



**Government response to the House of Lords
Constitution Committee's Report on the
Parliamentary Voting System and Constituencies
Bill**

Presented to Parliament by the Minister for Political and
Constitutional Reform
By Command of Her Majesty

February 2011

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Introduction

1. The Government is grateful to the House of Lords Select Committee on the Constitution for its work in scrutinising the Parliamentary Voting System and Constituencies Bill.
2. This Government response addresses the Committee's conclusions and recommendations point-by-point.

Background

3. The Bill delivers a key commitment in the Coalition's 'Programme for Government' to hold a referendum on the voting system for the House of Commons and provide for the creation of fewer constituencies of more equal size.
4. The Government believes it is important to give people the chance to choose, for the first time, the system to be used to elect their representatives in the House of Commons. This Bill therefore provides for a referendum to be held which will give voters a clear choice between the existing "first past the post" system and the alternative vote system (AV), and includes provisions which will implement AV in the event that the referendum result is in favour of that system.
5. The Bill also addresses the current inequality in the size of constituency electorates, which means that a vote currently has a different weight across the country. Reducing the number of MPs will also bring the House of Commons more into line with the size of other legislatures across the world. This Bill therefore provides that the number of MPs will be reduced to a fixed number of 600 and that, in future boundary reviews, each constituency will be required to be within 5% either side of a single electoral quota, subject to a small number of tightly drawn exceptions.

Response to the key conclusions of the Committee's report

Matters of process

6. **We regret the fact that this Bill has not been subject to either pre-legislative scrutiny, or to prior public consultation.**
7. **In general, we regard it as a matter of principle that proposals for major constitutional reform should be subject to prior public consultation and pre-legislative scrutiny. We recognise that there may exceptionally be good reasons for departing from this principle, but the perils of doing so are well illustrated in the present Bill. The case for proceeding rapidly with one Part of this Bill is far stronger than for the other.**

8. The proposals in the Bill flow from the agreement made between the two Coalition parties when the Government was formed, and therefore reflect the political reform priorities of the Coalition parties. Nevertheless, all the major parties made political reform a core part of their manifestos for the last general election. The Conservative Party's manifesto included a clear commitment to reduce the size of the House of Commons and to equalise the size of constituency electorates, and the Liberal Democrat manifesto included a commitment to reform of the electoral system.
9. The Government is strongly of the view that the Bill is needed in order to deliver the Coalition's commitment to bring forward proposals for reform in this area as a matter of priority. It is important that the Bill receives Royal Assent in time for a referendum to be held on 5 May 2011. As the Government has set out, holding the referendum on this date brings significant advantages: combination will save approximately £30 million across all the polls on 5 May and is also more convenient for voters. Combination of elections is not unusual, and anything that increases voter turnout is welcome.
10. The Government also believes that it is reasonable that the current unfairness and inequality in the weight of a vote should be addressed for the next general election, which the Government intends should take place in 2015. The 2010 general election in England was fought on new boundaries based on data that was already ten years out of date, and the Government believes that the current situation needs to be addressed before the next general election. The Committee notes the importance of adequate time for all concerned to prepare for a general election on the new constituency boundaries, and the importance of proper consultation on boundary recommendations. The Government agrees: that is why the Government has brought forward legislation early in the Parliament, so that there is appropriate time both for the reviews to be conducted in an appropriate manner and for candidates for election in 2015 to be selected once the new boundaries are settled.
11. The Government recognises the value of pre-legislative scrutiny and has given a commitment that future constitutional legislation will go through the process, but early in a Parliament it is not always possible for legislation to be scrutinised in this way. The debates on the Bill in both the Commons and the Lords have been full, with Committee stage taken on the floor of both Houses, and the Bill is still receiving real and detailed scrutiny through its Parliamentary passage. The PVSC Bill has had 17 days of Committee Stage in the House of Lords.
12. The Government also notes that, following the last change of Government in 1997, legislation was passed to provide for referendums to take place in Scotland and Wales on the establishment of devolved Assemblies in November of that year, six months after the general election. The Government does not consider it unreasonable to seek to hold a referendum a year into a Parliament.

Part 1: voting system for parliamentary elections

- 13. Reform of the voting system does constitute a fundamental constitutional issue on which a referendum may be judged to be appropriate.**
14. The Government agrees with the Committee that changing the electoral system for the House of Commons is a fundamental constitutional issue, and welcomes the Committee's conclusion that it is appropriate to hold a referendum before any change is made.
- 15. We welcome the fact that the Bill was amended in the House of Commons to give effect to the Electoral Commission's suggested wording.**
16. The Government welcomes the Committee's support for the approach and notes that the system for consideration of the draft referendum question has operated exactly as envisaged by the Political Parties, Elections and Referendums Act 2000. We agree with the Committee that the Electoral Commission should have an important role in assessing the intelligibility and impartiality of the referendum question, but do not believe that the Commission should set the question itself. It is right that, if the Government intends for a referendum to be held, it should propose the question which should then be subject to consideration by the Commission and then decided by Parliament.
- 17. We regard it as regrettable that the Government should have failed to consult appropriately with the devolved institutions on the timing of the referendum.**
18. The referendum relates to the voting system for the Westminster Parliament, and we considered that it was appropriate that Parliament was the first to be informed of these proposals. In the Government's view, combining the referendum with other polls makes sense: it will save money (around £30m across all polls) and it avoids unnecessarily inconveniencing voters by asking them to return to the polls on separate occasions to vote in the elections and then the referendum. It also allows us to make swift progress on the Government's programme of constitutional reform. Of course, the other polls being held on 5 May 2011 are very important. There will be a distinction between the campaigns – for example, there will be separate election and referendum television broadcasts. While the Government recognises that there are strong feelings about the combination of polls, we believe that the benefits of 5 May outweigh the disadvantages.
19. The practical arrangements for the elections to the devolved institutions in Scotland, Wales and Northern Ireland are not currently devolved. The administration of the polls is also very important, and the Government has been working closely with the Electoral Commission and UK administrators to ensure all the polls on that day run smoothly. The Commission has said that "sufficient progress has been made for [them] to be confident that [the polls] will be well run".

20. **Given that the Bill was introduced in the House only six months before the proposed referendum date, there is a danger that these deadlines will not be met.**
21. This Bill is a priority for the Government, and we have taken a number of steps to ensure that administrators have time to prepare for the poll on 5 May 2011. All the detailed conduct and combination rules for the referendum and other elections were included in the Bill six months before the proposed poll date. These rules are very closely based on existing conduct and combination rules for elections which are normally set out in secondary legislation, and so we would not expect there to be major amendments to them during the Bill's passage. But as the Committee observes, the Minister for Political and Constitutional Reform has made it clear that if significant changes are made to these rules, the Electoral Commission will need to take a view on what this means for the conduct of the referendum.

Part 2: Parliamentary constituencies

22. **We conclude that the Government have not calculated the proposed reduction in the size of the House of Commons on the basis of any considered assessment of the role and functions of MPs.**
23. The question of the size of the House of Commons is ultimately a matter of judgement: that has always been the case. The overall size of the House has in the past simply been the result of the collective considerations of the four Parliamentary Boundary Commissions, based on an approximate figure in legislation. Those decisions have been taken in each of the reviews in each part of the United Kingdom entirely without reference either to the decisions of the other Commissions, or considerations regarding MPs' roles and functions. The existing legislation governing the setting of Parliamentary boundaries – the Parliamentary Constituencies Act 1986 – has been acknowledged by academics and in Boundary Commission reports as flawed in a number of ways, including the fact that it results in an unintended upward pressure on the overall numbers of MPs.
24. The Government does not agree with the suggestion that an empirically “right” number can be derived in the way that others have suggested to the Committee. MPs face different challenges and constituencies vary, and calculating the ideal size of the Commons from a consideration of the role of MPs would in practice be very difficult. The Government considers that any such approach is both unrealistic and unnecessary. Our proposals make a modest reduction in the overall size of the House. The result of this will be constituencies well within the existing range of experience – over a third of current constituencies are within 5% of a quota of 76,000. In this way we do not consider that the proposals will substantively change the role or function of MPs, or diminish Members' ability to perform their representative function.

25. Nonetheless, having considered carefully the arguments which were made during Committee stage in the Lords, the Government has agreed to amend the Bill to provide for a post-legislative review of the impact of the reduction in the size of the House of Commons to take place after the General Election.
26. **We conclude that the Government have not made a proper assessment of the impact which the reduction in the size of the House of Commons may have on the relationship between the executive and Parliament. This is an unsatisfactory basis on which to embark on fundamental reform of the legislature. We are concerned that the Bill could possibly result in the Executive's dominance over Parliament being increased.**
27. The Government remains committed to strengthening Parliament in relation to the Executive, as we are doing through the Fixed-term Parliaments Bill and the reforms already made to the working practices of the House of Commons. We have been clear that we accept the principle that there is a link between the legislature and the size of the executive.
26. However, there is no immediate need to resolve this issue, since the provisions relating to a reduced number of MPs will not take effect until 2015. The Government therefore intends to reflect on the arguments made during the passage of this Bill, and set out its plans once there is greater clarity on the composition of the second Chamber, including how many Ministers could be drawn from there.
27. **The Government should set out how they propose to meet the need for parties, candidates and electors to know the shape of their constituencies a sufficient length of time in advance of each general election.**
28. The Government recognises the importance of allowing all those involved in the electoral process adequate time to prepare for the 2015 general election. However, a boundary review must also afford adequate time for the Boundary Commissions to do their job thoroughly, including consulting the public and political parties fully on their recommendations. The Government believes that the Bill strikes the right balance between the need for constituencies that reflect the distribution of the electorate, so as to ensure greater equality in the weight of a vote, effective consultation on boundary proposals, and adequate time for preparation for the subsequent election. As the Committee recognises, the effect of the Bill is that the Boundary Commissions are required to complete their reviews 18 months before the expected date of the general election: the deadline is set to balance these competing priorities.

29. The boundaries in use for the 2010 general election in England were based on electoral data that was by then ten years old. If the same boundaries are in place in 2015, that data will be fifteen years out of date. This is not fair to electors, candidates or political parties.
30. The Government does not consider that there is a significant issue with the alignment of fixed term Parliaments and boundary reviews. Existing legislation does not take any account of the timing of Parliaments, which under the existing rules could not be known. This has led to situations where the Commissions' recommendations are published only a few months before they are implemented. For example, the Boundary Commission for England submitted its third general report in February 1983; elections took place on the new boundaries in June of that year. Furthermore, the Boundary Commission for Scotland submitted a report following a review which reduced the number of constituencies from 72 to 59 in November 2004, and a general election took place on those considerably revised boundaries in May 2005.
31. The potential for an extraordinary general election means that absolute synchronicity between boundary reviews and Parliaments could not be guaranteed without running the risk that successive short Parliaments resulted in boundaries that are considerably out of date. On balance the Government concluded that this would not be in the interests of fairness to electors; our proposals will mean that as a rule boundary reviews will take place in line with Parliaments, and future Parliaments will be able to consider how best to address any issue that arises in future in light of the circumstances at the time. In any event, they will happen more frequently. The annual progress report from the Commissions will increase Parliament's knowledge of each review's progress and will assist Parliament in deciding how to act.
- 32. Pre-legislative scrutiny and public consultation would have enabled a better assessment of whether the new rules as to equalisation are overly rigid.**
33. It is a fundamental principle that each elector's vote should have equal weight. However, this has to be balanced against some flexibility for the Commissions to consider local factors. Under the Government's proposals, constituency electorate size will be able to vary by as much as 10%. This figure provides for greater fairness and equality, whilst allowing the Boundary Commissions discretion to apply the other factors (such as geographical circumstances and local ties) that have been retained from the existing legislation, and in England, to use wards as the building blocks for constituencies in the majority of cases, as they do at present. We believe therefore that 5% either side of the electoral quota is the right proposal.

34. This will mean that more constituencies cross local authority boundaries than is presently the case. However, many constituencies already cross local authority boundaries. 19 out of 32 London borough boundaries are crossed by a constituency boundary, along with the borders of 16 out of 35 shire counties and 31 out of 40 unitary authority boundaries. The Government believes, and experience shows, that there is no reason why Members of Parliament cannot represent a constituency that crosses these boundaries.
35. The overriding principle is one of fairness, so although the Government has accepted the case for a small number of tightly drawn exceptions to the parity rule on the basis of particular geographical circumstances, the number of exceptions has been kept to a very limited number.
- 36. Pre-legislative scrutiny and public consultation would have provided an opportunity for these concerns [in relation to the effect of the proposals on Wales] to be properly addressed.**
37. The Government has made it clear that, while the Government recognises the role of pre-legislative scrutiny, the timescales for these proposals are such that it has not been possible for this Bill.
38. There will be fewer MPs representing Wales as a result of the proposals, just as there will be fewer MPs representing other parts of the United Kingdom. Wales is currently over-represented in Westminster compared to other parts of the UK and, in common with the rest of the country, will see a reduction in the number of Parliamentary constituencies. It is only right that Parliamentary representation for Wales should be calculated on the same basis as for other parts of the UK. It should also be noted that whilst the 2009 electoral register data would have meant a reduction in the number of MPs in Wales of 25%, this should be seen in the context of an overall reduction in the size of the House of Commons resulting in the proportion of MPs representing Welsh constituencies reducing from 6% to 5%.
- 39. We recommend that the Government give consideration to whether the Boundary Commissions should be directed to comply with the requirements of the Code of Practice on Consultation.**
40. The Government agrees that it is vital that the consultation carried out by the Boundary Commissions on their proposals for constituencies is effective. The Bill sets out clearly how the consultation is to proceed, and the time for representations on boundary recommendations is to be trebled from one month to twelve weeks in line with the principles of the Code. The Government does not consider it necessary to direct the Commissions to comply with the Code, which is designed principally to deal with the duty to consult when it arises under common law, rather than statutory consultations of the type set out in the Bill. Nevertheless, we

anticipate that the Commissions will, as they always have, take steps to ensure that all those who wish to contribute to the review are able to do so.

Conclusion

- 41. We believe that a number of concerns, particularly with Part 2 of the Bill, have not been properly addressed by the Government.**
- 42. We are concerned that the constitutional relationship between the provisions of this Bill and the Government's other proposals for constitutional reform have not been adequately thought through.**
- 43. The Government should set out how they consider that this Bill and its place within their programme of constitutional reform make the political system "more transparent and accountable".**
44. The Government has an ambitious programme for political and constitutional reform and is keen to ensure that Parliament has adequate time to debate all the proposals it brings forward. This is why Members of the House of Commons had 8 full days to debate the proposals of the Bill in detail, with Committee stage in the Commons being taken on the floor of the House. The Bill has since been introduced in the House of Lords, and peers are debating the legislation at length and in detail.
45. The Committee is interested in how the Bill makes the political system more transparent and accountable. Our proposals will give people a say on the method for electing Members of Parliament – people have never before had the chance to express a view and this Bill allows them to do that. And by equalising the size of constituencies we will give votes more equal weight.
46. Giving people a say in which system is used to elect their representatives will help to enhance the transparency and legitimacy of our political system. There are important links with other parts of the Government's reform agenda. Giving power back to the people and increasing accountability is a central aim of this Government, and the Government's proposed constitutional reforms each contribute to this goal. Fixed-term Parliaments take the power to set general election dates away from the Prime Minister. Reforming the House of Lords will ensure that the second chamber is democratically accountable. Recalling MPs who commit serious wrongdoing takes power away from the elite and gives it to the person on the street. A referendum on the voting system gives people a choice over how MPs are elected and how Governments are formed. And the boundary review ensures that peoples' voices are equally heard in Westminster. So this Bill is a part of a coherent programme, and it is important to make prompt, but well-considered progress.



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