



Ministry of  
**JUSTICE**

**The Right Honourable  
Lord McNally**

**Minister of State**  
102 Petty France  
London  
SW1H 9AJ

T 020 3334 3555  
F 020 3334 3669  
E [general.queries@justice.gsi.gov.uk](mailto:general.queries@justice.gsi.gov.uk)  
[www.justice.gov.uk](http://www.justice.gov.uk)

Baroness Thomas of Winchester  
House of Lords  
London  
SW1A 0PW

13 December 2010

Dear Celia,

#### **PARLIAMENTARY VOTING SYSTEM AND CONSTITUENCIES BILL**

I am grateful to the Committee for their report on the Parliamentary Voting System and Constituencies (PVSC) Bill.

As the Committee's report notes, under clause 8(4) of the Bill as it is presently drafted, a commencement order (under clause 8(1)) to implement the provisions that would implement the Alternative Vote system for elections to the House of Commons (clause 9, schedule 10 and Part 1 of schedule 11) following a "yes" vote in the referendum may make transitional or saving provision. The inclusion of this provision was, as the Government's memorandum to the Committee set out, in order to allow limited provision to be made where it is genuinely necessary for the purpose of commencing these provisions in an effective way. The power is limited in its application, and cannot be used to amend either the Bill or any other piece of legislation.

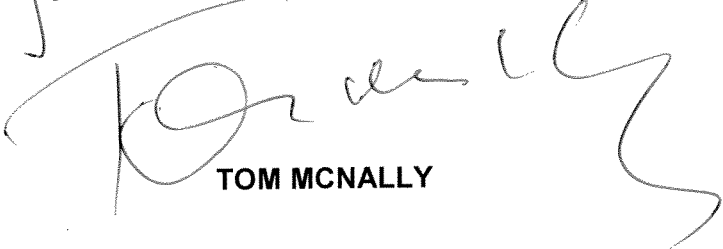
The Committee's report concludes that this power should be subject to Parliamentary procedure on the grounds that this provision could be used to determine which form of voting system is to apply in the case of a particular Parliamentary election, and recommends that the power in clause 8(4) of the Bill should be subject to the negative procedure.

We have reflected carefully on the Committee's conclusions. As the Government's memorandum to the Committee explained, we had envisaged that, in the event of a "yes" vote, this power might be used to provide that any Parliamentary by-election occurring between the commencement of the "AV provisions" and the subsequent general election would take place under the existing First Past the Post system. That is because the Government takes the view that it would not be appropriate if, in the intervening period between the commencement of these provisions and the subsequent general election, by elections were to take place under the Alternative Vote system, since that would have the result that the House of Commons would contain Members elected under two different electoral systems.

The Government is content to accept that Committee's conclusion that the issue of the power in 8(4) should be addressed. However, the effect of applying Parliamentary procedure to the power as proposed would run contrary to the Government's stated intention that the referendum on the voting system should be binding in nature, and would not require the passage of further legislation. Moreover, your Committee did not find that the power in clause 8(1) itself merited additional procedure.

For these reasons, the Government does not therefore intend to introduce an amendment applying the negative procedure to clause 8(4). However, to meet the point raised by the Committee, the Government intends to table an amendment at Report stage of the Bill which would both remove the power at 8(4) from the Bill, and insert provision on the face of the Bill that would make clear that, in the event of a by-election occurring between commencement of the AV provisions and a subsequent general election, such a by-election would take place under First Past the Post. I hope that you will agree that this approach meets the point raised by the Committee by removing the power altogether and making explicit primary provision in its place.

I have placed a copy of this letter in the Library.

Yours Sincerely  
  
**TOM MCNALLY**