reduced to 101 in 1885.

The creation of the Irish Free State in 1922 left Northern Ireland, as defined in the *Government of Ireland Act 1920*, within the United Kingdom. The *Irish Free State (Agreement) Act 1922* provided for 13 Northern Ireland MPs to sit at Westminster. This number was reduced to 12 after the abolition of university seats in the *Representation of the People Act 1948*. With the introduction of direct rule in 1972, there were demands for increased representation, and this was recommended by the Speaker's Conference in 1977. The provisions of the *House of Commons (Redistribution of Seats) Act 1979* subsequently allowed the Boundary Commission for Northern Ireland to recommend a number of constituencies 'not greater than 18 or less than 16'. Following the third periodical review the number of seats was increased from 12 to 17 at the 1983 election and from 17 to 18 in 1997 after the fourth review.

Northern Ireland Assembly

Section 33 of the *Northern Ireland Act 1998* provides that each Westminster constituency in Northern Ireland return 6 members, creating an Assembly of 108 MLAs, elected under the Single Transferable Vote. The *Belfast Agreement* of Good Friday 1998 stated:

> The Assembly
>
> 2. A 108-member Assembly will be elected by PR(STV) from existing Westminster constituencies.

The Agreement was signed by both the British and Irish Governments and is an international agreement, endorsed by referendums in Northern Ireland and the Republic of Ireland.

There are no plans under the Bill to decouple the Northern Ireland Assembly seats from those for Westminster, and the future size of the Assembly remains under discussion. The Assembly is under a statutory duty to consider its operation by 2015 and further legislation can be expected at Westminster to implement those changes.[130] The next Assembly elections are due in 2011 and so 108 Members would be elected at this point, since the boundary changes are not expected to come into effect until a 2015 general election. The number of Westminster seats in Northern Ireland is expected to fall to 15 and so some adjustment can be expected. There has been no public comment from the Northern Ireland Assembly or Executive.

4.10 Timing of the Periodical Reviews – changes planned in the Bill

The fifth periodical review was finally completed for all four countries in 2008 and, unless there is a change to the procedures, the reports of the sixth review would have to be submitted between the following dates: **England** between 2014 and 2018; **Scotland** between 2012 and 2016; **Wales** between 2013 and 2017 and **Northern Ireland** between 2015 and 2019.

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[129] House of Commons Library Research Paper 1998/57, *Northern Ireland: Political Developments since 1972,* 11 May 1998

[130] Section 11 *Northern Ireland (St Andrews Agreement) Act 2006.* The work programme for the Assembly and Executive Review Committee specifies September 2010 as the month to consider the future size of the Assembly http://www.niassembly.gov.uk/assem_exec/2007mandate/assem_exec_fwp.htm

Clause 8 of the Bill makes provision for the Boundary Commissions to submit their next reports before 1 October 2013 and before 1 October of every fifth year after 2013. The Bill also requires the Commissions to submit progress reports to the Speaker of the House of Commons during a review.

Section 3 (3) of the *Parliamentary Constituencies Act 1986* which allows the Boundary Commissions to carry out interim reviews in between general reviews is repealed by the bill.

A British Academy report has commented on the question of frequency of reviews. It notes that population movements fluctuate considerably over time would be likely that within five years a number of constituencies would fall outside the 5 per cent deviation permitted from the quota.[131]

4.11 Costs of the Periodical Reviews

The costs of the Fifth Periodical Review in each of the four countries of the UK were given in response to a Lords Written Question on 11 November 2009:[132]

England	£10.8 million
Northern Ireland	£1.2 million
Scotland	£957,120
Wales	£649,498
UK total	£13,6m,

The cost of the Fourth Periodical Review in England was estimated at £4,953,000; the figure is given at Appendix K of the Boundary Commission for England's report.

The *Explanatory Notes* to the Bill make clear that the costs of the Parliamentary Boundary Commissions will continue to be met through the relevant departmental budgets by their sponsoring departments.[133] There appear to be no plans for a major injection of funding for the Commissions to undertake the planned review, unlike in 1992 when extra funds and staff were made available in the *Boundary Commissions Act 1992* to speed up the Fourth Review.[134]

5 Rules for Redistribution

The Rules for Redistribution are set out in Schedule 2 of the *Parliamentary Constituencies Act 1986* and are given below.

> 1.- (1) The number of constituencies in Great Britain shall not be substantially greater or less than 613.
>
> (2) The number of constituencies in Scotland shall not be less than 71. [Repealed by the *Scotland Act 1998]*

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131 *Drawing a new constituency map for the United Kingdom* British Academy Policy Centre ed Ron Johnston et al September 2010

132 HL Deb 11 November 2009 cWA 174

133 Bill 63 – EN, p27

134 See *The Boundary Commissions: redrawing the UK's map of Parliamentary constituencies* by D J Rossiter, R J Johnston and C J Pattie. Manchester University Press, 1999 for background on the 1992 changes

(3) The number of constituencies in Wales shall not be less than 35.

(4) The number of constituencies in Northern Ireland shall not be greater than 18 or less than 16, and shall be 17 unless it appears to the Boundary Commission for Northern Ireland that Northern Ireland should for the time being be divided into 16 or (as the case may be) into 18 constituencies.

2. Every constituency shall return a single member.

3. There shall continue to be a constituency which shall include the whole of the City of London and the name of which shall refer to the City of London.

3A. A constituency which includes the Orkney Islands or the Shetland Islands shall not include the whole or part of a local government area other than the Orkney Islands or the Shetland Islands.

4.- (1) So far as is practicable having regard to rules 1 to 3 -

(a) in England and Wales, -

(i) no county or any part of a county shall be included in a constituency which includes the whole or part of any other county or the whole or part of a London borough,

(ii) no London borough or any part of a London borough shall be included in a constituency which includes the whole or part of any other London borough,

(b) in Scotland, regard shall be had to the boundaries of local authority areas,

(c) in Northern Ireland, no ward shall be included partly in one constituency and partly in another.

(1A) In sub-paragraph (1)(a) above “county” means, in relation to Wales, a preserved county as defined by Section 64 of the Local Government (Wales) Act 1994.

(2) In sub-paragraph (1)(b) above "area" and "local authority" have the same meanings as in the Local Government (Scotland) Act 1973.

5. The electorate of any constituency shall be as near the electoral quota as is practicable having regard to rules 1 to 4; and a Boundary Commission may depart from the strict application of rule 4 if it appears to them that a departure is desirable to avoid an excessive disparity between the electorate of any constituency and the electoral quota, or between the electorate of any constituency and that of neighbouring constituencies in the part of the United Kingdom with which they are concerned.

6. A Boundary Commission may depart from the strict application of rules 4 and 5 if special geographical considerations, including in particular the size, shape and accessibility of a constituency, appear to them to render a departure desirable.

General and Supplementary

7. It shall not be the duty of a Boundary Commission to aim at giving full effect in all circumstances to the above rules, but they shall take account so far as they reasonably can -

(a) of the inconveniences attendant on alterations of constituencies other than alterations made for the purposes of rule 4, and

(b) of any local ties which would be broken by such alterations.

8. In the application of rule 5 to each part of the United Kingdom for which there is a Boundary Commission -

(a) the expression "electoral quota" means a number obtained by dividing the electorate for that part of the United Kingdom by the number of constituencies in it existing on the enumeration date,

(b) the expression "electorate" means -

(i) in relation to a constituency, the number of persons whose names appear on the register of parliamentary electors in force on the enumeration date under the Representation of the People Acts for the constituency,

(ii) in relation to the part of the United Kingdom, the aggregate electorate as defined in sub-paragraph (i) above of all the constituencies in that part,

(c) the expression "enumeration date" means, in relation to any report of a Boundary Commission under this Act, the date on which the notice with respect to that report is published in accordance with section 5(1) of this Act.

9. In this Schedule, a reference to a rule followed by a number is a reference to the rule set out in the correspondingly numbered paragraph of this Schedule.

5.1 Calls for reform of the Rules

The Boundary Commission for England has called for a review of the Rules for Redistribution on a number of occasions on the ground that they are internally inconsistent. In Chapter 6 of the report of the fifth review the Commission commented again on the need for legislative change:

> 6.33 On more than one occasion in the past, including in previous periodical reports, we and our predecessors have not only recommended that the legislation by which we work should be changed but we have also suggested how it should be changed. For example, in 1986, our predecessors gave evidence to the Home Affairs Committee about the difficulties in applying the legislation. In 1995, following an internal study of the conduct and outcomes of the fourth general review, our predecessors were invited by the Home Office to submit their findings. In 1999, again at the invitation of the Home Office, we submitted our views on the changes that we considered should be made to the Rules for Redistribution of Seats and to the Parliamentary Constituencies Act 1986.
>
> 6.34 The introduction of new legislation over the years has provided a number of opportunities to amend the current, unsatisfactory rules and procedures (e.g. the Boundary Commissions Act 1992 and the Political Parties, Elections and Referendums Act 2000 to name two). However, the statutory rules and procedures remain unaltered.

The Committee on Standards in Public Life (CSPL) considered electoral boundary matters in its review of the Electoral Commission in 2007. The Committee noted that there appeared to be a broad consensus amongst most academics, the Boundary Commissions, the Electoral Commission and many politicians that there was a need for a review of the Rules for Redistribution. It commissioned research from David Butler and Iain McLean on the

operation of the rules and the resulting report included a recommended set of rules devised by Professor Ron Johnston and Dr David Rossiter.[135]

In its final recommendations the CSPL called for such a review and said it should address the 'progressive inequality of electoral quotas, and increase in the size of the House of Commons that appear inbuilt to the operation of the current rules.'[136] The Labour Government responded to the recommendations in November 2007 and agreed that it was appropriate to review the legislation; that the Government should commission such a review and that it should look at all aspects of the current legislation on Parliamentary boundary reviews with two specific exceptions. The exceptions were "(1) the deliberate over-representation of Wales and Northern Ireland in the UK Parliament and (2) that each constituency shall return a single MP."[137] Despite the response no such review was commissioned by the last Government.

5.2 The new Rules for Redistribution in the Bill

Clause 9 of the bill substitutes a new Schedule 2 with new Rules for Redistribution:

Rule 1 sets the number of constituencies in the United Kingdom at 600.

Rule 2 restricts the size of the electorate of a constituency to within 5% of the electoral quota. The quota is the registered electorate of the United Kingdom divided by the number of constituencies. This will be 598 because there will be two preserved constituencies in Scotland, Orkney and Shetland and Na h-Eileanan an Iar (Western Isles). Exceptions to this rule are allowed for in Rule 4 (see below). Protection for the seat of Orkney and Shetland had been inserted into the current Rules by section 86(3) of the *Scotland Act 1998*; however this is the first time that specific protection has been proposed for Na h-Eileanan an Iar (Western Isles), except by application of the general rules on geographical consideration.

Rule 3 states that each constituency shall be wholly within one of the four constituent parts of the United Kingdom and that the number of constituencies in each country shall be determined by the allocation method set out in rule 8.

Rule 4 prevents the Boundary Commissions from recommending a constituency that has an area of more than 13,000 square kilometres. This means that any new constituency cannot be geographically larger than the current largest constituency, Ross, Skye and Lochaber. Rule 4 (2) allows a constituency that is bigger than 12,000 square kilometres to be exempted from Rule 2(1)(a), the requirement for its electorate to be within 5% of the electoral quota, if the Boundary Commission concerned is satisfied that it is not reasonably possible for the constituency to comply with this Rule. This will resolve problems that might be faced by the Commissions if they are unable to draw up a constituency that meets both the parity rule and geographical size limit in a sparsely populated area. However, the drafting makes clear that if the Commission needs to use this rule, then all of the other seats in that constituent part would need to be slightly larger to compensate.

Rule 5 sets out the considerations the Boundary Commissions may take into account when drawing up recommendations for constituency boundaries, subject to their complying with Rules 2 and 4. These include special geographical considerations and local government boundaries. The Explanatory Notes suggest that:

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135 *The Electoral Commission and the redistribution of seats* David Butler and Iain McLean 8 June 2006

136 Review of the Electoral Commission, Committee on Standards in Public Life Eleventh Report, Cm 7006, January 2007, p47

137 The Government response to the Committee on Standards in Public Life's Eleventh Report, review of the Electoral Commission. Cm 7272, November 2007.

> because of the parity principle in rule 2 constituencies are likely to cross such boundaries more frequently than in the past, but where a Commission has two or more options for recommending how a constituency should be drawn, all of which adhere to the principle in rule 2, but only one of which would not involve crossing the boundary of a local government area, the rule would enable the Commission to recommend that option.[138]

The Boundary Commission for England is given the power to take into account the Standard Regions used in the European parliamentary elections, but is not required to use them. Regions are likely to be a useful starting point in allocating seats across the territory. **Rule 9(2)** specifically disapplies the ability of the Commissions to take into account 'inconveniences attendant on such changes' for the first review to be implemented by October 2013.

The term local government boundaries is defined in **Rule 9** for each constituent part of the UK**.** A British Academy report has suggested that for England the metropolitan boroughs and unitary authorities is added to the definition- currently only the boundaries of counties and London boroughs are included. The British Academy report noted that although Nick Clegg in his statement on 5 July 2010 referred to retaining wards as the key building block for any constituency,[139] there is no reference in the Rules to wards, save for Northern Ireland.[140]

Rule 6 states that there will be two preserved constituencies; Orkney and Shetland and Na h-Eileanan an Iar (Western Isles) and that Rule 2, relating to the size of electorate, will not apply to them. In a PQ answered on 27 July 2010 the Government acknowledged that these constituencies, which have small populations and are not easily reached from the mainland, have already received special consideration in earlier boundary reviews and that the particular geography of these areas justifies their exemption from Rule 2.[141]

Rule 7 relates to Northern Ireland and sets out provisions to compensate for the effect of Rules 3 and 8 on the average size of constituencies there. In response to the PQ about exceptions to the requirement that constituency electorates must be within 5% of the UK electoral quota, the minister, Mark Harper, gave further details about this Rule:

> Rule 7 applies only to Northern Ireland. Because a whole number of constituencies must be allocated to each part of the UK, the average number of electors in each constituency in each part of the UK will be different from the UK electoral quota. This difference might have a particular impact in Northern Ireland due to the small size of the electorate, and might unfairly constrain the ability of the Boundary Commission for Northern Ireland (BCNI) to take account of other factors set out in the Bill, such as geography and local ties. The size of the other parts of the UK make this problem manageable elsewhere. The Bill therefore provides that if the rounding effect is of a particular magnitude, and the BCNI considers that either their ability to take other factors into account or to complete the review within the deadline set out in the Bill would be unreasonably impaired, then the BCNI may propose constituencies that vary from the UK electoral quota by a fixed amount (the difference between the UK electoral quota and the electorate of Northern Ireland divided by the number of seats allocated to Northern Ireland).[142]

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138 Bill 63 – EN, p10
139 HC Deb 5 July 2010 c57
140 *Drawing a new constituency map for the United Kingdom* British Academy Policy Centre September 2010 Professor Ron Johnson et al
141 HC Deb 27 July 2010 c1071W
142 Ibid

The report from the British Academy has argued that this Rule does not cover all of the possible difficult situations in Northern Ireland and has suggested modifications to extend the general principle to other constituent parts of the UK, such as Wales, where similar problems may apply. This suggests amendments to substitute either a maximum deviation equal to 5 per cent of the average constituency electorate within each territory or allowing constituencies in each constituent part to vary from the average of the territory by up to 5 per cent of the UK quota.[143]

Rule 8 sets out the procedure for calculating the number of constituencies in each country of the United Kingdom. This will be done using the Sainte-Laguë method (which is used by the Electoral Commission for distributing seats for UK elections to the European Parliament). The two seats of Orkney and Shetland and Na h-Eileanan an Iar (Western Isles) are firstly removed from this allocation process, so that constituencies in Scotland would not be larger as a result of these two more sparsely populated seats being included in its allocation.

5.3 Electoral quota

The Boundary Commissions have to ensure that the new constituency electorates are as close to the electoral quota as practicable. The electoral quota is the average number of electors in a constituency and is calculated by dividing the total number of parliamentary electors in each country by the existing number of constituencies for that country. There has been a separate quota for each constituent part of the UK until the fifth periodical review when the quota for England was also used for Scotland.[144] The electoral quotas for the fifth general review were 69,935 for England and 69,934 for Scotland; 55,640 for Wales and 60,969 for Northern Ireland.[145]

The Boundary Commission for England reported that 88.9% of the constituencies recommended in the fifth review were within 10% of the electoral quota of 69,935 (compared to 75.4% of the existing constituencies when the review commenced in 2000).[146] The Commission also noted that, apart from the Isle of Wight, all the recommended constituencies had electorates within 20% of the electoral quota. The Commission published the following table listing the ten constituencies with the highest and lowest electorate.[147]

Constituency	2000 electorate	Deviation from the Electoral quota
Isle of Wight CC	103,480	+33,545
Croydon North BC	79,819	+9,884
Hornchurch and Upminster BC	79,496	+9,561
Brentford and Isleworth BC	79,344	+9,409
Knowsley BC	79,099	+9,164
Leeds Central BC	78,941	+9,006
Banbury CC	78,817	+8,882
Meriden CC	78,714	+8,779

143 *Drawing a new constituency map for the United Kingdom* British Academy Policy Centre September 2010 Professor Ron Johnson et al

144 In fact there was a slight difference. The quota used for England was 69,935 as at 1 February 2010; for Scotland it was 69,934 which would have been the quota on 1 June 2001 when the Scottish Commission began its review

145 Section 86 of the *Scotland Act 1998*, which established the Scottish Parliament, abolished the separate quota for Scotland for the next periodical review of Parliamentary boundaries, substituting the electoral quota for England.

146 Boundary Commission for England Fifth Periodical Report, Cm 7032, 2007

147 Ibid, p482

Oxford East BC	78,679	+8,744
Normanton, Pontefract and Castleford CC	78,641	+8,706
Electoral Quota	**69,935**	**-**
Hexham CC	59,666	-10,269
Poplar and Limehouse BC	59,400	-10,535
Putney BC	59,331	-10,604
Westminster North BC	59,016	-10,919
Islington South and Finsbury BC	58,839	-11,096
Aldridge-Brownhills BC	58,695	-11,240
Wirral South CC	57,801	-12,134
Berwick-upon-Tweed CC	57,571	-12,364
Hackney South and Shoreditch BC	57,204	-12,731
Wirral West CC	56,085	-13,850

Details of the deviation from the electoral quota of the constituencies recommended by the Boundary Commissions for Wales and Northern Ireland in the fifth periodical review are given in their final reports, Appendix H of the Report of the fifth periodical review of Parliamentary constituencies by the Boundary Commission for Wales and Appendix E of the Report of the fifth periodical review of Parliamentary constituencies by the Boundary Commission for Northern Ireland.

The Rules for Redistribution require the Boundary Commissions to ensure that the electorate of any constituency shall be as near the electoral quota as is practicable. In its fifth review the Boundary Commission for England aimed to place greater emphasis on creating constituencies closer to the electoral quota and the standard deviation was reduced to a greater extent than that achieved in the fourth periodical review.[148] The Commission noted that, although each Rule taken on its own is quite clear, when they are all applied by the Commission there was often conflict between them:

> For example, Rule 5 requires us to recommend constituencies that have electorates as near the electoral quota as is practicable, whilst Rule 4 requires that county and London borough boundaries should be respected as far as possible. Clearly, unless a county or London borough contains a number of electors that is close to a whole number multiple of the electoral quota, the result may be constituencies with electorates which are not close to the electoral quota. Even if a county contains an electorate that is close to a multiple of the electoral quota, constituencies may be recommended with electorates that are not near the electoral quota because we have taken account of the inconveniences attendant on alterations to constituencies, and of the local ties which would be broken by such alterations, as required by Rule 7, or of special geographical considerations that exist, as permitted by Rule 6.[149]

The Commission drew attention to the particular difficulties of applying Rule 5:

> 6.28 Rule 5 can be difficult to apply because its requirement for parity of electorates often conflicts with the requirements of Rules 4, 6 and 7, although Rules 6 and 7 do allow us to depart from the strict application of Rule 5. Other difficulties with Rule 5 arise from a lack of understanding from some objectors that we are required by the

[148] Ibid, p481
[149] Ibid, p483

> Rules to use the registered Parliamentary electorate on the enumeration date (17 February 2000). We cannot take account of people who are not registered, even if their numbers could be accurately established. We are not required to base our recommendations on population figures or on the local government electorate. Neither are we required to take account of five year projections, as are the Boundary Committee for England when reviewing district ward boundaries. We can, however, have some regard to growth or decline in the electorate that has actually occurred since the enumeration date (see Chapter 2), although not in determining the number of constituencies to be allocated to a county or London borough.[150]

5.4 The potential effect of the changes to the Rules

The new Rules give primacy to the equality of electors within a constituency and therefore are likely to have some significant impacts. The 5 per cent range allowed would produce a range of around 72,000 to 79,500 for the size of the new constituencies, depending on the electorate figures for December 2010. In oral evidence to the Political and Constitutional Reform Committee on 27 July, Professor Ron Johnston and Robin Gray, a former Boundary Commissioner, noted some of the consequences for representation in Wales and in respect of the need to cross historic county boundaries in order to achieve the numerical requirements of new Rule 2. [151] These points are picked up in more detail in the British Academy report.

Democratic Audit produced some indicative work for BBC Newsnight on the potential effects of redistribution in August 2010. This looked at the regional effects, based on December 2009 electorates:

> We assume that the reforms mean there will be 503 seats in England (-30), 30 in Wales (-10), 52 in Scotland (-7) and 15 in Northern Ireland (-3).
>
> We then calculated, on the same basis, how many of the 503 seats in England each of the English regions would be entitled to. The results are shown in table 1. The North West is predicted to lose the most seats (-7), followed by the West Midlands (-5) and Yorkshire and the Humber (-4). The fewest seat reductions are likely in the East of England (-1) the East Midlands (-2) and the South West (-2)[152]

The House of Commons Library has used updated electorates for May 2010 to show the regional and constituency impacts of a move to numerical equality. The Appendix to this Paper gives a breakdown of potential regional effects, following enactment of the new Rules.

The number of seats in Wales is expected to be reduced to around 30, which represents a 25 per cent reduction.[153] The Electoral Reform Society produced a table in May 2010 which indicated how the changes might work in detail, given a reduction to 34.[154] The impact on Scotland is not expected to be so profound, but a reduction in the number of seats to 52 is likely. In Northern Ireland, there would be a reduction to around 15. England would lose 30 seats on current electorates. .As illustrated above, the smallest seats are not solely to be found in inner urban areas; for example, Knowsley BC had an electorate of 79,099 for the purposes of the last review.

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150 Ibid, p486

151 http://www.parliament.uk/business/committees/committees-a-z/commons-select/political-and-constitutional-reform-committee/news/voting-reforms-230710/

152 *Projecting the impact of "Reduce and Equalise"* 13 August 2010 *Democratic Audit*

153 See Uncorrected evidence to Political and Constitutional Reform Committee 27 July 2010, Q72

154 *Reduce and Equalise and the Governance of Wales* May 2010 Electoral Reform Society

Therefore changes are not confined to certain types of constituencies or certain geographical areas. Historic county boundaries in areas such as Devon and Cornwall are likely to be crossed, to create the larger constituencies. The redistribution process will be more complex given a reduction in the size of the House of 7.7 per cent, rather than for example simply halving the number of Members. In evidence to the Political and Constitutional Committee on 27 July 2010, the former Boundary Commissioner, Robin Gray said:

> I suspect there will be massive change because if you are reducing the number of seats in England by roughly 30 constituencies, as it were, that means you are going to be doing a lot of shifting around particularly as if the provisions in the Bill are enacted you are going to be much closer to the electoral quota so you have got less room for manoeuvre. There is going to have to be, I think, a lot more movement. Even if it is done on a regional basis you are within those regions, without doubt, going to have to pair counties in a way that has never been done before. [155]

The British Academy report suggests that there would be very substantial change in the first review and thereafter more limited alterations, if these took place at five yearly intervals.[156] The report suggests that using the Standard Regions in England to make a first allocation of constituencies would be feasible, as the differences in average electorates between regions were relatively small. Thereafter, finding groups of adjacent authorities together entitled to a whole number of constituencies would involve considerable exploration. The authors argue that, in order to meet the five per cent target, wards would probably have to be split in some places, given that in a number of local authorities wards are larger than the 7,600 electors which cover the range between largest and smallest allowed constituency. Polling districts are an alternative, but can currently range considerably in size.

Professor Ron Johnston suggested in his evidence to the Political and Constitutional Committee on 27 July that the new Rules would result in constituencies where wards were split and gave Sheffield as an example. He said that there was some evidence to suggest that splitting wards might result in local party activists losing interest.[157]

The political impact of the redistribution is a matter of some speculation. Academics have noted for some time that the UK electoral system appears to have become biased against the Conservatives in the last couple of decades. A number of factors are relevant:

- Differential turnout (Abstention)
- Vote distribution (Geography)
- Unequal size of constituencies (Malapportionment)
- Effects produced by competition from smaller parties

These issues are discussed in a series of articles by Ron Johnston, together with the academics Colin Rallings and Michael Thrasher.[158] In addition Professor Michael Thrasher

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155 Uncorrected evidence to the Political and Constitutional Reform Committee 27 July 2010

156 *Drawing a new constituency map for the United Kingdom* British Academy August 2010 Professor Ron Johnson et al

157 Uncorrected oral evidence to Political and Constitutional Reform Committee 27 July 2010, Qs 95 and 104

158 Changing the boundaries but keeping the disproportionality: the electoral impact of the Fifth Periodical Reviews by the Parliamentary Boundary Commissions for England and Wales by Colin Rallings, Ron Johnston and Michael Thrasher. *Political Quarterly*, vol 79 No 1 Jan-March 2008;Parliamentary constituency boundary reviews and electoral bias: how important are variations in constituency size? By Galina Borisyuk, Ron Johnston, Colin Rallings and Michael Thrasher. *Parliamentary Affairs*, Vol 63 no 1, 2010

has submitted evidence to the Political and Constitutional Committee on electoral bias.[159] The overall conclusion is that creating more equal constituencies would help with reducing the bias against the Conservatives, but would not assist with the other factors in play.

The Democratic Audit study for BBC Newsnight suggested that in a 600 seat House of Commons, the Conservatives would have 294 seats (down 13 from 307 in the current 650 seat House of Commons), Labour would have 233 seats (down 25 from 258), and the Liberal Democrats 50 seats (down 7 from 57). The study puts the margin of error for each of these estimates at plus or minus four seats. Inevitably the analysis has to be used with great caution. It is very difficult to say what the impact of reducing the number of constituencies would be on each party without knowledge of the new constituency boundaries. In addition, if AV is introduced, a new electoral system will create a whole new set of uncertainties.

Interaction with Fixed-term Parliaments

The *Fixed-term Parliaments Bill 2010-11* is designed to fix general elections to a five yearly timetable from May 2015, and this Bill plans for regular redistributions on a five yearly basis, with the first to be completed under the new Rules by October 2013. Therefore a review of constituencies can be expected to be completed in the first few years of a Parliament, unless an earlier election takes place following a vote of confidence or vote to dissolve the Parliament.[160] Disrupting this cycle may create problems. Suppose a general election is held in 2017 with an indecisive result; the next boundary review would be due in October 2018, but the Parliament might be dissolved following a vote of no confidence some time in 2018, causing difficulties for parties in implementing the necessary selection procedures for candidates and reorganising their internal arrangements.

Islands debate in Westminster Hall on 15 June 2010

Andrew Turner, Member for the Isle of Wight, which has the largest electorate in the UK, raised the issue of constituency boundaries for islands in a Westminster Hall debate on 15 June 2010. He said that whilst the intentions of the Coalition Government to create fewer and more evenly sized constituencies was to be lauded, the practicalities of such a policy, especially in relation to islands, needed to be examined.[161] If the electoral quota was 77,000 the Isle of Wight constituency would have to be divided to form one constituency of this size and the remaining electors would have to be combined with electors in a mainland seat. Andrew Turner argued that the special consideration which had been given in the past to island communities when deciding constituency boundaries should be continued. Angus MacNeil, MP for Na h-Eileanan an Iar (Western Isles) which has the smallest electorate, also argued for special consideration for island communities. Mr MacNeil pointed out that his constituency was the length of Wales and that, if it was combined with Skye, it would be almost impossible to represent the area because of its geographical size. Responding to the debate, Mark Harper said that the Government was considering carefully the extent to which considerations such as the island nature of constituencies and geography would be allowed to override numerical equality.[162]

5.5 Local inquiries

At present the Parliamentary Boundary Commissions are required to publicise their provisional recommendations for a county in a notice placed in at least one newspaper circulating in each constituency in that county. The proposals are also made available on the Commissions' websites. The Commissions also send copies of the notice to all interested

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[159] Memorandum from Professor Michael Thrasher AV3 to Political and Constitutional Reform Committee July 2010

[160] Library Research Paper 10/54 *Fixed–term Parliaments Bill* gives further detail.

[161] HC Deb 15 June 2010 c131WH

[162] HC Deb 15 June 2010 c136WH

parties including local authorities and MPs. Written representations about the provisional recommendations have to be made within one month of the date of publication of the notice. Those who make representations are asked to say whether they approve of, or object to, the Commission's proposals, and objectors are advised to submit counter –proposals.

A local inquiry to ascertain the views of the public must be held if representations are received from an interested local authority (the council of a county, district or London borough for the area lying wholly or partly in the constituency concerned) or a body of 100 or more electors objecting to a Commission's provisional recommendations. The Commissions also have the discretion to order a local inquiry if they think there would be benefits from holding one. Local inquiries are conducted on behalf of the Boundary Commissions by Assistant Commissioners (independent lawyers). If the Boundary Commission decides to hold a local inquiry this is publicised six weeks ahead by the publication of a notice of the inquiry in the local press. The Boundary Commission will issue a statement giving the reasons for their provisional recommendations and issues likely to be raised at the inquiry. No statutory procedure is prescribed for the conduct of a local inquiry, this being left to the discretion of the Assistant Commissioner. For details of the procedure generally followed see p19 of the guidance issued by the Boundary Commission for England at the start of the fifth review.[163]

At the end of the inquiry the Assistant Commissioner prepares a report and submits it to the Boundary Commission; he may recommend that the proposals should be accepted with or without alterations, or he might recommend that a counter-proposal should be adopted, with or without modifications, provided that it conforms to the rules and appears to him to command greater support locally than the Commission's proposals.

Following a local inquiry the Boundary Commission will consider the written representations, the Assistant Commissioner's report and the verbatim transcript of the matters discussed at the inquiry. If the Boundary Commission then decides to revise its provisional recommendations, revised recommendations are published, a news release issued and comments invited, again within one month of publication of this notice. A further local inquiry may be held but generally the Boundary Commissions wish to avoid the expense of a second local inquiry and hope that these will only be held in exceptional circumstances.

Only when a Boundary Commission has decided the final recommendations for the whole of the relevant country does it submit its final report to the relevant Secretary of State.

Concerns have been expressed for some time about the length of time that the review process takes. The Committee on Standards in Public Life noted in its eleventh report on the Electoral Commission in 2007 that any review of the Rules for Redistribution should examine the time taken to conduct reviews, particularly in England. In Chapter 6 of their book, *The Boundary Commissions: redrawing the UK's map of Parliamentary constituencies*, D J Rossiter et al examined the process of public consultation and commented:

> The Local Inquiry is the focus of public involvement in the process of redistricting in the United Kingdom. Written representations play important roles both in triggering Inquiries and in setting their agenda, and they can help to alter a Commission's mind after the Inquiry has finished...but the function of the former and the infrequency of the latter merely serve to emphasise the importance of the Local Inquiry to the redistricting process.

[163] *The Review of Parliamentary Constituencies in England*, Boundary Commission for England, 2000.

> Even where the statutory criteria are not met, but there is some evidence of objection to the provisional recommendations, it has become standard practice for a Local Inquiry to be held.[164]

Rossiter et al note that during the fourth periodical review the shortest local inquiry took little over an hour and the longest, eight days.[165] In the report commissioned by the Committee on Standards in Public Life in 2006 David Butler and Iain McLean argued that there was a strong case for speeding up the process of the reviews and that possibilities for improvement included:[166]

> 3.6.1. carrying out inquiries on a regional basis;
>
> 3.6.2. scrapping the second consultation period with revised recommendations (a practice that serves more as a safety valve than as a source of important changes);
>
> 3.6.3. endowing the Commission with a greater discretion about the issues which the Inquiries should address. More generally, an increase in staff and other resources would also accelerate the review process;
>
> 3.6.4. removing the right of local authorities to trigger inquiries – on the grounds that local authorities typically reflect only the partisan opinion of the controlling party. Local authority arguments are much more heeded when put forward on an all-party basis and not just emerging from the ruling group. Therefore a possible compromise would be to allow a local authority to trigger an inquiry only when the vote in the authority to do so was passed *nem con*.[167]

Butler and McLean suggested more sweeping changes:

> 4.6. A longer period should be allowed for comment on initial proposals- perhaps two months rather than one or even the minimum of twelve weeks now recommended by the Cabinet Office for all Departmental consultations.. This could be combined with much shorter time limits for the subsequent stages. It can be argued that the Commissions should accept, as a Final Recommendation, the Assistant Commissioner's Report if it accorded with the Rules and if the evidence broadly supported the original proposals. Only if the Assistant Commissioner had acted outside the Rules or misdirected himself should there be a right of appeal. Such a procedure would be unworkable now, as the Rules contradict one another. But if the Rules were rewritten to be mutually consistent, it could become workable.[168]

In its fifth periodical report the Boundary Commission for England said that the one month period for representations to be made after the publication of the Commissions' proposals was too short, since it did not fit in with many local authority meeting cycles.[169]

The Bill and local inquiries

Clause 10 of the bill ends this system of local inquiries. It replaces Section 5 of the *Parliamentary Constituencies Act 1986* with a new section concerning the publicity of and consultation about the Boundary Commissions' proposals. The current requirement to give notice of provisional recommendations through a local newspaper is replaced by a

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164 *The Boundary Commissions: redrawing the UK's map of Parliamentary constituencies*, D J Rossiter, R J Johnston and C J Pattie, Manchester University Press, 1999, p233
165 Ibid, p235
166 Ibid, p5
167 Ibid, p5
168 Ibid, p7
169 Boundary Commission for England fifth Periodical Report, Cm 7032, 2007, p487

requirement for the Boundary Commissions to inform people in constituencies affected by their provisional recommendations of the effect of these proposals (the Boundary Commissions are given discretion 'to take such steps as they see fit' to do this). The recommendations must however continue to be made available within the constituency. There would be a 12 week consultation period during which representations may be made.

The impact of the abolition of local inquiries is difficult to quantify. In evidence to the Political and Constitutional Reform Committee on 27 July 2010, the former Boundary Commissioner, Robin Gray, argued that communities did welcome the opportunity to see Assistant Commissioners in the local area. He said that the planned redistribution in the UK would lead to a very different pattern of representation, which was likely to cause concern at the local level. He also noted that the main responses would come in shortly before the end of the 12 week deadline, which meant that participants would not necessarily know the counter-proposals which had been made.[170]

The British Academy report commented that most inquiries have been "dominated by the political parties arguing for constituency configurations that optimise their partisan interests, using whichever criteria in the current rules best suit their purpose". [171]The report argued for amendments to the Bill to allow for representations received to be published and a further four weeks allowed for comments on these representations.[172] In this report, Professor Ron Johnston has suggested that the use of Assistant Commissioners would be helpful to review representations made to the Commissions, as a way of increasing transparency and credibility of the Commissions' proceedings.[173]

6 Electoral registration

The electoral quota for the boundary review will be based on the electoral register on the date which the review begins, according to new Rule 9(2). The Opposition have complained that this does not take into account under-registration in many area of the UK and that making numerical equality the priority for allocating seats requires robust data on electorates. This is compounded by the requirement in the Bill for frequent reviews.

The levels of under-registration have been of concern to all involved in elections for some time. The redistribution of seats is dependent on the number of electors who are actually registered and does not take account of those missing from the register. Therefore, it is important to obtain as accurate an electorate as possible. The Boundary Commissions currently have only very limited powers to take other considerations into account such as population projections, and the Bill requires them to use the registered electorate as the basis for Rule 2 (5 per cent tolerance from electoral quota).

The Electoral Commission published a report *Understanding electoral registration: the extent and nature of non-registration in Britain* in September 2005.[174] The Commission carried out 'the first systematic and comprehensive analysis of registration rates in Britain since 1993' and this report included a detailed analysis of the reasons for non-registration. The Commission drew on a statistical 'register check' carried out on its behalf by the Office for National Statistics. According to the ONS the 'best estimate for non-registration among the eligible household population in England and Wales at 15 October 2000 (the qualifying date for the February 2001 register) lies between 8% and 9%. This compares with 7-9% in 1991.

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[170] Uncorrected evidence to the Political and Constitutional Reform Committee 27 July 2010 Q 63 and Q64

[171] See "Far too elaborate about so little" 2008 *Parliamentary Affairs* for more background

[172] *Drawing a new constituency map for the United Kingdom* British Academy September 2010 Professor Ron Johnston et al

[173] Ibid

[174] *Understanding electoral registration: the extent and nature of non-registration in Britain.* Electoral Commission, September 2005

This means that in the region of 3.5 million people across England and Wales were eligible to be on the register at their main residence but were missing from it in 2000.'[175]

In the Commission's first analysis of the performance of EROs in 2009, it noted the limited data available on the rates and numbers of people registering to vote and commissioned new research on the state of the electoral registers in Great Britain. *The completeness and accuracy of electoral registers in Great Britain* was published in March 2010.[176] The key findings were as follows:

> The completeness of Great Britain's electoral registers remains broadly similar to the levels achieved in comparative countries.
>
> - However, national datasets and local case study research suggest there may be widening local and regional variations in registration levels.
> - While there is no straightforward relationship between population density and the state of local registers, the lowest rates of completeness and accuracy were found in the two most densely populated case study areas, with the most mobile populations (Glasgow city and Lambeth).
> - Recent social, economic and political changes appear to have resulted in a declining motivation to register to vote among specific social groups. This is despite the fact that electors now have more options than ever open to them to register.
> - The annual canvass continues, on the whole, to be an effective way to update the registration details of electors; but rolling registration, a tool introduced to maintain the register, has not prevented the completeness and accuracy of the registers declining between annual canvass periods.
> - Under-registration and inaccuracy are closely associated with the social groups most likely to move home. Across the seven case study areas in phase two (therefore excluding Knowsley), under-registration is notably higher than average among 17–24 year olds (56% not registered), private sector tenants (49%) and black and minority ethnic (BME) British residents (31%).
> - Each revised electoral register lasts for 12 months, from December to December; during that period, the rate of completeness is likely to decline by around 10 percentage points, owing mainly to population movement (although the rate of decline will be higher in inner London boroughs).
> - The research did not uncover electoral fraud in the case study areas. This may indicate that where instances of registration fraud or malpractice do occur they are likely to be relatively rare local incidents (although it may be difficult to determine instances of intentional over-registration using a survey approach). The research successfully tested new techniques which could help identify some forms of fraud.
> - There is clearly scope to introduce measures locally which would improve the completeness and accuracy of specific registers. However, there are limits to what can be achieved nationally using the current registration system.[177]

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[175] Ibid

[176] http://www.electoralcommission.org.uk/__data/assets/pdf_file/0018/87111/The-completeness-and-accuracy-of-electoral-registers-in-Great-Britain.pdf

[177] Ibid

6.1 Duties of Electoral Registration Officers

Electoral Registration Officers are required by the *Representation of the People Act 1983* to take all steps that are necessary for the purpose of complying with their duty to maintain the registers of Parliamentary electors and local government electors for their area. They are also required to maintain a register of those citizens of European Union member states who are entitled to vote at European Parliamentary elections. It is an offence not to comply with a request from an Electoral Registration Officer for the information he requires in order to compile the registers. The annual canvass of electors takes place each autumn and the householder (or owner or occupier) of the premises must supply the details of everyone who is eligible to vote at that address; the penalty for not providing the relevant information is a fine, currently £1,000. However, there are very few prosecutions for not completing the canvass form although EROs are under a duty to ensure that the register is as complete and as accurate as possible.

The *Representation of the People Act 1983* was amended by the *Electoral Administration Act 2006* which added a new Section 9A which sets out the steps that must be taken by EROs to identify people eligible for registration as electors. Section 9A (2) states that the steps include:

> (a) Sending more than once to any address the form to be used for the canvass under section 10 below;
>
> (b) Making on one or more occasions house to house inquiries under subsection (5) of that section;
>
> (c) Making contact by such other means as the registration officer thinks appropriate with persons who do not have an entry in a register;
>
> (d) Inspecting any records held by any person which he is permitted to inspect under or by virtue of any enactment or rule of law;
>
> (e) Providing training to persons under his direction or control in connection with the carrying out of the duty;

It is worth noting that Section 9A (3) gives the Secretary of State the powers to amend this list by adding additional measures that EROs should take.

The Electoral Commission has provided guidance to EROs on the duties set out in Section 9A:

> 1.4 The Electoral Registration Officer can use their own judgement in deciding what steps are 'necessary', whether listed in Section 9A of the RPA 1983 or not, in order to ensure that their duty to maintain the register has been fulfilled; the obligation on the Electoral Registration Officer is to take **all steps that are necessary** to ensure that they meet their duty to maintain the register, taking into account the circumstances in each case.
>
> 1.5 The Electoral Registration Officer must therefore actively consider each of the steps listed in Section 9A of the RPA 1983 and take all such steps, or indeed any other step(s) not listed, that they consider necessary in order to fulfil their duty and to ascertain who is eligible to register to vote and include them in the register of electors. The steps do not need to be taken in any particular order.
>
> 1.6 If the Electoral Registration Officer fails to take steps where necessary, they will be in breach of their official duty, which on summary conviction can result in a fine not exceeding level 5 on the standard scale.

1.7 The Electoral Registration Officer should be able to demonstrate that all necessary steps have been taken in respect of all properties in their area.[178]

6.2 Inspection of other records by EROs

EROs are authorised to inspect, for the purposes of their registration duties, records kept by the council which appointed them and by the registrar of births and deaths (and records kept by any person, including a company or organisation providing services to, or authorised to exercise any function of, these authorities). A PQ answered on 20 July 2010 gave further details:

> **Chris Ruane:** To ask the Deputy Prime Minister what *(a)* local government and *(b)* central Government databases electoral registration officers may use in undertaking their registration functions.
>
> **Mr Harper:** The information is as follows:
>
> *(a)* In Great Britain, electoral registration officers (EROs) may currently inspect records held by the local authority that appointed them and by the registrar of births and deaths (in Scotland, the registrar of births, deaths and marriages) to assist them in maintaining the electoral register. These include:
>
> - the register of births and deaths;
> - council tax records;
> - registers of households in multiple occupation;
> - local land and property gazetteers;
> - housing benefit applications;
> - lists of persons in residential and care homes (in unitary local authorities only); and
> - details of "attainers" (those aged 16 or 17) held by education departments (in unitary local authorities only).
>
> EROs appointed by district or borough councils in two tier local authority areas may therefore not have access to records held by county councils, including data held by social services and education departments.
>
> *(b)* EROs in Great Britain do not have access to central Government databases. However, in Northern Ireland a system of Individual Electoral Registration has been in place since 2002, and in 2006 the annual canvass was replaced with a system of 'continuous registration' based on data matching the electoral register against other public data bases. The Chief Electoral Officer in Northern Ireland is allowed to access records held by the following authorities:
>
> - district councils;
> - the Registrar General of Births and Deaths in Northern Ireland;
> - the Northern Ireland Central Services Agency;
> - the Department for Work and Pensions;

[178] Ibid

- secondary schools; and
- the Northern Ireland Housing Executive.[179]

6.3 Funding for electoral registration

In its guidance for EROs the Electoral Commission notes:

> 4.1 The budget for registration should be settled between the Electoral Registration Officer and the council which appointed them, and should be sufficient to allow the Electoral Registration Officer to fulfil their duty to maintain the register.
>
> In Scotland, if the Electoral Registration Officer is acting on behalf of more than one local authority, each local authority must contribute to the registration budget.
>
> 4.2 Expenditure will fall into two main categories: funding the annual canvass; and funding the year-round registration process, known as 'rolling registration'. The expenses of registration must be properly accounted for by the Electoral Registration Officer and then paid by the council, which is in contrast to the provision of adequate staffing resource in order to assist the Electoral Registration Officer, which is a direct duty of the council.
>
> 4.3 Each local authority is required to provide its Electoral Registration Officer with adequate funds to carry out house-to-house, postal or other enquiries as are necessary in order to produce a complete and accurate register of electors.
>
> 4.4 As part of the planning process, the Electoral Registration Officer will need to consider what budget they require in order to carry out their statutory functions. The Electoral Registration Officer will need to ensure that they have sufficient resources in place in order to be able to organise their annual canvass process in such a way to ensure that they are prepared for the potential of there being an election during the canvass period.
>
> 4.5 The Commission does not make any specific recommendations in regard to budgeting, as budget allocations will clearly depend on the resources made available to each individual Electoral Registration Officer. The Commission does, however, recognise the major impact funding has on electoral registration activity, and will be collecting information on expenditure relating to the electoral registration function at the end of each financial year.[180]

Additional funding to assist EROS in fulfilling their duty to encourage participation used to be provided by the Ministry of Justice's participation fund which provided £2.5 million per financial year. A PQ answered on 22 July 2010 gave further information about the fund and its take-up. The fund has now been ended following the emergency budget on 22 June 2010.

> **Chris Ruane:** To ask the Deputy Prime Minister how much was spent by the Government on encouraging people to register to vote in each of the last five years; and how much is planned to be spent on this in 2010-11.
>
> **Mr Harper:** Electoral registration officers receive funding for undertaking activity related to electoral registration direct from local authorities, via the Revenue Support Grant (RSG).

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[179] HC Deb 20 July 2010 c 249W
[180] Ibid

In addition, in each of the last five years, funds have been provided from the Participation Fund to support local electoral officers in undertaking their statutory duties under sections 9 and 69 of the Electoral Administration Act 2006 (which require them to maintain the electoral register and to encourage participation by electors):

	£
2005-06	0
2006-07	0
2007-08	934,741.56
2008-09	544,391.70
2009-10	(1)153,894.99
(1) The Government provided pre-approval for a further £399,976 to be spent by local electoral officers. This will be paid upon receipt of relevant claims and invoices.	

In addition, a total of £67,354.96 is planned to be spent in 2010-11. This sum relates to the cost of activities which were undertaken by local authority electoral officials to encourage participation at the elections which were held on 6 May. The Participation Fund has now been ended, in the Emergency Budget of 22 June 2010. Support for the work of electoral registration officers will be strengthened as part of the move to individual electoral registration which this Government are committed to speeding up.[181]

6.4 Initiatives to improve registration rates

Section 69 of the *Electoral Administration Act 2006* gives EROs a duty to take such steps as they think appropriate to encourage the participation of electors in their area in the electoral process. In doing this, Electoral Registration Officers are required to have regard to any guidance issued by the Electoral Commission. The Commission has provided guidance for EROs about running a public awareness strategy and suggested a number of measures that EROs could take to encourage people to register.[182]

6.5 Standards for EROs

The *Electoral Administration Act 2006* amended the *Political Parties, Elections and Referendums Act 2000* (PPERA) to give the Electoral Commission powers to set standards of performance for EROs, Returning Officers and Referendum Counting Officers in Great Britain.[183]

The Electoral Commission consulted on a draft set of performance standards for EROs between March and June 2008 and in October 2008 the Commission directed EROs across Great Britain to complete and return a self-assessment against the 10 standards. Information was received from all 404 EROs in Great Britain, and the Commission published its first analysis of EROs' performance in April 2009. This is available on the Commission's

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181 HC Deb 22 July 2010 c584W

182 http://www.electoralcommission.org.uk/__data/assets/electoral_commission_pdf_file/0005/43961/Part-I-Accessibility-and-participation-final-print-ready.pdf

183 http://www.electoralcommission.org.uk/__data/assets/electoral_commission_pdf_file/0004/66883/Part-J-Perf-Stan-Guidance-EROs-final.pdf

website alongside a web tool that gives a breakdown of individual ERO performance, and allows comparison between different authorities across Great Britain.

The Commission's second assessment of the performance of EROs against the standards was published in March 2010.[184] Performance was weakest in the participation area, particularly public awareness. The key findings were summarised as follows:

> Performance has improved across all four subject areas with fewer EROs assessed as below any of our standards.
>
> - Just under 96% of EROs either meet or exceed all three of the standards relating to the first subject area, 'Completeness and accuracy of electoral registration records'. This compares with 85% who met or exceeded all the standards in this area last year. For the second consecutive year, all EROs met at least one of the three standards in the first subject area.
>
> - Performance is weakest in the participation subject area, in particular standard 6: 'Public awareness', where 41% (155) of EROs do not currently meet the standard. More than 90% of these EROs failed the standards in both years, and nearly a third of these in England and Wales were also below the equivalent standard for Returning Officers.
>
> - A lack of formal planning remains an area of concern. There has been an improvement in performance for the five standards requiring a documented plan, but there remains room for improvement.[185]

6.6 Individual voter registration

The Electoral Commission has called for a change to individual voter registration since its report *The electoral registration process* was published in 2003.[186] The key recommendation in the report was that the basis of registration should move from the current system of a combination of household registration and 'rolling' registration (whereby an individual can notify the Electoral Registration Officer of a change of address) to a system based entirely on individual registration. The Commission initially saw the change as being an essential 'building block' for e-enabled elections but individual registration was later seen as an important measure to guard against electoral fraud. The Commission published a further report in June 2003, *Voting for change: an electoral law modernisation programme*, which brought together recommendations from a series of policy papers, including those on registration issues. The Labour Government responded to the report in 2004 and said it was sympathetic to the principles of individual registration but it did not implement the Commission's recommendations, mainly because of concern about the effects on levels of registration if a system of individual registration was introduced. When individual registration was introduced in Northern Ireland by the *Electoral Fraud (Northern Ireland) Act 2002,* the numbers on the register there fell by 10.5% although the legislation was seen as successful in reducing electoral fraud.[187]

The *Electoral Administration Act 2006* did not introduce individual registration despite continued calls for this from the Electoral Commission and the Conservative Party. The *Political Parties and Elections Act 2009* did make provision for the phased implementation of

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184 http://www.electoralcommission.org.uk/__data/assets/pdf_file/0005/87107/043-ERO-Report-Web.pdf
185 http://www.electoralcommission.org.uk/__data/assets/pdf_file/0005/87107/043-ERO-Report-Web.pdf
186 *The Electoral registration process: report and recommendations*, Electoral Commission, 2003
187 For further information see Section XI of Library Research Paper 05/65, *The Electoral Administration Bill 2005-06*

individual registration although this had not been in the original bill and was added during committee stage in the House of Lords after pressure from the opposition parties.

The new clauses which were added to the *Political Parties and Elections Bill* made provision for implementing a system of individual registration of voters under a statutory timetable. Electors' personal identifiers (date of birth, signature and national insurance number) will be collected on a voluntary basis before 2015 after which it will become compulsory for new voters to provide them. The final move to compulsory individual registration will not take place until 2015; the Labour Government said that a phased approach would allow progress to be monitored at each stage to ensure that registration rates would be maintained. The Electoral Commission will be required to publish annual progress reports and to make a final recommendation in 2014 on whether the change to individual registration should take place.

The Coalition Government has said that it will speed up the introduction of individual registration but there has been no announcement about how this will be done.[188] In June 2010 the Electoral Commission issued a document setting out its proposed approach to the monitoring of the introduction of individual registration and said that any proposal to speed up the process would need to be considered by Parliament.[189]

7 Relevant House of Commons Library publications

1. AV and electoral reform, SN/PC/5317
2. Parliamentary constituency boundaries: the fifth periodical review, SN/PC/3222.
3. Redistributing Parliamentary boundaries: some international constituencies, SN/PC/5629
4. The Rules for Redistribution of Seats - history and reform, SN/PC/5628
5. Referendum on electoral reform, SN/PC/5142
6. Reducing the size of the House of Commons, SN/PC/5570
7. Thresholds in Referendums, SN/PC/2809
8. The *Electoral Administration Bill 2005-06*, Library Research Paper 05/65
9. *Election Statistics,* Library Research Paper 08/12
10. *Voting Systems: the Jenkins Report,* Library Research Paper 98/112

[188] HC Deb 14 July 2010 c797W
[189] *Monitoring the introduction of individual electoral registration: our proposed approach.* Electoral Commission, June 2010

Appendix 1 – Distribution of parliamentary constituencies according to UK territory and region

Research Paper 10/36 *General Election 2010: detailed analysis* sets out examples of the variation in electorate for different constituencies at the 2010 election in part 6.1. The variation in each UK Parliamentary constituency around national and regional mean electorates as at 6 May 2010 is provided in a separate Library Standard Note 5677 *Sizes of constituency electorates.*

Distribution of parliamentary constituencies according to UK territory and region

The following two tables compare constituencies according to electorate sizes as at 6 May 2010.

Table 1 sets out the mean electorates for constituencies in each UK country and Government Office Region. Wales is the most over-represented region, with an average electorate of 56,626 compared to the UK mean of 70,170. Among English regions, the North East is the most over-represented with a mean electorate of 67,155 compared to the England mean of 71,876. The South East is the most under-represented region with mean electorate 75,021.

Table 2 and Figure 1 show how seats would be distributed between UK countries according to parity of electorate, based on electorates on 6 May 2010. Wales would see the greatest percentage decrease in the number of constituencies, losing ten seats (a 25% reduction). England would see the smallest percentage decrease, losing thirty seats (a 6% reduction). Table 2 also shows how seats would be distributed across English regions, should the Boundary Commissions decide to prevent constituencies from crossing regional boundaries.

Table 1: Electorates on 6th May 2010

	Total electorate 6th May 2010	Number of constituencies	Mean electorate 6th May 2010	**Difference from UK mean**[i]
UK	**45,610,369**	**650**	**70,170**	
UK (excluding Orkney & Shetland and Na h-Eileanan an Iar)	45,555,504	648	70,302	132
England	38,310,104	533	71,876	1,707
Scotland	3,866,042	59	65,526	-4,644
Wales	2,265,039	40	56,626	-13,544
Northern Ireland	1,169,184	18	64,955	-5,215
East Midlands	3,312,827	46	72,018	1,848
East of England	4,261,002	58	73,466	3,296
London	5,293,567	73	72,515	2,345
North East	1,947,491	29	67,155	-3,015
North West	5,248,973	75	69,986	-183
South East	6,301,783	84	75,021	4,851
South West	4,026,997	55	73,218	3,048
West Midlands	4,090,470	59	69,330	-840
Yorkshire and the Humber	3,826,994	54	70,870	700

Orkney and Shetland	33,085	1	33,085	-37,085
Na h-Eileanan an Iar	21,780	1	21,780	-48,390

These figures put the UK Electoral Quota at 76,180.ii

Notes

i A positive figure for the difference indicates that the region's mean electorate is greater than the UK mean; a negative figure indicates it is less than the UK mean.

ii The UK electoral quota is calculated by dividing the total electorate of the UK, minus the electorates of Orkney & Shetland and Na h-Eileanan an Iar, by 598. Using electorate figures for 6th May 2010, **this gives a UK electoral quota of 76,180**. Please note that the UK electoral quota to be used by the Boundary Commissions (as proposed in the Parliamentary Voting System and Constituencies Bill) would be calculated using figures for the electorate on 1st December 2010. Hence an electoral quota of 76,180 is an estimate.

Source: *House of Commons Library figures*

Table 2: Revised distribution of seats, based on electorates on 6th May 2010

	Current distribution	Revised distribution[i]	Difference	Revised mean electorate[i]
UK	650	600	50	76,180
England	533	503	30	76,163
Scotland[ii]	59	52	7	76,224
Wales	40	30	10	75,501
Northern Ireland[iii]	18	15	3	77,946
East Midlands	46	43	3	77,042
East of England	58	56	2	76,089
London	73	69	4	76,718
North East	29	26	3	74,904
North West	75	69	6	76,072
South East	84	83	1	75,925
South West	55	53	2	75,981
West Midlands	59	54	5	75,749
Yorkshire and the Humber	54	50	4	76,540

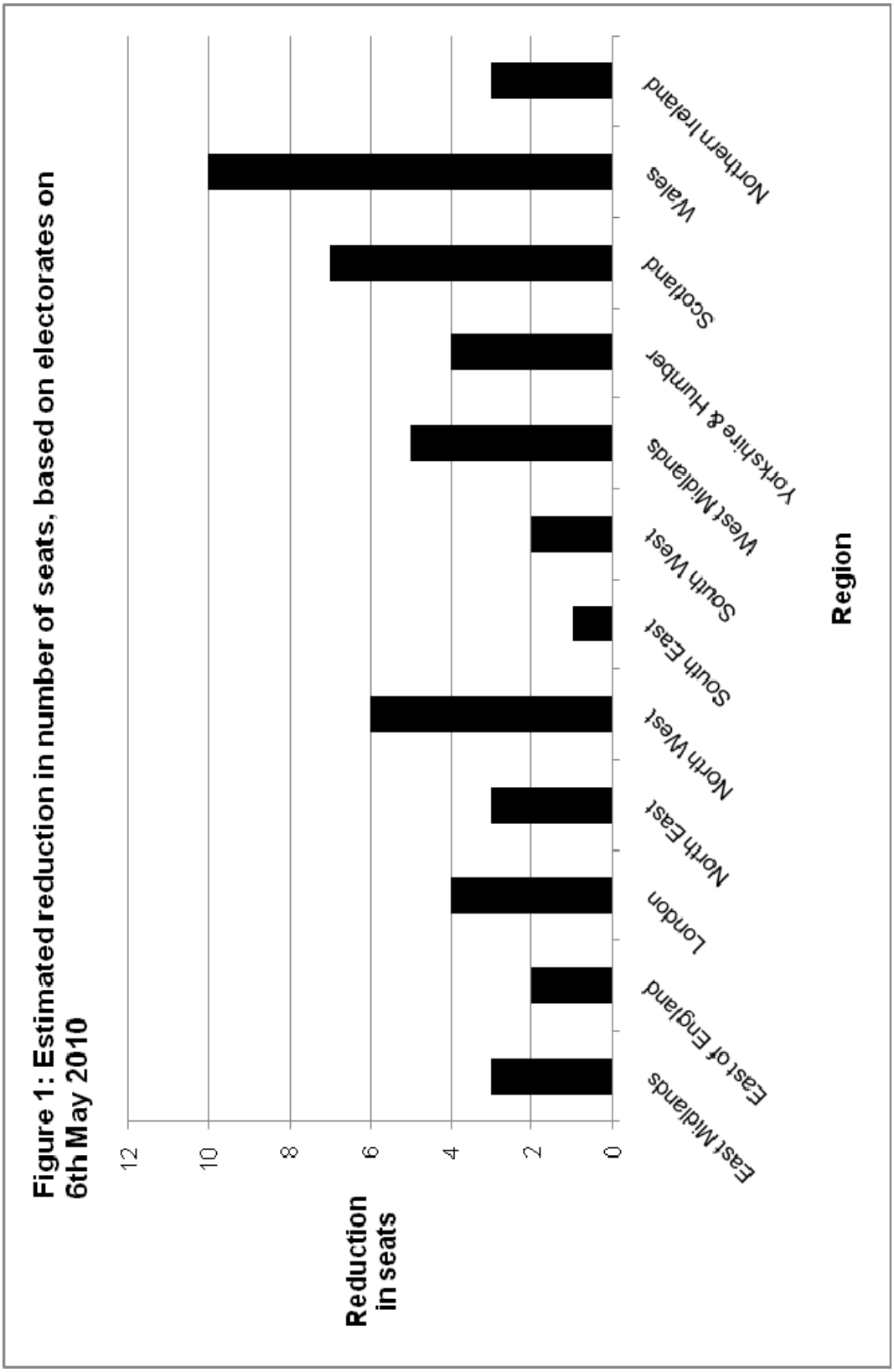
Notes

i The revised distribution is calculated by dividing the total electorate in each UK country or region on 6th May by a UK electoral quota of 76,180. The revised mean electorate is calculated by dividing the electorates of the UK countries on 6th May by the revised distributions.

Please note that the figures for the revised distribution of seats are estimates, as they are based on figures for the electorate on 6th May and not 1st December 2010. Furthermore the Boundary Commission for England is not obliged to keep constituencies within regional boundaries, so it should not be assumed that each region will contain an integer number of seats. Therefore the regional figures in the table should be used with caution.

ii In the case of Scotland, the electorates of Orkney & Shetland and Na h-Eileanan an Iar are subtracted from the total electorate before it is divided by the electoral quota. Orkney & Shetland and Na h-Eileanan an Iar have been excluded when calculating the average Scottish constituency electorate.

iii Electorate figures on 6th May suggest that under a redistribution of seats, Northern Ireland's mean electorate would be further from the UK electoral quota than the mean electorate in other UK countries. The Bill makes provision to allow more fluctuation about the quota for Northern Ireland seats (Clause 9, Rule 7). Based on 6th May electorate figures, electorates in Northern Ireland would have to lie between 72,371 and 81,755, rather than between 72,371 and 79,989.



Appendix 2 Size of the Commons and of the electorate from 1832

The following table shows the electorate at each election from 1832 to 2005 and the number of Members elected during this period. 650 Members were elected in 2010.

Election	Total number of Members elected	Electorate
1832	658	812,938
1835	658	845,776
1837	658	1,004,664
1841	658	1,017,379
1847	656	1,106,514
1852	654	1,184,689
1857	654	1,235,530
1859	654	1,271,900
1865	658	1,350,404
1868	658	2,484,713
1874	652	2,753,142
1880	652	3,040,050
1885	670	5,708,030
1886	670	5,708,030
1892	670	6,160,541
1895	670	6,330,519
1900	670	6,730,935
1906	670	7,264,608
1910 (J)	670	7,694,741
1910 (D)	670	7,709,981
1918	707	21,392,322
1922	615	20,874,456
1923	615	21,283,061
1924	615	21,730,988
1929	615	28,854,748
1931	615	29,952,361
1935	615	31,374,449
1945	640	33,240,391
1950	625	34,412,255
1951	625	34,919,331
1955	630	34,852,179
1959	630	35,397,304
1964	630	35,894,054
1966	630	35,957,245
1970	630	39,342,013
1974 (F)	635	39,753,863
1974 (O)	635	40,072,970
1979	635	41,095,649
1983	650	42,192,999
1987	650	43,180,753

1992	651	43,275,316
1997	659	43,846,152
2001	659	44,403,328
2005	646	44,245,939

Source: Colin Rallings and Michael Thrasher, *British Electoral Facts 1832-2006*, pp3-57 & pp85-92