

THE COMMITTEE ON STANDARDS IN PUBLIC LIFE

THE GRAHAM COMMITTEE

**Commonwealth Club
25 Northumberland Avenue, London WC2N 5AP
11 July 2006
6th Hearing
Morning/Afternoon Sessions**

Members Present: Sir Alistair Graham (Chairman)

Lloyd Clarke QPM
Rita Donaghy CBE
The Rt Hon Baroness Shephard of Northwold JP DL
Baroness Maddock
Dame Patricia Hodgson DBE
Dr Elizabeth Vallance
Dr Richard Jarvis (Secretary)

Witnesses: Michael Crick
Dr Alan Whitehead MP
Andrew Tyrie MP
The Rt Hon Kenneth Clarke QC MP



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1. SIR ALISTAIR GRAHAM (Chairman of the Committee): Michael, thank you very much for coming to see us this morning and thanks for writing into us with your proposal. We are grateful that you are willing to share your experience as a reporter of these matters. One of the Committee members takes the lead initially to ask questions. Do you want to say anything of general terms before we started asking you questions?
2. MICHAEL CRICK: No.
3. SIR ALISTAIR GRAHAM: Baroness Shephard is going to take the lead on behalf of the Committee and then other Committee members will come in as appropriate.
4. THE RT HON BARONESS SHEPHARD OF NORTHWOLD JP DL (Committee Member): Good morning.
5. MICHAEL CRICK: Good morning.
6. BARONESS SHEPHARD: The first thing I want to ask you is this: do you think, generally speaking, people know what the Electoral Commission is?
7. MICHAEL CRICK: No. Certainly the general public have probably never heard of it, and even amongst people who sort of ought to know. If you were to take my colleagues at the BBC, they probably get a bit mixed up between the Electoral Commission and you - your Committee - and various government bodies. So it is not that widely known. I suppose the area where it is mostly widely known in the journalistic community is the body that registers donations to political parties which people regularly look at and it immediately arouses controversy.
8. BARONESS SHEPHARD: To be fair to it, it has not been in existence for that long and obviously it is also the case that electoral matters often only matter to the general public at elections because that is when they gain their profile. But, in fact, it's mission, and I quote, "Is to foster public confidence and participation by promoting integrity, involvement and effectiveness in the democratic process". First of all, I wonder if you think this has been achieved, has any of it been achieved, have there been areas where it has done well and areas where it has not done so well?
9. MICHAEL CRICK: Well, there has been a period, I suppose, in the last five years of some turmoil in electoral matters.
10. BARONESS SHEPHARD: Why is that?
11. MICHAEL CRICK: You have seen increasing focus on two areas of the Commission's work. The whole question of donations to political parties and whether there is any relationship between that and actions carried out by government, or potential actions carried out by potential governments and the awarding of honours. Secondly, the whole area of postal voting and so on.

Your question was essentially has it achieved its aims --

12. BARONESS SHEPHARD: No, actually I asked you whether you thought it had achieved the aims of its mission. Where it has done well and where it has not done so well. Then I interrupted you, of course, as you began to answer and asked you why it was that there seemed to be greater salience on some of the areas that it has to do with. Now you have answered that, I think.
13. MICHAEL CRICK: Yes, there are those two big areas of controversy. It is much wider than that clearly. I am not a huge expert on the work of the Electoral Commission. I am only familiar with it in those areas which have been of interest to me as a journalist. So I am probably not best qualified, and probably wasting your time and my time, to spend a great deal of time discussing all the individual things that the Commission does. I have got a number of thoughts about some of the things it does and its attitude towards elections and political parties, and those are partly reflected in this rather small proposal that I put forward.
14. BARONESS SHEPHARD: Yes, would you like to expand on some of your other general thoughts?
15. MICHAEL CRICK: I think my thoughts are rather similar to the thoughts put forward by Michael Pinto-Duschinsky in the paper he submitted to you before his appearance here. I have not read his evidence. He kindly sent me a copy of that. I do think there is a general naiveté about the Electoral Commission. I have had quite a lot of dealings with them over the last five years and they kindly invite me along to receptions and press launches and so on. But I think there is a naiveté about the extent of the tricks to which political parties, candidates, agents and so on, get up to in election campaigns. I think that the Commission suffers from not really having, as far as I can observe - and I think they are limited certainly in terms of the commissioners, maybe the staff as well - from not having any practitioners or ex-practitioners of elections involved.
16. If I was setting up a committee like that I would have said, "Right, let's get three or more, one for each of the major parties, election agents". Particularly those election agents who have been involved in the area in elections where it gets dirtiest, which is by-elections. You would soon learn a lot of the tricks that go on.
17. One of the things that my colleague at Channel 4 News, Eleanor Goodman, taught me is that when you are covering an election it is often much more useful to talk to the election agent if you can rather than to the candidate because the election agents often have a much better idea of what is going on. Certainly, over the years I have tried to follow that and I discovered from talking to election agents that they get up to all sorts of tricks that would surprise, I think, a lot of members of the public and even a lot of other journalists. Some of these tricks then become immediately obvious in the election literature that is published during the course of the campaign. But

certainly in terms of some of the other areas that you are exploring, and which the Electoral Commission has to explore, to have a few practitioners or more practitioners on board saying, "Well, look, if you do this then such and such will happen" or, "Perhaps you ought to be taking a look at that" will help.

18. My other view is that they need to get more involved in finding out what actually goes on in an election. If I was the Electoral Commission, if I was working for the Electoral Commission, I would make sure I was out on the ground during election campaigns. Admittedly the period of election campaigns is pretty short in this country and you have only got three or four weeks to do it in terms of a general election but you have got by-elections as well and local government elections. But I think if they went out much more regularly on the ground, unannounced, and spent life actually exploring what goes on and how people campaign and so on, they might learn a lot more. But from my dealings with them, from conversations with them, I get the impression they do not do a great deal of that.
19. I just think there is an overall general naiveté that these are the rules and we just hope that the parties abide by them. Frankly, a lot of the time the parties try and get around the rules.
20. SIR ALISTAIR GRAHAM: Is that because you think, in fact, that they just have not been proactive enough on the regulatory side? Is that the fundamental criticism that you are making?
21. MICHAEL CRICK: I do think that. There is an interesting illustration of this. One of the areas where I think there has been trouble for years and years and years, and anybody who has been involved in either a big by-election - and a by-election where there has been proper competition not where the winner is a foregone conclusion - or in the campaigns in the marginal seats will know that this whole area of election expenses, of which I addressed this Committee - although it was a different group of people - some years ago, has been a problem. Now, I foresee that it will also be a problem in terms of the national spending limits. There was not a problem at the last general election but I think next time we have an election where the conclusion is not clear, and I think really the last time we had that was 1992. In 2005, 2001 and 1997 it was fairly clear who was going to win. So there probably was not the intensity of activity in those elections that you would get if it really were not a foregone conclusion until the final day.
22. I think we are going to have a problem getting the political parties to stick to their national spending limits and I think there is a very strong chance that they will get round them in just the same way that on the ground in local constituency where there is an intense campaign they have been getting round the limits there. I think the Electoral Commission needs to start thinking pretty actively about what it is going to do about that possibility. The way things are at the moment it looks as though the next general election could be much closer than we have had since 1992.

23. A small example of this is that the other day the Electoral Commission invited journalists in to come and look at the ring binders of election receipts from last year's general election.
24. BARONESS SHEPHARD: This must follow your letter because one of your representations was about election receipts, was it not?
25. MICHAEL CRICK: That actually followed this incident. What happened was around about April or May - I cannot remember when it was - journalists suddenly realised that the Electoral Commission had all these receipts and that it was possible to go and look at them. So suddenly there was a flood of requests from journalists. So the Electoral Commission had a sort of open day whereby they invited us all in and there were about 30 ring binders of receipts, about 10 per party. The first open day was for the main parties and then for the minor parties they had a subsequent open day, as it were. They did not call it an open day but that is what it was. We all sat there and were going through these receipts. Now, what was interesting about the receipts was (a) it gave you an extraordinary amount of detail about how an election campaign is run in this country, of a type that I have never seen before, and it was incredibly illuminating and would be of huge interest to academics and historians and so on.
26. But within those receipts you frequently saw several examples of invoices which indicated to me that local spending in support of an individual candidate, or a particular seat, had been diverted to the national bill. For instance, there were invoices of named candidates - I cannot remember what the particular item was - for some form of literature or balloons or something like that. In other words, what should have been on the local candidate's spending bill, within his local spending limit, was being diverted to the national spending bill. I pointed this out to the officials who were running this open day and said, "This should not be here; it should be on their local". They did not seem that interested. Now, it may not have been --
27. SIR ALISTAIR GRAHAM: Because if it had been on the local they would have breached the limit?
28. MICHAEL CRICK: They might have done. It may well have been that those particular candidates were way under their limit anyway but the Electoral Commission could have checked fairly quickly because they, of course, produced this list, seat by seat, as to how much each candidate has spent. Now, what we may see at the next general election is, in fact, the reverse trend. I think actually if it does really get intense, the national campaign, what you will see is national spending is allocated to more and more local seats and that the fiddle actually works the other way. But I think that the Electoral Commission has to familiarise itself with all the tricks that agents get up to. Often it is the agents, often candidates - and some of you have been candidates - do not know what is going on and it is done behind their backs. But certainly --

29. SIR ALISTAIR GRAHAM: Presumably the scope for substantial fiddling would be on things like printers' bills or something. You get a printer who is a good friend who gets lots of business over many years outside of the election time and then puts in a very super low competitive rate --
30. MICHAEL CRICK: Absolutely, or he says, "Well, in fact, this £10,000 bill, a vast amount of it was to support an obscure candidate who is way below the expense limit and only a small amount of it was to support such and such". So money will be moved around the system, I think, like that. How the Electoral Commission polices that is a very tricky job for them. But I do think they are going to have to spend more time going out and exploring what is happening on the ground, making a note of where election posters are, how many there are and - in lines with the proposal that I have made in my letter - starting to gather in all the forms of election communication, not just paper literature but the other forms as well. Just to get a feel, a much better sense, of how the election is going on.
31. SIR ALISTAIR GRAHAM: It is a quite intensive business presumably.
32. MICHAEL CRICK: It will be quite intensive for the period of the election. But it will be focused really on those constituencies where there is intense competition. Most constituencies the amount of election literature is probably, you know, a couple of dozen items at most. In a safe seat the political parties hardly produce any literature, whereas in the really marginal seats they're producing hundreds. The Liberal Democrats, I think, in Brent South in the by-election were boasting of 400 pieces of paper. But it will balance out --
33. BARONESS SHEPHARD: To each voter or ...?
34. MICHAEL CRICK: It felt like that at times, I think, for some of them. No, the Liberal Democrats there, they tend to be more advanced in these things, they were producing leaflets street by street. But in order to get an idea of what the parties are up to I think the Electoral Commission is going to have to maybe have inspectors or people who just suddenly turn up out of the blue.
35. BARONESS MADDOCK (Committee Member): Can I just ask a question on that, Michael? I think actually trying to do that across the country would be an enormous task. Would you favour that the Electoral Commission home in on one or two places, and not tell people where they are going to home in on, so that everybody is aware that they might be being looked at? At the moment the people who look at returns are the election agents and they look at other parties' return and it is all very much tit for tat, I have to say, because you will keep it up your sleeve in case you might want to say something. That is why nothing happens because it has to be somebody taking special action which is quite difficult to take. So you are saying that actually the Electoral Commission should be able to take this sort of action?

36. MICHAEL CRICK: It is complicated because of course you have got the role of the returning officer to consider here as well and the local authority which collects in the returns as they are now. First of all, there is a certain gentlemen's agreement, I think, between the political parties. Take your by-election, I am pretty sure that several of the parties, at least two of the parties in your by-election, went over their spending limits. It is a long time ago now, we do not need to argue about it.
37. Nobody complains about these things because they know that if they put in a complaint this time then next time round they will be complained against and it works that way. Which actually is terribly unfair on minor parties who cannot afford to go over the spending limits. In any case now the situation has changed quite a lot because certainly in by-elections you can spend quite a lot more. But, yes, the Electoral Commission should look at every by-election. But in a general election where you may have 100-150 seats that are hotly contested, yes, it does have to decide it is going to choose some seats and make a quick raid on it. Roughly a week before polling day when it is getting really intense and just suddenly turn up and say, "Right, what are you up to?"
38. Combine that with perhaps this obligation, which I am suggesting in my letter, that candidates and political parties fighting parliamentary election campaigns should be obliged to submit every item of literature - and I take literature in its widest sense and the lawyers would have to do some quite clever defining here - to the Electoral Commission. Initially when I put this idea in my thought was, "Well, it is something they could do after the election". But actually, on reflection, I am beginning to wonder whether it is something they ought to do within 24 hours simply so that the Electoral Commission gets an idea of the intensity of that campaign.
39. The problem you have got then is they might well quite legitimately have published 400 leaflets and there may be only be one for each street, as it were, and they may not have gone over their spending limits. But you do get a better idea having the literature, having the examples of activity, than you would do if you do not have it. There are a couple of other spin-off benefits as well. So, yes, combine the two. The obligation on parties to submit their material, or samples of their material, to this central body and certainly inspections of what is going on in the constituencies and some form of inspecting the wider national picture. Maybe inspections in the form of suddenly turning up on the doorstep of the Labour Party, Conservative Party, Liberal Democrat Headquarters and saying, "Right, the campaign's going on, we want to see what you are up to now". Rather than waiting for them to submit their invoices several months later.
40. BARONESS SHEPHARD: Let us draw some of this together because you started by saying that your impression of the Electoral Commission is that it is somewhat naïve and that it ought to know a great deal more about what actually goes on in elections. Which seems to imply that you think that of the Commission's three tasks which are defined as regulatory, advisory and educational, you would perhaps think that the regulatory role was not being

satisfactorily accomplished?

41. MICHAEL CRICK: Yes. It is not necessarily the Electoral Commission's fault.
42. BARONESS SHEPHARD: But surely it is not its fault but it is the body that is required to regulate the process. So while it may not be the perpetrator should it be doing more to regulate the process?
43. MICHAEL CRICK: Yes, in my view. Although I accept that it is complicated because there is a role taken by the returning officer on the ground, there is a role taken by the police, and a lot of this is untested and badly defined and people are not entirely clear where they stand. But my view is that the Electoral Commission does need to take a more active role, a more regulatory role, otherwise many of the rules that exist and have recently been introduced will not be effective.
44. BARONESS SHEPHARD: Do you think that the Commission itself ought to have a view on the way elections are conducted? That it should be having a strategic role, rather as you have just described, instead of reacting to events. In other words should it be the policy leader in this area, putting proposals forward to the government of the day?
45. MICHAEL CRICK: It is a tricky one. I think probably not. Clearly it should take the view that elections should be conducted legally and honestly, but we all believe in that or at least we all claim to believe in that. But there is a danger of it straying into areas where there are significant differences between the political parties and I think that when it does move into those areas there are dangers of it then losing cross party support.
46. BARONESS SHEPHARD: Who should do it then?
47. MICHAEL CRICK: Well, I think it is something for parliament ultimately to thrash out. It is difficult to have this conversation without talking about specifics.
48. BARONESS SHEPHARD: Let me help you because you have said the responsibility is divided between different sorts of authorities for the conduct of elections; for a start returning officers, the role of the police, the role of the political parties, the fact the returning officers are in fact employees of local government. All of these things. In other words, there is a very diverse group that is in charge. The Electoral Commission certainly has been set up to look at the way, in part, that elections are conducted and yet you are saying you do not think that they should have, as it were, an advisory role as far as the policy for the conduct of elections is concerned.
49. MICHAEL CRICK: It depends what you mean by the policy of the conduct of elections. If you mean by the policy --

50. BARONESS SHEPHARD: You just said there is a whole load of things wrong. I have asked you if you think it is part of the role of the Electoral Commission to suggest ways of making it better.
51. MICHAEL CRICK: Yes.
52. BARONESS SHEPHARD: You do think so?
53. MICHAEL CRICK: In certain areas of policy, yes. For instance, if the Electoral Commission goes along to the government and says, "Look we think that we should have these extra powers to be able to find out how elections are being conducted on the ground" then I think that would be a legitimate thing for the Electoral Commission to do because it would be saying, "We cannot fulfil the aims as set out by parliament for us effectively without those powers". But there may well be areas of policy which are dangerous for the Electoral Commission to move into.
54. SIR ALISTAIR GRAHAM: Let us take on of these policy areas like, for example, it has made a series of recommendations on things like individual registration, on postal balloting, you know, key areas of the election which get to the heart of the integrity of the election and the government have rejected some of these recommendations. They have not been accepted. I do not know quite where it has got to but we have had the situation where the House of Lords, for example, has said there should be individual registration. All the other political parties agree but the Labour Party have said, "Well, it might be right in principle at some point but not now".
55. Were the Electoral Commission right to, on what is an essential issue for our future democratic system rather than having householder registration let us have individual registration, stick their necks out and say, "We should move in this direction"? Is that the sort of policy lead you think was inappropriate for them to give or it is sensible for them to give?
56. MICHAEL CRICK: No, I think that was one of the areas where the Electoral Commission can legitimately make policy suggestions because they are the people who ought to have a huge amount of experience about what is going on in this matter. But, I mean, for instance, if the Electoral Commission would have come out and said, "We do not think the first past the post voting system is any good any more and we ought to have a form of PR" I think that would probably be going beyond the kind of policies that they should advocate. It is a matter of where you draw the line.
57. It would be very difficult for me, sitting in front of you, to decide where one should draw the line. If I went away and thought about it I might be able to devise a system. But it is not something, to be honest, I have thought about at all. I think we all agree that they ought to be able to make recommendations but I think we also would all agree that there are certain areas where it is just going too far and you are stirring up a political hornet's nest --

58. SIR ALISTAIR GRAHAM: Can I just go back to the naiveté bit in terms of the operation of the regulatory function? In your view they do not have sufficient political nous, they are not active enough on the ground; what about a regulatory issue like loans to political parties? We had some interesting dialogue at one of our first hearings about did the political parties really understand the issues about loans before. Do you think that is an area that the Electoral Commission could have done more to save the political parties from themselves and the embarrassment they have clearly got into - I think practically all the political parties - in terms of not declaring loans that they had received to fund general elections?
59. MICHAEL CRICK: Possibly. Although actually if I remember rightly they did actually raise this issue during the general election last year. It may be that I have got this totally wrong but I seem to remember that the question of loans to parties certainly was raised during the general election, it may have been by the Electoral Commission but I may have got this wrong. Certainly I think the people who are monitoring the whole question of party donations at the Electoral Commission will clearly spot potential loopholes and clearly are in a position to be able to recommend to the government and to parliament ways in which those loopholes might be closed.
60. SIR ALISTAIR GRAHAM: Yes, I think you are probably right. I think they probably did raise it. The question is did they really give strong enough warning shots to the political parties who were in dangerous territory? I do not know what the public response might have been if everybody knew the last general election was being funded on a sea of debt. I do not know.
61. MICHAEL CRICK: You can understand it from their point of view. Here I am now defending the Electoral Commission. At the time we did not realise what the extent of the loans to political parties were and we did not know which parties it was who had taken the loans. Now, as it turns out, both the major parties seem to have taken a lot of money in loans and therefore it is reasonably balanced. But if, for instance, the Labour Party had taken a huge amount of money in loans and neither of the other parties had taken any, it might have put the Electoral Commission in a dangerous situation in terms of party balance. To have raised that issue in the middle of an election campaign more strongly than it did might have left it in a --
62. SIR ALISTAIR GRAHAM: But is that not the whole point of the Electoral Commission? Is that not why the Committee five years ago recommended that it should be an independent body reporting to parliament so that, in fact, it had some pretty strong defences from people upset because it was raising awkward regulatory issues? Do you think they have been strong enough in doing that?
63. MICHAEL CRICK: Perhaps it should have been slightly stronger. Perhaps it should be expressing its opinion as forcefully as you personally have been doing on a number of issues recently. It is a tricky situation and maybe as it gets more experienced it will feel more confident about raising these issues. Of course, if we do get to a general election where it looks like

one or more than one of the political parties are going to exceed the spending limits and the Electoral Commission feels the need to actually raise this issue actually during a campaign - as I would, in that instance, advocate it should do - that would be an example where the crunch really would come. So maybe what I am saying on the spending issue is inconsistent with my caution understanding of the Electoral Commission when it failed to say more about the whole question of loans to political parties. But you are discussing areas here that frankly I have not put a huge amount of thought into. I am not sure that what I say is worth a great deal.

64. SIR ALISTAIR GRAHAM: But they are important issues for us, and you are respected commentator in this area, that is why I raise the question because we need to know really have they been strong enough in some of these areas. Perhaps because lack of leadership or is it because they have not got strong enough defences making them vulnerable, if they are going to upset a political party at a sensitive time?

65. MICHAEL CRICK: Yes. A number of the problems may well be that they did not know what was going on early enough to be able to raise it with enough confidence. That is partly what you need to be exploring, to actually enable it to get more information, to have a better feel for the way in which the election is going at an earlier stage. A lot of the regulatory process that we have had historically in this country, and now we have introduced with the national spending limits, are all mainly after the event processes whereby X months later you can actually see what people have done and then it is all a bit later to do anything about it.

66. BARONESS SHEPHARD: Mr Crick, I am going to hand over to Baroness Maddock in one moment, who is going to be asking you about electoral administration. But I must say that your suggestion that there has been created a body to regulate elections that might possibly be afraid of pointing out irregularities, whether it is during an election or otherwise, is not the purpose of a regulatory body. I accept that you are giving us an overall view and that if you had either the opportunity or desire really to focus closely on all of this it might all be different. In any case, everything you are saying is of huge interest. I am going to hand over to Baroness Maddock.

67. BARONESS MADDOCK: Yes, I wanted to ask you about electoral administration, although in the evidence you have given so far you may feel perhaps you do not know enough about this but you have been around the country to lots of different elections and so on. We have had a certain amount of evidence that there are quite wide variations across the country in the way elections are administered. Is that your experience, and do you have anything of value to help us in this area?

68. MICHAEL CRICK: I do not think my experience is wide enough to be able to comment on that. That may be true of most of the questions you have got in front of you.

69. BARONESS MADDOCK: One of the suggestions has been that the Electoral Commission should centrally fund how elections are managed. Do you think that would be a good idea? At the moment it is local authorities that carry out that function. Do you have any views on that?
70. MICHAEL CRICK: I do not really have a view on that, apart from a statement of the obvious that if there are great differences in funding on the ground, which means elections are conducted well in some places and not in others, then clearly that is a serious problem and maybe it would make sense. But really there is not a great deal of point in asking me about these things because they are not things I have thought about and therefore my views are not worth a great deal on that kind of issue.
71. BARONESS MADDOCK: Except, of course, one of the issues you raised with us was return of election expenses, which does go to local officers. You were suggesting that centrally perhaps the Electoral Commission look at that. Whereas at the moment, actually, it is the local returning officers that look at those returns. Would you have a suggestion that maybe you could use that role rather than nationally?
72. MICHAEL CRICK: In my experience the local returning officers may look at the actual return, which is the sort of piece of paper with all the adding up and so on, but in terms of going through in the detail I am not sure that any returning officer spends a great deal of time going through the detail. It may be that you and the Electoral Commission have to make a decision about this. But there is certainly perhaps a strong argument to keep the actual constituency returns at the local level and to keep the policing of that at a local level, with a role for the Electoral Commission as well making spot checks. I do not know. I have not thought through the relative merits of doing it at a national level and at a local level. But clearly there needs to be co-ordination between the national spending which the Electoral Commission has to keep an eye on and the local spending. There are grey areas as to what spending counts as local and what spending counts as national. In my view, there probably were occasions in the last election where local spending was put on the national bill and there may well be occasions in future elections where it is done the other way around.
73. So there needs to be co-ordination but it may well be that the local returning officers should carry on administering the expenses returns but be encouraged, or be obliged, to take a more active role in actually going through and checking them and checking whether, in fact, those returns were exceeded.
74. SIR ALISTAIR GRAHAM: There are a couple of big issues, Michael, that it would be very, very helpful to get your views. One there was this great effort to extend postal voting in the attempt to try and increase participation. There is genuine debate, and some police cases have arisen from all of this, in terms of is there a balance to be struck between increasing participation and at the same time put a bit of a question mark over the integrity of the system and the capacity for fraud to be introduced into our arrangement?

That is one area on the side of the postal.

75. The other area that is an issue we are genuinely grappling with is household registrations versus individual registration. This I think does get at the heart of our electoral system because the household registration system, where the head of the household, whoever he or she may be, is asked to fill a form in, how many people in your house, a property based system really going back to the last century and everything, can mean people are disenfranchised at a whim really. If you just happen not to bother with the papers, stick it in the bin rather than following it through, then you do not end up on the electoral register.
76. Do either of those issues, that you have given any thought to, make you think, "God, we really have not got things right in this country and we must reform the system"?
77. MICHAEL CRICK: I can understand what the government was trying to do when it extended postal voting but I think that it was driven by a view that, "Gosh, election turnout is falling, we must do something about this". I take the view that actually lower turnout is not necessarily as disastrous or as serious as perhaps it is often made out to be. I often ask myself what the turnout would be in Utopia, would it be zero or would it be 100%?
78. I think the government probably acted too quickly on that issue of the postal voting. I think if you talked to election agents and people who have experience of elections, they will tell you that if you make it easier for people to register and make it easier for people to vote, which of course we all believe in theory, then inevitably you make it easier for people to defraud the system. I think the government acted too hastily in this and I am sure many of the warnings were delivered in parliament when the legislation went through.
79. On the issue of householder and individual registration, you have got the problem on the ground of resources. Actually going around and collecting in people's electoral registration forms is actually a laborious process. My ex-wife did it in our village and actually going around and persuading everybody to fill in their forms and hand them over - for very little reward in her case - was a time-consuming business and she came across lots of people who just did not want to do it. Now to have to persuade not just one person per household but everybody in the household to do that is going to take more time, more people, more money. But that is the only real observation I have on that matter.
80. SIR ALISTAIR GRAHAM: But in a democratic system is not that effort to get individuals to get themselves at least in a position where they have a choice of voting a worthwhile exercise?
81. MICHAEL CRICK: It is, yes. But I think --
82. SIR ALISTAIR GRAHAM: Even if it involves some extra resources?

83. MICHAEL CRICK: Yes, but I think that it has to be acknowledged that the extra resource will be required. You cannot expect it to be done, I would not have thought, under the existing number of people, the existing system of paying small amounts of people to go around their villages or go around the communities collecting them in. It would need a lot more resources.
84. SIR ALISTAIR GRAHAM: You think the government can be open to the charge of acting on a party political basis because, when everybody else seemed to be in favour - including the Electoral Commission - of individual registration, they are the only ones who have stuck out against it? The government in power have effectively vetoed amendments to the Electoral Administration Bill because they are frightened of a disastrous drop in the numbers of people on the electoral register which will do them party political damage?
85. MICHAEL CRICK: I think once I start attributing motives to the government I get into trouble as a BBC employee so I had better pass on that one.
86. BARONESS SHEPHARD: Okay, now we have been talking about the Commission's three roles. It has a regulatory, advisory and educational role. I think we have come to some sort of consensus on how we think it is carrying out its regulatory role at the moment. What about its educational role? How crowded would you say the field was in terms of educationally persuading people to vote? How many bodies do you think are responsible for doing just that, one way or another?
87. MICHAEL CRICK: I have no idea. It is one of those questions whereby I am meant to come out with a figure and you then surprise me another figure. It sounds like one of those questions.
88. BARONESS SHEPHARD: No, my aim is really to find out if you have thought about whether there might be bodies other than the Commission that would be better placed in educating the public about the importance of voting, about the electoral system, how it all works and so on. Or whether you think that the Commission is well placed to do this in addition to - I can tell you there are multifarious bodies that seem also to have been given this task.
89. MICHAEL CRICK: Local authorities do it in a huge way, do they not? Yes. I am sorry to be like this, I thought I was just coming on to discuss my very small proposal, but it is one of those areas I have not given a great deal of thought and therefore anything I say is not worth much. It is just me thinking off the top of my head. It is a waste of your time asking me questions like that because if I went away and thought about it, yes, sure I might come up with something sensible to say but, at the moment, I have not.
90. BARONESS SHEPHARD: I accept that. But for the record the fact is that the Commission has spent quite a lot of time trying to explain to people how important it is to vote and putting out nice leaflets and all the rest of it, competing briskly with local authorities, the Mayor of London, National

Curriculum Authority and everyone else who might perhaps be better placed.

91. MICHAEL CRICK: It would be interesting also to do an audit, I suppose, of how effective any of this is.
92. BARONESS SHEPHARD: If you are taking turnout as your measure it does not seem to be very effective. I am really showing my hand now. But, on the other hand, you cannot tell how it will be if nobody did it. So that is also a fair point.
93. I am about to stray into another area on which you are going to say, "I don't know anything about this". What about the constituency boundaries and the Boundary Commission, do you know anything about that? Have you given any thought to that?
94. MICHAEL CRICK: A little bit. It is a fascinating process and clearly we are in a situation where for the last 10-15 years the Labour Party has done quite well out of it and managed to work the process better than the Conservatives had. It seems to me the constituency boundaries are constantly catching up with the changes in population. Those changes in population are pretty foreseeable. Whether there needs to be any anticipation in changes of population involved in the process, or whether it should simply be, "The population of this area is now X therefore we divide it up and so that makes eight constituencies", or whether you need to actually say, "Well, the forecast suggests that in five to ten years time the population of this area will be Y and therefore we need to make an allowance of that. Now, as I understand it, they do not make an allowance ahead but I may be totally wrong there. But it seems to me that we are getting to the stage now where the result of the next election could be that the Conservatives are so many points ahead of Labour and still lose the election. That could do more to discredit the electoral system than anything that we have discussed here.
95. To some extent that is a result of the way in which boundaries are drawn, but only to some extent. There are lots of other factors involved in that as well. If, say, the Conservatives were to win the popular vote by say 7% or 8% and still get fewer seats than Labour I think that would do more to discredit the British electoral system than anything that went on in Florida in the year 2000. The constituency boundaries are only a small part of that whole issue.
96. BARONESS SHEPHARD: You have spoken of discrediting the electoral system and it is true that the media generally have given enormous amounts of coverage to the loans for peerages and funding of political parties and so on. While they have paid some attention to the problems with the electoral register and fraud they have not paid nearly as much attention. Why do you think that is?
97. MICHAEL CRICK: There was a fair bit of attention paid to the whole issue of fraud and so on around the time of the last election, and in the two months before, generated by the Birmingham case and then a number of complaints which occurred early on in the campaign in about a dozen different

places. I suppose because people in the media love dwelling on personalities and the whole loans for peerages issue involves several personalities. It involves the person who is giving the loan, it involves the person who solicited the loan and it involves the person who may or not get the peerage. So that is probably why we dwell on that.

98. Of course actual election fraud on the ground is quite difficult to prove and investigate and, at the end of the day, it involves people that nobody has ever heard of. I am afraid in our business we do tend to dwell on famous names more than names that are not famous. I suspect also as journalists we are -- no, I will not make the comment I was about to make.

99. BARONESS SHEPHARD: That is deeply disappointing.

100. SIR ALISTAIR GRAHAM: You know you are a tease.

101. MICHAEL CRICK: All right, I will make the comment. I think there is a racial element to the whole issue of election fraud which I think journalists are very wary of. But it may also be a racial element to parts about the whole loans to peerage affair as well. They are both tricky areas but that may explain some of the reluctance.

102. DAME PATRICIA HODGSON DBE (Committee Member): Can I just follow up on that question? We have been a little unfair to you asking you to talk about the philosophy really of the organisation of elections. But I have been struck by your journalistic insights. I particularly liked the "would people bother to vote in Utopia" comment. So, following on from the questions about electoral fraud and the degree to which high profile cases like that where the Judge in Birmingham made such a cutting comment, have you over the years that you have been observing elections observed a change in public perception about the integrity of the election process?

103. MICHAEL CRICK: No. I do not think so. I think if you were to speak to members of the public about why they are fed up with politicians and fed up with the political system and so on, it is more to do with the things that politicians say, the promises they make and then do not keep, the backbiting, the whole process of discourse within the political system. It is not the possibilities for election fraud. I cannot recall people raising it on many occasions.

104. Intuitively it is one of the things that cannot help but I think the way in which we conduct politics in this country is a much more serious reason as to why the political process has become discredited.

105. DAME PATRICIA HODGSON: So if it is the case that journalists will not address issues of electoral fraud quite as much as perhaps they might for the sensitivities and reasons that you have suggested, and if it is the case that for the electorate it does not have such a high profile as whether they are fed up with spin or a particular policy, we do actually then have a real problem about what pressures there might be to improve the integrity of the political

process, the electoral process. You can see that actually the integrity of the process is absolutely vital to the functioning of a robust and healthy democracy. Yet what we are teasing out is that there is a lack of pressure in the system to bring this to the top and resolve it.

106. MICHAEL CRICK: It is my view that although there has been a fair bit of election fraud, it actually is not widespread geographically. It is concentrated in certain areas and I think that is probably another of the reasons why the media has not focused on it. If we felt that fraud was going on in every constituency, in every campaign, and it was severely affecting the result then maybe we would dwell on it a lot more. But it is concentrated on some of our inner cities mainly. I think probably 9 places out of 10, 19 places out of 20, if you spoke to everybody on the ground they would say, "Look, it is not a serious issue here".
107. SIR ALISTAIR GRAHAM: But if you take a combination of factors, say a bit of fraud, a bit of the fact that one local authority might put more effort into getting its register right than another one, the fact of the Boundary Commission might produce quite wide unequal boundaries between one part of the country and another; put all those together as a collective group of issues and you might say there are some serious issues about the integrity in question that are worthy of media analysis and attention, yet very rarely get it.
108. MICHAEL CRICK: You might say that, yes. We do cover those issues from time to time and I think I have covered all of those issues from time to time. The problem with all of those is that you are never going to get a perfect system. Your electoral register is never going to be perfect. Okay, certain areas do it better than others. You are never going to get rid of fraud entirely. I cannot remember what the third one was you raised in the middle.
109. SIR ALISTAIR GRAHAM: Size of boundaries.
110. MICHAEL CRICK: Yes. You are always going to have certain constituencies of a different size to others and you are always going to have an electoral system which produces results that do not reflect the distribution of national votes. They are important issues but there are other ones as well.
111. BARONESS SHEPHARD: But on the other hand, if I could just say, yes you are right, none of these is terrifically serious in itself necessarily but if you are a body which has been specifically created to deal with all of those issues should it not be suggested to that body that it perhaps might be on its hind legs a bit more?
112. MICHAEL CRICK: It may well be but we are now straying into the areas I do not know about. I do not know what it has got in terms of resources or people. It is a new body. It will have advanced the arguments as to why it has not been able to do all these things as effectively as it might have done far better than I can. But, certainly, these are the areas it needs to focus on.

113. SIR ALISTAIR GRAHAM: Okay, we need to bring it to a close. I think there were two further points we would just like to test your opinion on. Rita wanted to raise something.
114. RITA DONAGHY CBE (Committee Member): Mine was coming back to your original point actually. If you like, the naiveté of the Commission and how they might benefit by having the expertise possibly of election agents or --
115. MICHAEL CRICK: Former agents probably. Retired agents.
116. RITA DONAGHY: It will not surprise you to know that the political parties are all quite enthusiastic about the idea of having at least party political representatives on the Commission, even if they are not absolutely current in the party political arena. But it has also been put to us by others that this would, from a public perception point of view, harm the independence of the Electoral Commission. Some academics, electoral registration officers, people who are trying to get the system to work, if you like, outside of party political allegiance have got quite considerable fears about that. How would you react to that? Do you think the balance ought to be towards risking the party political --
117. MICHAEL CRICK: Ideally what you want are people who have been election agents for most of their lives but are now sort of semi-retired and not necessarily hugely loyal to the party they used to work for. These individuals may not exist, or at least not many of them exist. For instance, there is a chap called Peter Chegwin who used to be a Liberal Democrat, a Liberal by-election agent - who I have used as an interviewee on some of the items I have done on News Night - who gives a very good insight into the ways in which the system is fiddled and he has at times, I think, fallen out certainly with the local party in the area he comes from. He would have been the kind of person one would want. The problem is if the parties themselves nominate people then they are going to be nominating people who are utterly loyal and all part of that gentlemen's agreement of "let us not upset the apple cart too much" that we were discussing earlier.
118. Quite which ones you go for is a tricky task, and who goes about choosing those people is tricky as well. If someone was to ask me to do it I would have to go away and put a lot of thought into it.
119. SIR ALISTAIR GRAHAM: One final point, Michael, before we bring this to a conclusion. It is an area we have not asked you about, and you may feel once again you are not competent to make a comment. But, clearly, one of the big issues around is the issue of funding of political parties in which an ex-permanent secretary has been asked to have discussions with the political parties to see if there is a deal to be struck. In return for having a cap on donations to political parties you might have some form of increased - we already have some state funding of political parties - state funding presumably creeping into campaign expenditure which we do not have at the moment. I wonder if you have any general views about that. First of all, do you think public opinion is ready for a possible substantial increase in state funding of

political parties? If, in fact, were we to proceed or if, as a result of the work of Hayden Philips, there was likely to be a deal struck, what might be the regulatory consequences for the Electoral Commission? Because, for example, if there was some state funding of political parties and you have got a very negative campaign by a political party would people strongly react against the idea of taxpayers money being used for such purposes? So you would have to produce some guidelines about the use of state funding.

120. MICHAEL CRICK: My own personal view - and I stress it is a personal view - is that the public probably is not ready for a substantial extension of state funding of political parties. It is fascinating to read those ring binders of invoices of the ways in which the National Party spent their money at the last election because vast amounts of it is on stuff that many members of the public would consider unnecessary. I am not just talking about Charles Kennedy's haircuts - I cannot remember what the other details were - but the party has spent huge amounts of money on that kind of decorative stuff. Equally, and much more substantially, they spent vast sums on consultants, often from abroad, poster advertising and so on. I think that the public would find it difficult to understand why their money should be spent on that kind of stuff. I mean, if you're spending the money on policy research and so on, I think the public would understand that.

121. I think also people would understand it difficult to understand why a political party needs to spend £19 million on an election campaign when other political parties get by with quite respectable election campaigns on a lot, lot less than that. So, I think a lot of persuasion of the general public would need to take place before it would become generally accept that taxpayers' money should go to political parties. I think people would take some convincing that doing this would necessarily get rid of all the problems of loans for peerages and peerages for donations and government decisions for donations that have been argued about and alleged over the last number of years.

122. SIR ALISTAIR GRAHAM: Michael, thank you very much for that. I am sorry if we have taken you into areas that were unexpected to you. We are very grateful that you have spent the time to talk to us about these matters.

123. We now have Dr Whitehead. Thank you for coming to give evidence to us this morning. We are very anxious to talk to a good cross-section of members of parliament about the issues that we are dealing with, because you are very often in the front line in these matters and have an interest and expertise which we hope will be valuable in helping us to shape our conclusions.

124. I do not know if there any introductory remarks you would like to make, but after that Dame Patricia Hodgson is going to lead the questions for the Committee and other members of the Committee will join in as appropriate as the dialogue develops.

125. DR ALAN WHITEHEAD MP: Thank you. I did submit, albeit it at a rather recent date, some evidence which I hope will help.
126. SIR ALISTAIR GRAHAM: Yes, we all have a copy of that. Was there anything in particular you wanted to draw to our attention in that which might be helpful?
127. DR WHITEHEAD: I think the only thing I would draw out as a very general comment on the inquiry and on the Electoral Commission is my view that the Electoral Commission has actually done a very good job in its first five years, albeit under rather confused circumstances. Those confused circumstances, I think, arise to some extent from the brief that was provided for the creation of the Electoral Commission under PPERA and that the role of the Electoral Commission in the context of a political world, which consists overwhelmingly of political parties, particularly in regulating that world, I think has probably not entirely adequately been commissioned in terms of what was in PPERA.
128. Does the Electoral Commission regulate elections? Clearly, it does do that, but elections are only a part of that wider political process. Does it regulate and does it promote the democratic system as a whole? It certainly does that to some extent. Does it regulate the role of political parties, both in a democratic system and the process of elections? It clearly does that to some extent, but an incomplete extent, which I think certainly has caused the Electoral Commission some head scratching as far as how it would proceed with the process of regulation where political parties are regulated partly in terms of their expenditure, partly in terms of their donations and partly in terms of their activities in the elections, but in a wide number of other areas have no regulation as far as their activities are concerned at all.
129. If we take the view that what we are talking about really in terms of what the Electoral Commission ideally ought to do is to provide a form of regulation and integrity and validation for the wider democratic political process, then perhaps there are a number of elements of PPERA which do not actually fulfil that role adequately.
130. SIR ALISTAIR GRAHAM: It will be interesting to explore some of those issues and I will hand you over to Patricia Hodgson to do that.
131. DAME PATRICIA HODGSON: We were very struck by the points you just made, which you touched on in your contribution to the debate in the house a few days ago, and in your evidence. We have some questions that relate to electoral administration, to the registration of voters and to the funding of the parties, but you have made a wider point which is clearly packed with many elements. Could you explain a little more what you mean and what aspects of the role of political parties you believe could be regulated or in some way standardised or scrutinised.
132. DR WHITEHEAD: That is a challenging question. The British political system, of course, as I have mentioned, is overwhelmingly concerned with the

role of parties within it and yet we quite often talk about politics and party politics on the other hand as if politics were legitimate and were legitimate and party politics were not legitimate.

133. There is a very considerable sense, which I think is now widely shared by the public, that party politics is a pretty unpleasant thing and is something that really ought to be placed as far as possible from the centre of politics, if that were possible to do. It has this unfortunate problem of impinging very centrally on elections and so on and that actually the party political process is something you could, in theory do without.
134. I would say as an absolute starting point, and paraphrasing Voltaire, if political parties did not exist it would be necessary to invent them. They are an essentially element of the political process. If we seek to regulate that process and if we do not actually firstly seek to regulate what is a major part of that process and secondly - it is difficult to put this exactly right - regulate it in a relatively understanding and kindly manner, then I think we will not actually achieve the purpose of securing both the combination of transparent and reputable activity as far as political parties are concerned and a proper relationship with political parties to the wider political process.
135. I think that process is made rather harder by what I have referred to elsewhere as a climate of anti politics. That is the assumption that politics would be far better off without politicians and party politics, and if only people of good intent could come together to organise politics, everything would be all right. I profoundly disagree with that view, and yet it is a reality that I think to some extent the process of regulation is faced with. For example, the process of quite proper and right increasing transparency in the whole process of political donations, of revelations so who has spent what, who has done what and who has said what, both under freedom on information and under the process of registration and regulation of the Electoral Commission, tends to confirm in certain members of the public's mind that not only are they scheming so-and-sos, but they are extremely duplicitous scheming so-and-sos. The previous argument that you have something to hide is replaced by look at what you do when you have nothing to hide.
136. I think that some further regulation of the wider process of how political parties work within the democratic process would be a good thing. Part of the issue I think that the Electoral Commission either is or should be charged with is, as it were, the restoration of a balanced view of the democratic process among those people to whom it means, in the last resort, so much. Those are the people who go out and vote and those are the people who either suffer badly or well from the operation of that process itself.
137. DAME PATRICIA HODGSON: You make a striking and attractive case, but I am still struggling with what the practicalities would be. Does the Electoral Commission get involved in the pressures that whips put on people to toe the party line, or in criticising the accuracy of government press releases? One specific suggestion I think you made - and I may have misunderstood it - was that there was some regulatory role in relation to the

selection of candidates.

138. DR WHITEHEAD: The point I was searching for in my evidence, more than anything else, was the incomplete nature and the inevitable partial nature of the regulation that does apply to the role that political parties play in the whole process. The regulation as it is assumed moves out from the regulation of elections and then it moves into the process of what political parties do in relation to those elections and how political parties work during the campaign. But, of course, as we know, or should know, is that the reality of elections is that most elections - certainly elections in those key marginal seats, which is unfortunately increasingly the concentration of political activity in our system - starts the day after the previous election is declared. The idea, for example, that you can regulate in the immediate run up to the election in a meaningful way where you do not regulate outside that particular period of the election campaign either suggest that parties are simply election machines, which in the UK they are not, or that somehow elections and parties only come together at particular junctures.
139. SIR ALISTAIR GRAHAM: Do you think there should be spending limits in the years running up to a general election to stop it? We have this funding being concentrate in marginal constituencies way outside the limits that would apply during a general election itself. Do you think there should be some statutory constraint on the amount of money that can go into a constituency?
140. DR WHITEHEAD: Yes, I do. I think that is the only logical consequence of trying to regulate the whole process properly if we assume that the actual process of election is the final part of a much wider process of how parties select their candidate, how parties go about, when those candidates have been selected, promoting those candidates and how they go about seeking the best advantage in terms of which seats to fight. There is an issue of what voting system we might adopt which might overcome some of those issues, but I think that is not for this inquiry.
141. The fact of the matter is that some of the issues I think that have arisen in terms of grants and donations and the recent so-called Ashcroft money, although it is a number of other people as well, whereby essentially central funds have been placed as if they were local funds during the entire life of a party. As I say, this has been characterised a so-called Ashcroft money but actually is a much wider thing and is not restricted exclusively to one party. But nevertheless, it does, for example, make a bit of a nonsense of the way that the Electoral Commission reports on, firstly, the total amount of money that parties appear to be raising and, secondly, what is raised constituency by constituency in the elections, because it simply is not true.
142. SIR ALISTAIR GRAHAM: If you were to successfully introduce such a legislation that put limits on what you could spend in a particular constituency in the years before a general election took place, that would increase the regulatory responsibilities of the commission quite considerably, would it not?

143. DR WHITEHEAD: Yes, it would, but there are no brand new tools that the Electoral Commission would need. It is a question of adding up the various components that the Electoral Commission already in principle as the ability to adumbrate. It would, I think, be a much greater onus on political parties, for example, as to how they would work over a period of time within a cap as opposed to working over a very short period of time in a cap, which is what they are faced with at the moment.
144. SIR ALISTAIR GRAHAM: And you think that would be a healthy thing for the political system? I agree with your point entirely that we do have to win the argument that competitive political parties are a central part of our democratic system.
145. DR WHITEHEAD: I think, firstly, an overall cap would be seen to be fair in terms of the process. It would not, I think, fundamentally undermine the ability of parties to raise money within that cap. Obviously, parties would be able, within that cap, to deploy their funds as they wished, but the assumption of that cap would be that that deployment would also be transparent. Consequently, I would say that the real issue of how it is that parties deploy their resources as far as candidates are concerned, how they employ the funds relating to those candidates and how those candidates approach elections over a much longer period, would actually be a process that would be seen as having much more integrity and transparency than is the case at the moment. I think there is a feeling that all is not as it should be with the process that leads up to elections and that by the time the starting pistol goes, various things have happened already which in some people's minds means that people are not starting from the same line when the pistol is fired.
146. DAME PATRICIA HODGSON: You talked about it being a convincing case in terms of the integrity of the overall process. Given the drive from the political parties to beat each other, do you think it is practical politics to bring in such a system? You said the Electoral Commission could just do it, but clearly they might make themselves extremely unpopular in Westminster.
147. DR WHITEHEAD: Yes, they might. I think that what one might call the campaigning arms race is one which you can almost say is akin to the creation of trenches further and further to the coast of Belgium during the First World War and eventually they reached the sea and then there was complete trench warfare. It certainly is striking that the rise in spending on elections and near-election expenditure has increased in inverse proportion to the number of members of political parties. You now have far more money spent on behalf of far fewer political activists than you ever have had before.
148. A lot of the debate, I think, about large donations stems from the fact that it is simply impossible in pretty much all political parties to raise a serious proportion of your money by asking your activists to go out and raise it. Therefore, there are other methods of doing it. Once you get into those other methods, there is no stopping point for gaining advantage outside the fact that you have recruited people and they are doing some work and you maybe have an advantage because your people do more work than their people. You

begin to have a cyber election - a virtual election - where the strength of the party apparently bears no relation to the health of that party overall. Because there is no limit to that party, and I think all parties potentially see themselves exhausting themselves by that process, the possibility of actually regulating in a whole parliament cap becomes slightly higher on the agenda.

149. DAME PATRICIA HODGSON: Where does that analysis take you in your views on the possibility of greater public funding as a proportion of a capped and more regulated system?
150. DR WHITEHEAD: My view is that if we start from the understanding that political parties are an essential part of our democratic process, and we understand that for various reasons party political membership - certainly in a sense that it was seen in the golden age of party membership in the 1950s and 1960s - is retreating and probably will not return, then two questions arise. The first thing is, as I have alluded to, do we think as a democratic society as a whole, that parties ought to be maintained in order to ensure that the competitive process, both in elections and in the political debate, is maintained? Also, do we think that parties should be more than, as Joseph Schumpeter put forward in an analysis quite a long time ago, particularly of the way the American system might be seen to work, competing elites offering themselves to a disinterested public for choice? That would seem to be a very bad outcome of maintaining a party system artificially with state funding.
151. The second question is if we need to maintain parties, and parties are probably not going to be able to do that entirely by methods of previous decades, then how do we ensure that those parties have a real life and that the state funding is a value added to what the parties are doing, particularly at local level, rather than an addition to what I mentioned is the virtual party warfare of large donations at the centre fighting other large donations at the centre and therefore tending towards that idea of the competing elite offering themselves.
152. SIR ALISTAIR GRAHAM: What do you think the electorates' view is of the possibility of developing, with Hayden Phillips having discussions with individual political parties, highly sensitive issues being raised - if you can have a cap on donations and about trade union donations - of some sort of smoke-filled room deal being struck about funding for political parties, then a consensus to push that through parliament? And then a possible taxpayers' backlash about their funding being used in this particular way without a lot of public discussion about the regulatory framework for how you intervene on issues related to use of extra state funds for political campaigning and things like that?
153. DR WHITEHEAD: I find that a very interesting question, because around the other side of the table that is almost exactly the question I asked Sir Hayden Phillips in a meeting at the Constitutional Affairs Select Committee a while ago. I think there are several things, in reality. If the public truly understood the extent of state funding for political parties already, they might

be a bit surprised. I think, by and large, it is not fully understood.

154. Secondly I think, certainly at national level, if the public felt there had been some deal to sort out a wedge of additional funding for various already-established political parties, they would be very unhappy about that as well. The potential of the present position is it is precisely the problem of potential elites in smoke-filled rooms making a deal about how the political parties can secure public funds in order to become democratically more transparent and accountable, which seems a bit odd, I think, in some people's eyes.

155. That is why I think there are two things. Firstly, any state funding has to be based on a local idea of what state funding is. I do not think that you can easily distinguish between what is what you might call good state funding for political parties and what you might say is bad state funding for political parties. Some people say you must only fund research and good things and democratic participation; you must not fund party political activity. Most political parties, being what they are, would find relatively straightforward ways of transferring one kind of funding into another activity and therefore you would actually have a bit of a fraud perpetrated on the public.

156. SIR ALISTAIR GRAHAM: I think that is a very fair point, yes.

157. DR WHITEHEAD: However, I do think that funding locally is important in order to secure the health of political parties and activities at local level leading to national level. The second point relates back to my previous comments about regulating through the entire electoral cycle. In order to make sure that that state funding did do what it said it would do, it would be necessary to regulate against a cap and regulate entirely through the system and regulate very transparently. It would also be true that if you did apply state funding to local levels, it would not be beyond the wit of parties to siphon that money up to national level and do things with it which would not be something that the public would generally support.

158. I think only the first part of the question of whether we should have state funding is the question of whether we should have state funding. It is a much wider issue than that in terms of the process by which we would change from our present part-state funded system to probably a majority state-funded system, but in the context of a system that firstly encouraged the life of parties and secondly encouraged the transparency of giving that life to parties in a way that the public felt confident that that life was a genuine life and not a fraudulent one.

159. SIR ALISTAIR GRAHAM: But the trade off for that, of course, is this cap on donations, is it not, because that is the major justification? You can extend your argument about involving the whole electoral cycle and not just the narrow three-week period for elections, but clearly, for the Labour Party, the trade union issue and trade union donations is, it appears a fairly major stumbling block at the moment. Do you think that is going to be overcome?

160. DR WHITEHEAD: I think it is difficult to the extent that one of the realities of who political parties are organised in the UK is that they have very different histories and very different ways of doing things. Part of the problem, I think, of the regulation of the way that I have described it, is that one would be very tempted to try and produce a one size fits all template for how parties would operate, in order to regulate in a truly comparative way. That would seem to me to tread dangerously on the territory of the extent to which political parties could organise themselves in a way that related to what the parties themselves thought was the best way to do things according to their internal --
161. SIR ALISTAIR GRAHAM: But you can only move forward on this basis on consensus. The Conservative Party seem to have made it very plain that unless trade union donations are included in any cap, then they are not going to play ball. As long as the Labour Party sticks to their position, is the reality that there is no possibility of a political consensus on movement on the state funding issue?
162. DR WHITEHEAD: I can only really offer problems, I think, as far as that suggestion is concerned. The truth of the matter is that if you are sitting in a room negotiating about whether there should be state funding, one party, bearing in mind its own historical method of organisation, which is largely local and not central, may well say it would be a good idea if we had a cap on donations at the centre. The other party, which has a history of largely central of organisation and the local organisation being essentially a branch economy of the central organisation, may well also say it would be a good idea if we had an overall cap, but bear down on the amount of money you might be able to raise locally but not bear down on what you can raise within a central cap. There is a bit of a problem of irritable force meets immovable object in the theory of how that negotiation might take place.
163. The second problem that there is, as we have seen in America, is that the localisation of national donations, unless it is very well regulated - and again this is an issue of the Electoral Commission's third-party reporting powers and regulating authority - that can easily break down into political action committees and alternatives to a one-off national donation.
164. SIR ALISTAIR GRAHAM: some of us have been to America and seen that in operation, so we understand the issue.
165. DR WHITEHEAD: Certainly, even if you did have a cap on donations of, say, £50,000, it would not be beyond the wit of trade unions or other large donations to actually donate in that way. I do think, therefore, that some form of transparency at all levels, and a national cap, would actually have some bearing on the extent to which you could do that as a way of getting around that negotiation.
166. SIR ALISTAIR GRAHAM: When we were in America, Murdoch announced he was going to hold a fundraising dinner for Hilary Clinton, at which presumably a whole number of people of people can pop up with

whatever the cap is and rather overcome things.

167. DR WHITEHEAD: Yes, just turn up with a cheque which may or may not have originated from their own bank account.

168. BARONESS MADDOCK: I wanted to pursue a point with you. You have pointed out, and we all know, that there are fewer people involved in political parties these days; there is also more regulation than there was. Is there a danger that if we have too much regulation it will put people off? Basically, people who run political parties are volunteers. Do you have a view on this as to whether the increasing regulation will put people off becoming involved at a voluntary level - "I cannot be bothered with all of this"?

169. DR WHITEHEAD: Yes. I touched on the fact that clearly political parties are and should be voluntary organisations and their voluntary nature is a guarantee that they are not creatures of the state. In any event, if you did have such regulated creatures as the state party, chances are that you would actually have more political parties outside that regulation and therefore they would be shells. In some regimes of state funding, that is precisely what has happened in some parts of the world.

170. Drawing the balance between what it is to regulate and what it is to act as a voluntary party is very important and particularly, therefore, the question of how you organise as a voluntary party has, to a great extent, to be left to those volunteers and how that party works. I think there is already evidence that there is more pressure on party treasurers. As those who have taken part in the political process will know, it is usually the last person to leave the room is appointed as the party treasurer, and I am not casting any aspersions on party treasurers. It has always historically been regarded as an onerous task and is certainly far more onerous now. It is a task where people potentially get themselves into some legal difficulty if they do not perform their task well. The support that we are expecting to provide to those people at local level is largely provided by the national party regulated at arms length by the Electoral Commission under those circumstances.

171. Whether state funding in those sorts of circumstances would support the role of volunteers to do that job well rather than regulate them in order to stop them doing it is a very important question.

172. DAME PATRICIA HODGSON: Before we move on to other aspects of our concerns, could I just wrap up on this interesting question of whether it becomes possible to create an entirely new structure with regulation that would work? The experience of looking at it in America might lead to you - and we will obviously have to reflect upon it as we hear evidence - to suppose that the ingenuity of those seeking to evade the system was constantly one step ahead of the timing of the regulations. By definition, you are always legislating about something that went wrong last time. Is the point that you make about transparency is not the absolutely crucial one and you might be better to be more relaxed about what people can donate or what they can do providing you are absolutely rigorous that anything has to be declared? This

would leave people to make up their minds as to whether or not they approve of this or feel that the party has in some way been compromised in their eyes by its association with A, B or C?

173. DR WHITEHEAD: Part of the unintended consequence of some of the transparency arrangements is that the people who suffer the most in terms of how they are perceived are not the huge donors to parties who, I would imagine in most instances, would be fully aware that they are going to get a lot of publicity for their donation. The medium donors to parties are all tarred with the same brush by the public and the media to some extent who are asking what is in it for them and that they are doing it because they want something. That is a perfectly healthy reaction, of course, in a lot of circumstances. I think the setting of a complete transparency and a limit over a period of time may combat that to some extent.

174. The other thing, of course, as far as the American system is concerned, is we are sometimes tempted to make very close comparisons but mercifully our party system is not the same as that of America where, essentially, you have, both in the democrats and the republicans in most states, a dormant party that is captured for electoral purposes by groups sometimes representing particular interests. You do not have the same quasi-ideological structure of parties that you do in this country.

175. I think the fact that parties in this country represent far more than the electoral process in the capturing of people at that time is potentially an important thing for the width and the life of our democracy. To some extent, that is replaced in America by an absolute plethora of interest groups and what you might call social capital groups in the political fringe. That certainly exists in this country, but there is nevertheless, at the heart of the political process, an entirely different animal going on than is the case in American party politics.

176. DAME PATRICIA HODGSON: Perhaps I might move on, although I am reluctant to do so, to other aspects of the funding of electoral administration. We have received evidence now from different parts of the country as to the different ways in which the administration of elections is undertaken and funded. Do you have any views or experience on that?

177. DR WHITEHEAD: The variation, I think, is one of those hidden things in the British electoral system. There is variation in how people go about registering electors and the extent or the success of that; the extent to which the system is regulated for integrity, certainly in an age where people are asking questions about that it becomes increasingly important; and the way that simple things, for example the extent to which there are enormous differences between the extent to which political parties may approach polling stations during elections.

178. Certainly where you have potential flashpoints, the question of the extent to which that might be perceived to undermine the integrity of the vote is increasing of concern. I think the Electoral Administration Bill, when it

becomes an Act, will give the Electoral Commission considerably better authority to look comparatively at how that electoral process works and particularly how the registration process works. No doubt I am by no means the first witness to point out, for example, the fact that if you look in my part of the world at the electoral registration in North Hampshire, parts of Surrey and parts of Sussex, it tracks the census entirely. That is, if you look at electoral registration currently, it is 105% to 106% of the last census, so pretty much everybody who was picked up by the census, plus those people who have turned up since the last census are registered. If you go to other parts of the country, not just inner cities, you have 65% of a census, which itself is regarded as flawed.

179. SIR ALISTAIR GRAHAM: But even under the Electoral Administration Bill, so we were told by an electoral administration officer, some funding has been made available to implement the Bill, but there is no guarantee in some authorities that it will actually end up in the hands of the administrators. There may be very tight pressures in a local authority and the money ends up in social services or something like that. It is not ring-fenced funding. Is that a credible arrangement for sorting out our democratic system that even with a local authority funding arrangement, there is no guarantee that funding that has been identified to implement some new electoral arrangements actually ends up in the hands of the people charged to do it?

180. DR WHITEHEAD: It is very tempting to say that that funding should be ring fenced, but I think that does bring into play the whole wider question of the extent to which local authority funding as a whole should be ring fenced and. The fact that local democracy and local authorities ought to be able to make decision about how they spend money without simply having to act as a post box or whatever piece of ring fencing has come their way of a particular project is, I think, evident.

181. In this particular instance, my view is the right outcome, following the Electoral Administration Bill becoming law, is to see the Electoral Commission, among other things, as a regulator and a promoter of minimum standards. I think it probably would be right that that minimum standard would be followed by some sort of ring-fenced funding in order to ensure that that minimum funding takes place. If local authorities wish to add to that, then that is fine, so the ring fencing should not be exclusive ring fencing. It should not be the nationalisation of the electoral administration process at local level which, for various reasons I think actually has considerable strengths in being maintained at all local level. There are considerable problems of a different kind where we look at countries where electoral registration and electoral administration essentially is entirely national. It can be rather inflexible and can be rather difficult to plughole.

182. SIR ALISTAIR GRAHAM: Do you think the commission should actually have powers to intervene where standards are low and insist that those standards are raised over a period of time?

183. DR WHITEHEAD: I think so, yes.
184. SIR ALISTAIR GRAHAM: The Bill does not give it intervention powers, does it?
185. DR WHITEHEAD: No, the Bill gives it, effectively, torchlight powers. It gives it powers to promote good practice and to a considerable extent communicate good practice and demonstrate --
186. SIR ALISTAIR GRAHAM: It could name and shame, presumably, could it?
187. DR WHITEHEAD: I think it certainly could name and shame. There are whole complex issues as to why electoral registration should vary so much in different parts of the country, but you cannot make a very close correlation always between social deprivation in inner cities and electoral registration. There are a number of other areas like seaside towns or former industrial areas, where electoral registration appears to be very low for different reasons. There are some areas which have none of those factors applying to them which have quite shocking levels of electoral registration.
188. The question of either naming and shaming or directing good practice is something that I think should be seriously looked at post the Electoral Administration Bill.
189. DAME PATRICIA HODGSON: We have struggled with the issue of voter registration and the almost unanimous evidence to us is that it should be individual registration rather than by household, but people who have given evidence on behalf of the Labour party emphasised strongly the importance of not making anything in any way confusing or different, because of the problem of losing voters. We do struggle with that argument because if you had a better-run system with basic standards of administration to get people on the register and of spending to pursue registration, then it is hard to see any argument against individual registration with the integrity that that provides for the register.
190. DR WHITEHEAD: Certainly speaking for myself and not to follow a particular political party, I do think that any electoral system is a stool with three legs, as I have characterised it on previous occasions. The integrity of a system to a considerable extent is determined by each of those three legs being roughly on the floor at the same time, otherwise the stool falls over. That is registration, turnout and voracity.
191. Basically, if you have a system where everybody is registered by nobody vote, the system is under some question. If you have a system where everybody votes but very few people are registered, what looks like a high turnout is not. And if you have a system whereby you have good registration and good turnout but it is clearly fraudulent, then the system is also under threat. The three legs of the stool need to be in proper proportion.

192. I think the question that has been raised about individual identification relates to whether all of those legs are equally strong. The present system of how you register is indefensible, effectively. One of the idiosyncrasies of the fact that the British public has generally a fairly high regard for the voracity of the registration and the voting system is not borne out by the fact that the ballot is not really secret and registration can relatively easily be abused. The fact that it has been so robust over history is actually rather a good remark on how the system informally works rather than how the system formally works.
193. Therefore, the question identified, I think, has to be seen as being the voracity part of the leg of the stool. Can we, along with identifiers, ensure that that is actually a support of registration rather than a destroyer of it? I think that is the key question.
194. DAME PATRICIA HODGSON: Thank you. I will now ask my colleague Lloyd Clarke to move onto the Boundary Commission.
195. LLOYD CLARKE QPM (Member of the Committee): Thank you. Our final question, which is about the Boundary Commission, covers the mandate of the Electoral Commission. I just wondered if you had any views as to when - not if, because it is legislated for - the work of the Boundary Commission should move to the Electoral Commission, bearing in mind the heavy weight of work that they have?
196. DR WHITEHEAD: Bearing in mind that the Boundary Commission has its own resources already and those would transfer, I imagine, over to the Electoral Commission, the question that arises is not whether the Boundary Commission should be transferred to the Electoral Commission. I think it is absolutely logical that it should and should be forthwith, bearing in mind the Local Government Boundary Commission is already within the house.
197. But the issue of whether the Boundary Commission being within roof space of the Electoral Commission has a wash-over effect on other areas of the Electoral Commission's activities. In particular I am thinking of the issue of the extent to which Electoral Commission, if it is to regulate the life of parties and so on, should have such a strong prohibition on the involvement of parties or people who have party labels, in the work of the work of the Electoral Commission, either as commissioners or as assistant commissioners or as employees. What is quite striking in PPERA is commissioners have a very high hurdle of non-political involvement and also employees do, only very slightly lower.
198. Yes, it is true that in the hearings of Boundary Commissions parties make presentations in order to secure the best outcome of the boundary that they can think of, but it is also true it is generally regarded as a stroke of luck if the Boundary Commission comes out with your view rather than someone else's view. It is clearly out of the political process and I would not want it to be otherwise. Certainly we see again in other countries where that is not the

case that that part of the stool of voracity is knocked away.

199. SIR ALISTAIR GRAHAM: We have had some evidence on boundary issues on two fronts. The present system works rather well; it is clearly seen outside the political process, so why interfere with it. We have also heard evidence that suggests that the variation between size of constituencies in the United Kingdom is, on any international comparison, rather wide. You can get the Western Isles of even Shetland at 23,000 and you can get the Isle of Wight with 108,000 electors or something like that. You can get a very wide variation, although that is a fairly extreme example that I have quoted.

200. SIR ALISTAIR GRAHAM: Do you think there is a real issue on boundaries? We have heard people say the boundaries are rather slow to catch up with changes of population and therefore should we have a system that rather speeds it up and ensures that every member of the electorate, in a sense, has an equal power by having constituencies of the same size?

201. DR WHITEHEAD: Three brief and immediate observations: firstly, yes, to some extent even the present Boundary Commission is a trade off between whether you can get as close as possible to the quota and what your constituency looks like. It never has been the case that the Boundary Commission has simply carved the country up into zones, plonked numbers into each zone and declared that to be a constituency.

202. The criteria by which the Boundary Commission determines a boundary perhaps need looking at. Motorways and things are much clearer boundaries than a lot of things that the Boundary Commission historically thinks are. But also, I think the idea that everybody should have an equal vote in this country is somewhat undermined precisely by the fact that the intensity of their vote is only actually seen now in 90 to 100 seats in the country. There are some parts of the country where you would not notice there was a general election on, for example. Your vote is theoretically still the same, but, practically, one might say that is rather different.

203. I had the interesting fact that every time I drove in and out of my constituency in the last election, all that I could see on the hoardings to the way in and out was "Vote Conservative" or "Vote Liberal Democrat". That was not because there was a particularly fierce contest my seat, it was because there was a fierce contest in all the seats around and they wanted to commute it on their way home. Is the vote exactly the same?

204. The logical tucking in of those processes under one commission head is quite a strong argument, but if the Electoral Commission is looking at the question of the democratic process in the way that it is, then the question arises in my mind is would the Boundary Commission have a potentially wider remit to look at what it is that a constituency represents when it is a constituency. Is it in any sense a community or is it just a tract of land?

205. DAME PATRICIA HODGSON: But it does that.

206. DR WHITEHEAD: Yes, it does that to some extent.
207. BARONESS SHEPHARD: I think it has specifically that as part of its remit. In other words, a lot of the evidence that it takes is about people's shopping habits or the readership of local newspapers and it takes evidence to that end. I believe that is firmly within its remit already.
208. DR WHITEHEAD: Yes, I think that is true and I think that is part of the tension between this view that the Boundary Commission, as it stands, or whether with the Electoral Commission, should actually assiduously seek to have a quota across the country or whether, at the risk of having votes apparently not counting quite equally, should aspire to looking at seats as communities. It is true that a number of things are taken into account. I think some things which perhaps should be taken into account do not appear to be to the same extent that they should be.
209. I just offer the conundrum, for example, in my part of the world of what to do with the Isle of Wight. Do you have Portsmouth South and a little bit of the Isle of Wight in order to get your quota right, or a little bit of Southampton in order to get your quota right at the other end, or do you have one seat for the Isle of Wight or do you have two seats for the Isle of Wight which gives you 45,000 a seat?
210. Those sort of issues, it seems to me, cannot be ultimately resolved by a close quota system. Another of my points is that having a Boundary Commission that actually was associated with an Electoral Commission that also had a wider brief about how it worked with communities and political parties and how is made the system work as a whole would not separate the logic of the two out. It would be a cross-referencing process, which I think might be more easily explicable to the public.
211. SIR ALISTAIR GRAHAM: Is there any evidence, though, that having this community dimension strongly in mind in the way that has just been outlined, actually makes a difference in terms of participation?
212. DR WHITEHEAD: I do not know, to be honest. Intuitively, I think it would do and should do. At the risk of offending anybody, usually when a constituency has the word "river" in it or has a number in it, it is what is left over after all the communities have been divided up. I would have thought that voting for a constituency which is identifiably part of a city, town or community is more likely, but I am not aware of any strong academic work or other works.
213. SIR ALISTAIR GRAHAM: We have asked David Butler to do some work in this area and we will be publishing that evidence, not specifically on this point, but the whole boundary issue. We thought it would be useful to get some expert advice.
214. DR WHITEHEAD: There was some very interesting work done at the time of local government reorganisation of comparative views of other

communities by people in various local authority areas, and identification of particular communities and the propensity to actually support the work of that community, town or city, which may be something of a proxy for that process. Whether it actually influences the question of voting, I would not know.

215. SIR ALISTAIR GRAHAM: I am told that we published David Butler's work on the website yesterday.
216. LLOYD CLARKE: Could I turn this to governance? You mentioned the point about political appointees being barred from that political association. Do you have a view in respect of commissioners themselves as to whether political parties should nominate commissioners?
217. DR WHITEHEAD: I think the problem that we face is that we sought in the legislation, effectively, to cleanse the Electoral Commission of politics, prior to its establishment, in order that it might re-approach the world of politics with complete purity. That, I think, has certainly led on occasions to some outcomes which, had it not been done that way, would have been different.
218. LLOYD CLARKE: Is that because there have been people who have not been close enough to politics to understand what is going on?
219. DR WHITEHEAD: Yes, I think that is right, certainly, for example, with employees. Bearing in mind that most employees of the Electoral Commission at middle ranking and junior level are under the age of 40, effectively that means that they are barred for life from ever having been involved in the political process, which seems to be rather strange.
220. LLOYD CLARKE: It has been suggested to us this morning that perhaps the best people to employ would be former agents of political parties.
221. DR WHITEHEAD: That is right. I do not think a fix would be or could be that you draft three commissioners from political parties onto the Electoral Commission, because you would have a bifurcation. You would have those people who are clearly not political and those people who are political. How they could be seen to have a dialogue with each other --
222. LLOYD CLARKE: It seems to work okay for this committee.
223. DR WHITEHEAD: I would have thought that the right way forward would be, over a period of time, to reduce those quite draconian requirements on both commissioners and employees and introduce an element whereby the commission as a whole has a greater political feel about it, but in the context of appointments of those people again on a transparent and non-party political way which was clearly acceptable in terms of the operation of the commission.
224. This goes along with the general view, which I think is problematic, and that is the idea that if you ever were a politician, somehow you cannot be

trusted ever to do anything else again. That is clearly not the case in truth. It certainly should be the case that people who have, for example, had a distinguished political career but are no longer active in party politics, can play a part in the work of the commission. They would not be seen to be compromised, but they would have, nevertheless, that wealth of political experience and understanding to responsibility to bring to the commission which would help its work.

225. LLOYD CLARKE: Can I turn lastly to accountability? I do note from the paper that you have let us have and also from the debate in parliament last Monday the issue about that accountability. I was struck particularly by your note to us when you say that what we have now is an Electoral Commission about the side of a medium-sized quango and also next-step agencies would be held accountable in a slightly different way. Can I ask you your view now, post those discussions, about what might be the best way to hold them to account for £26 million of public money and 150 staff? Has the Speaker's Committee done its job appropriately or could it be done better?

226. DR WHITEHEAD: I think I have described the Speaker's Committee in my evidence as an inspired creation. It is probably quite unfair to the framers of the legislation and those who thought about it at the time - and I know the Committee of Standards in Public Life had an enormous amount of thought on this process - to in a sense say that we have something which is a non-departmental public body and yet it cannot work as if it were along the lines that either agencies or NDPs have worked within responsibility to the executive and responsibility to the legislature. What is it within the legislature that apparently is apart from the legislature that we can attach this to? It is the Speaker. That seems to have been not too far away from the thought process.

227. Then one had to, as it were, work back as to how the speaker and the Speaker's Committee worked its way back through the legislature to the executive. In many ways, under the circumstances, it has done that very well, but its meetings are private. Yes, it looks at the estimates, but it does not seem to me to have the sort of scrutiny and regulatory function that goes on as far as non-departmental --

228. SIR ALISTAIR GRAHAM: Three meetings a year for one hour and one parliamentary debate over a five-year period seems a bit slim to me.

229. DR WHITEHEAD: And two minutes of questions every month, I think. Yes, I think that is absolutely right. Certainly in terms of the actual practice of scrutiny or the opportunity for scrutiny, one would expect that to be quite different if that were any other body.

230. LLOYD CLARKE: I suppose the truth is, though, that the Electoral Commission has grown over the five years. The question could be was it ever envisaged that its budget would be as big as it is now. Arguably, if you take away - and this was a point that came out in the debate - promoting public awareness, you would actually reduce the budget by 50% overnight. The mandate then to the scrutiny of what they do - they are tied together in reality,

are they not?

231. DR WHITEHEAD: Yes. I do not say this has necessarily happened, but the way that the Electoral Commission is tied into the Speaker's Committee and how that works means that there is very little ability to do anything other than vote it more funds when it requires more funds for those purposes. It is true that the Speaker's Committee does have a brief and it in fact is enshrined in the legislation under economy, efficiency and effectiveness, but I think, in practice, that has not really happened and I cannot see easily how it could happen.
232. SIR ALISTAIR GRAHAM: What is the solution? If one says the present arrangement may be fine in terms of safeguarding its independence and reporting into parliament but it is bit think on real political scrutiny, what would be the more effective arrangement?
233. DR WHITEHEAD: Firstly, I think the Electoral Commission should be open to scrutiny in any way that any other non-departmental body is through the select committee system. Of course, most next-step agencies and non-departmental bodies have a departmental attachment and therefore the select committee of that particular department periodically may have a look at what that body is doing. That is not the case for the Electoral Commission. The obvious home for that would be the Department of Constitutional Affairs Select Committee which, of course, did not exist when the Electoral Commission first came into being.
234. I would not resile from the structure of the Speaker's Committee in terms of how the Electoral Commission sits in parliament because it is --
235. SIR ALISTAIR GRAHAM: But is the Speaker the best person, if we are honest, to chair something like this? It is possible - you are on the Committee on Standards and Privileges, for example, which has to genuinely look at issues on behalf of the House of Commons. It has a chairman from an opposition political party but seems to manage to operate with the confidence of the house as a whole.
236. DR WHITEHEAD: There is a distinction between the fact that the entry point of the Electoral Commission to the legislature is probably quite appropriately designed as through the Speaker in some way or another, but the consequence of that, which is that the Speaker chairs these three times a year meetings, does not seem to follow that logic up. The idea of the Speaker being, as it were, the guarantor of what the Electoral Commission does, but not being the person who does the business of looking at and relating the Electoral Commission to the legislature on a daily basis I think is an attractive one.
237. The problem I have, of course, is that I am not only a member of the DCA Select Committee, but also a member of Standards and Privileges, so I may, under these circumstances, appear to be making some personal pleading. Certainly, Standards and Privileges, I think it is fair to say, has, over

a preyed of time, established itself, even though it consists all of politicians, of actually being a committee which deals well and fairly with the business of the house that it has to do. As an in-part management committee of the Electoral Commission, providing Standards and Privileges with some of those functions, and the Department of Constitutional Affairs Committee with a strong scrutiny function would actually move us considerably forward.

238. DAME PATRICIA HODGSON: We have pressed upon your time beyond what we should have done, and that is attributable to how thoughtful and thorough your contribution has been. It has moved our deliberations forward and even helped to restore our faith in politics.
239. SIR ALISTAIR GRAHAM: Thank you very much. We shall break now for lunch and reconvene at 2.00pm.
240. SIR ALISTAIR GRAHAM: Thanks very much for coming and to spare the time to give evidence to us. Thank you for your substantial written evidence, which we have all enjoyed a read of. It will influence some of the discussion that we have today. We have an arrangement whereby one of the members of the Committee takes the lead in questioning and the rest of us chip in as the dialogue takes place, so Rita Donaghy is going to lead the discussion today. Rita ...
241. RITA DONAGHY: Thank you very much. Good afternoon.
242. ANDREW TYRIE MP: Good afternoon.
243. RITA DONAGHY: I was looking at the Hansard debate of a day or so ago and you made the most interesting point about the overriding test being the securing of the consent from the electorate for the result. You doubted in the early years of the Electoral Commission whether that consent had been bolstered. You mentioned - in your words - the service voters farrago, the postal vote scandal and the fact that we still do not really know how parties obtain their money. In your quite graphic descriptions of the short form of the Electoral Commission, what would you say have been the successes in its first five years, if any?
244. ANDREW TYRIE: Well, they have created a new institution which is quite a difficult thing to accomplish, particularly in a highly sensitive political field. I think Sam in particular has arrived at some creditability with the major political parties, so there is a pretty firm foothold on which to build. I think it is clear from what I said in that speech that I was not sure that the system was broke in the beginning, but now that we have altered it we have to make the current system work.
245. SIR ALISTAIR GRAHAM: You do not want to go backwards?
246. ANDREW TYRIE: There is no point in trying to go backwards now. I framed my criticisms, I hope, in a way that made it clear that I was not mindlessly having a go at the Electoral Commission. I also think if there is one

key point that comes out of your first question to me, it is that I think your primary function has to be to have in mind that overriding objective: Are we sure that anything we do is going to increase consent of the electorate as a result? Even if you come up with another imperfect system, if you think it is going to bolster consent it may be the road to go down, even if you can see technical deficiencies.

247. SIR ALISTAIR GRAHAM: Is consent the key principle that you really want to build all of this around? Is not integrity of the system a strong principle that we should be concerned about as well?

248. ANDREW TYRIE: There are many ways of building democracy. Once everyone has agreed that you have a democracy, the question is do people consent to the outcome? If they do not, it does not matter how clever or perfect your system is, you have severe political problems ultimately leading to extra parliamentary action. The French have had constitutions every 25 years or so for 200 years and on paper some of them look fantastic.

249. SIR ALISTAIR GRAHAM: We only subsequently found out after the last general election that it was financed on a sea of debt - although none of us knew that - but at the time of the election there was consent to the result. You could also argue that the last general election was based on boundaries in which constituencies perhaps had too wide a range of electorates and electoral lists that probably were not as strong as they should have been in terms of accuracy. There was still broad consent to the outcome of the election but in retrospect you can see there was perhaps some question marks that we should have been asking earlier. So is consent the overriding principle?

250. ANDREW TYRIE: Yes. You are agreeing with me actually because you are saying that as soon as people found out the way it was run they did not consent to it, so clearly it did not secure consent. Many previous elections have been conducted on all sorts of imperfect systems and registers - not only in Britain but in other countries - but if they secure consent the primary task of the system is satisfied. It is that that we must have as the overriding task.

251. SIR ALISTAIR GRAHAM: I am just testing whether consent is a useful principle for this committee upon which to come to conclusions about the future system.

252. ANDREW TYRIE: Within the parameters of democracy I think it is. I think it is the overriding one. I think we do need further reforms to the Electoral Commission. If you were to devise reforms all the theoreticians, all the academics would be able to devise you an infinite number of clever, technically perfect systems. However, if the electorate find that they are confused by it or that they do not believe in it, there is no point in going down that road. It may sound like a conservative point, but consent to electoral results derives over a very long period of time to acceptance and understanding of ways of doing things which countries develop as part of their society and culture, and which is extremely dangerous to radically alter without

careful thought.

253. SIR ALISTAIR GRAHAM: I understand that point entirely about the system as a whole, but it does seem an important part of asking a key question about whether the current system has sufficient integrity within it to satisfy ourselves about the quality of the results.
254. ANDREW TYRIE: I do not think anyone is suggesting that our system is in such a deep mess at the last election that we should challenge the result or go to the High Court.
255. SIR ALISTAIR GRAHAM: No, but in a technical sense.
256. ANDREW TYRIE: Yes. You are right to say that if ex post we arrived at that position, then clearly the consent principle would not be satisfied. You are also right to say that to the extent those problems have come out of the woodwork, there is less consent for the way we are running our electoral system than there was. However, we do not have a democratic crisis at the moment.
257. BARONESS SHEPHARD: How do you measure this lack of consent yourself? You have described the French system ...
258. ANDREW TYRIE: It is very difficult but I think the exercise of common sense will take us some way. When people are out on the streets saying that they are not prepared to accept the judgement of the ballot box, then it is quite likely that you have something wrong, particularly in a mature democracy such as ours where there is virtually no history of overthrowing results. So that would be one measure.
259. Let me give you a measure of the sort of concern that I would have in my constituency. During previous elections my electoral returning officer used to receive a few hundred phone calls during the course of the election. In the last election he received over 5,000, over half of which were about postal votes because there was a perceived crisis in the country over postal voting and how to make sure that your postal vote was valid. There were thousands of people ringing up - hundreds each day at certain times - demanding this information. We changed something in the electoral system which probably was not broken, although slightly imperfect, and we arrived at a point where inadvertently, with the best of intentions, we eroded consent.
260. RITA DONAGHY: So to recap, what you think the Commission has done well is that at least it is a new body which had established itself - although you would rather it had not established itself at all - and that you rate the Chair very highly. Anything else that it has done reasonably well?
261. ANDREW TYRIE: I think it has done a lot of second order issues well. I could start pointing to the list of reports I have here, which I think are well-written. Already it has some accomplishments and I think it is aware of the

deficiencies that it needs to make up.

262. RITA DONAGHY: In the areas where you have described where you think they have done less well, which bits do you think are as a result of defective legislation or lack of clarity of what it was asked to do, and which do you think has been about failures of the actual Commission?

263. ANDREW TYRIE: The first area where I think a mistake has probably been made was in asking the Electoral Commission to take responsibility for voter participation. I am confident, in retrospect, the majority of people think that it should not have.

264. RITA DONAGHY: Where would you have put that function?

265. ANDREW TYRIE: I think that is the responsibility of political parties. If people are not interested in politics it is our fault, primarily.

266. RITA DONAGHY: You would not put that into another commission altogether? We have heard from Hazel Blears - whom you might have reason for not agreeing with - who suggested in exactly the same terms as you have that this was a demand too far of the Electoral Commission and that perhaps they should be hived off into what she called a foundation of democracy.

267. ANDREW TYRIE: That is a new idea that Labour have come forward with recently. I would like to think about it further. I am struck by a lack of historical sense in our schools about the role of democracy, which I think was in a better condition years ago. I would like to see history taught in schools.

268. RITA DONAGHY: So there is a job to do here, you are just dubious about whether this is the place for it?

269. ANDREW TYRIE: Yes. This is a slightly separate subject and I do not want to detain the Committee on this subject. I am not sure that voter participation is such a big issue as is alleged. We have a problem but not a crisis. The turnout in 1992 was the third highest turnout in modern genuine fully post-war electoral history. It was only the third highest by a whisker and could easily have been the highest. The reason people turned out, I would submit, is that political parties were making a great noise. The political parties were presenting quite radically different views about how to run the country, and the result was uncertain. Up went the turnout. Apply those principles to the last two elections in particular - and to some degree to the 1997 election - and not all of them apply. I think turnout will recover.

270. I think there is a problem with participation among the young. However, that is also partly the fact that people are staying in schooling and university longer and that people tend to start taking a greater interest in voting - it is a fact of life whether we like it or not - when they settle down and start paying taxes. It was ever thus and they are doing that at a later age than they used to. So the greatest weakness in voter participation, the new cohort of weakness, is that group who are in their late 20s. That is what you would

expect, on the analysis I have given you, and that indeed is what I think you will find the statistics show.

271. RITA DONAGHY: Where else do you think the legislation was defective when the Commission was established?
272. ANDREW TYRIE: I think I did write down a list of what I would do to change the law somewhere before I came to you, so why do I not turn to that? The ten-year ban on people with any political involvement - I am sure it has been raised with you - I would take a look at that. It is possible that the Commission needs some sort of sanction in between High Court action on the one hand and mere naming and shaming on the other, and that may need a legislative base. I have mentioned public awareness. Most of what needs to be done on the dealing with party funding can probably be done through regulation. Then there is the Boundary Commission issue.
273. RITA DONAGHY: Do you think the regulatory role is the most important aspect of the Commission's role, as opposed to the education or advisory?
274. ANDREW TYRIE: Yes, certainly.
275. RITA DONAGHY: Do you think it has the balance right at present?
276. ANDREW TYRIE: Let me give you a few thoughts on the sort of things which if I was running the regulation role I might want to take a look at. If you sit in the tea room and talk to other colleagues about the way returning officers run elections, you will find a very wide variety of approaches. I quite like the idea that there is some variety but I would also like a better mechanism for ensuring that they are aware of best practice. I would like to see that developed.
277. SIR ALISTAIR GRAHAM: Does not the Electoral Administration Bill partially get to grips with that by asking the Commission to set standards?
278. ANDREW TYRIE: Yes.
279. SIR ALISTAIR GRAHAM: What it does not do, of course, is give the Electoral Commission any powers of intervention if a local authority is failing in this respect. Should it have such powers?
280. ANDREW TYRIE: We have just discussed that, in a sense. I mentioned it as one possible area where at the moment they can name and shame or they can say, "This is illegal" and take court action, or at least trigger an investigation.
281. SIR ALISTAIR GRAHAM: But if it is just a general failure or lack of investment ...

282. ANDREW TYRIE: We do also need to apply common sense here. Is the integrity of the electoral system being put at risk by some unusual practice or not? We need a sense of balance about it. Can I pass on whether in that specific area I would want to see legislation? I have not thought about it carefully enough.
283. Let me give you an example of the sort of information that I would want to get to know if I was in the Electoral Commission's position. I would want to store all information on recounts, probably for all elections. These are not centrally stored at the moment.
284. Anecdotally you will hear - and I cannot provide you with the evidence because it does not exist as far as I am aware - that there is a tendency towards zero in counts; that is, there is a non-random distribution in recounts. I would have thought that is a very interesting thing to examine. Why is that? Is it possible that there are some systems in place which are sufficiently imperfect to enable a person in a count to change the count? I do not know the answer to that.
285. I am also surprised at the variation. I know that they are counting a lot of ballot papers but it worries me that these recounts, when they are done, come to sometimes quite radically different numbers. I would like that quite carefully investigated, the first task being that we need to find out the numbers. I would not like it done with a huge fanfare. Obviously I want disclosure and transparency but there is no need for us all get terribly het up to the point where the public's confidence in counting is --
286. SIR ALISTAIR GRAHAM: Where consent gets threatened.
287. ANDREW TYRIE: Where consent gets threatened. There is an example of something I would like them to look at.
288. RITA DONAGHY: So on the electoral administration system you appear to be quite relaxed about slight variations in practice, but you are proposing that there ought to be an understood benchmark?
289. ANDREW TYRIE: Yes. Exchange of best practice and intelligent examination of areas where they should start collecting information centrally where they do not.
290. BARONESS MADDOCK: This morning we had some evidence that there was a view that the Electoral Commission did not go out enough into the country when elections were underway to see what sort of practice was going on. Initially the person giving evidence suggested that they go out all over the country doing the whole lot. I put it to them that perhaps they could hone in on one or two areas to look in a bit more detail at what was going on on the ground. I do not know whether you would think that would be a good thing to do?

291. ANDREW TYRIE: Yes, I think it would be educative for them to see counts.
292. SIR ALISTAIR GRAHAM: Slightly surprising they do not do it, if they do not.
293. ANDREW TYRIE: Yes. I am sorry that I do not know the facts and I do not know whether they do or not.
294. BARONESS MADDOCK: This was not particularly about counts specifically. It was about the whole process of actually watching what goes on in elections, what political parties do, et cetera.
295. ANDREW TYRIE: I think you might be on to something there but I am afraid I do not know the facts.
296. RITA DONAGHY: Should the Electoral Commission have a greater role in the electoral registration of electors?
297. ANDREW TYRIE: They already have a considerable role in electoral registration; indeed that is one of their prime functions. Yes, I think it is very important that they should take that job extremely seriously. One of my concerns about the Electoral Commission operating was, if not triggered, certainly fuelled and deepened by my experience over service voter registration.
298. SIR ALISTAIR GRAHAM: You could argue that this is a thing where they have responsibility without much power.
299. ANDREW TYRIE: Yes, I think that that is true.
300. SIR ALISTAIR GRAHAM: It is a highly fragmented system, is it not, that we have?
301. ANDREW TYRIE: Again, they may argue - I do not know whether they have, as I have not read their written evidence to you - that they want more powers in that area. Have they argued for that?
302. RITA DONAGHY: They are very keen on the idea of individual registration, which I think if you ask electoral registration officers, they are not quite so enthusiastic about that change. Their recommendation, of course, was turned down by the government.
303. ANDREW TYRIE: Let us compare the current system with where we were in the Home Office. Would any government have gone ahead with such radical changes to the postal voting system under the old system, bearing in mind the risk that there would be a huge cry of foul? The areas that the Labour government have operated in are quite controversial ones. The postal voting particularly could well be argued to be partisan.

304. SIR ALISTAIR GRAHAM: That is an issue I have been trying to probe with various witnesses. Is the government open to the charge that it has been operating on a party political basis in the postal voting area, where undoubtedly there was a view that increased postal voting may lead to higher participation which might benefit one party more than another?
305. The other area is individual voter registration, which we have had recent debates about, arising from ping-pongs between the House of Lords and yourselves on the Electoral Administration Bill. An amendment had the support of all political parties- including your own and the Electoral Commission - but failed to capture the support of the government because, as has been put to us, there would have been an unacceptable significant drop in the numbers of the electoral register which, it might be argued, would hit the Labour Party disproportionately.
306. We have heard from Northern Ireland that when they introduced individual voter registration there was a 10% drop. They then quite quickly built that up as, in a sense, the register was cleansed and they then encouraged more people to join it.
307. ANDREW TYRIE: The point I was going to make was that some greater political room, I think, is accorded governments to take a view that might be considered partisan on such issues, which I think they would be much more chary about expressing had they responsibility for these things in the Home Office. Major rows about unfairness generated from Home Office proposals in this area where, although there are a few historically, they are relatively rare.
308. Now that you have an independent body the government can say, "Well, we have had this interaction with the Electoral Commission and, although the Electoral Commission do not quite agree with us, we have taken five or their seven proposals and we have ignored two. This is the way we are going to go forward". I have found that concerning.
309. RITA DONAGHY: But are you comparing like with like? It has been put to us that the relationship when the Home Office was in charge was one of benign neglect, rather than any other relationship. You are putting it in a more positive light than that but I do not think that is seen by everybody in quite the same way.
310. ANDREW TYRIE: We have had benign interference and benign interference has led to something quite bad, has it not? We have now moved to a position where we had a postal voting system which was broadly understood, accepted, and dealt with a niche market of a rather specialist group of voters who needed particular care for one reason or another. We have tried to broadly roll out that same system right across the country and as a result we have a crisis of confidence.
311. SIR ALISTAIR GRAHAM: But is not our whole electoral system based on honour and individual trust? In the sense that it is pretty easy to get on the

register when you may not be eligible to do so and once you are on the register it is easy to vote without any check. For example, in Northern Ireland, okay, they may have a special reason, they ask for photographic identification when they go to vote. We do not have any such arrangement elsewhere in the United Kingdom.

312. ANDREW TYRIE: There are some deep philosophical issues lying behind that question because a whole battery of things that we do in a civil society are based on trust. We trust one another habitually not to rob one another. We could actually, if we were so worried about it, put policemen on every street corner. Some countries have tried that - in East Germany there was no crime - but I am not sure that we would have wanted the civil and political system that developed as a consequence; 10% percent of the population were informers or worked for the Stasi. We are always living in that balance.
313. The question that you have to ask yourself as a committee is whether to advise some shift in that balance. Bearing in mind that we are where we are and that we cannot, I think, undo the damage which has been done, I think the choice now is at least for the next election either to go back to using the postal vote system as it was used before, or to go to individual registration. I have not yet heard a case put for any other approach that, in my view, will secure general public confidence to the outcome, as you correctly said, *ex post*.
314. DAME PATRICIA HODGSON: Is concern about the integrity of the ballot a concern for consenting adults in private? We heard evidence this morning that the press are not interested because it does not involve the personalities who would have been excoriated all over the front pages; and the public does not really care terribly much because actually what it cares about and what really moves them to consent to or not in the political system is spin, being let down, the stuff of politics. Therefore we have a problem that while for very good reasons we might certainly believe that the integrity of the ballot is actually fundamental, there is no generation of pressure within the system to do anything about it. As that has emerged through evidence it gives me pause for thought because it then requires some additional "how do you prove that this really matters?" It is a philosophical point actually.
315. ANDREW TYRIE: It is. I am sorry, I am not going to give you an answer without further thought. If I do have some further thoughts I will put them in writing; you have raised an interesting point.
316. SIR ALISTAIR GRAHAM: Just to follow this point up, if in fact we were to move to individual registration and we asked for certain basic information to satisfy ourselves that these were proper people to put on the register, would that fundamentally undermine the relationship between the individual and the state in some way?
317. ANDREW TYRIE: No, I am not arguing that. I am not arguing that.

318. SIR ALISTAIR GRAHAM: Okay.
319. RITA DONAGHY: Can I move on to the regulatory role? One of the primary purposes of the Commission being established was to look at the political party funding and expenditure; how effectively do you think they have carried out that role?
320. ANDREW TYRIE: Let me ask you a question: Do you know what proportion of Labour's funding in the last general election, taking national and local support together, even in cash was as a proportion of the total spend? I know that you do not know the answer. I know that you will be given an answer by the Labour Party; I know that academics will give you a very different answer; I know that neither of those figures will adequately capture benefits in kind. So, the Electoral Commission is being given responsibility in this field and they have put in place a system that has more to do with the way one might imagine regulating company accounts than regulating parties because of the political damage. I think it is paramount.
321. So what I would like the Electoral Commission to do in this area - and I think they should work with Sir Hayden Phillips on this - is write down a set of basic questions that they think the public will want to know, so that the public can have confidence in where the money is coming from for political parties. At the moment we do not have that information. I cannot tell you to a factor of two or three how much the unions are providing in cash or kind to the Labour Party. I am not even sure, even though I know a lot more about it, that I know exactly what all sources of funding are for the Conservative Party.
322. RITA DONAGHY: Are you saying there is a system that might elicit that information?
323. ANDREW TYRIE: Yes, if you ask the right questions - unless you have calculated deceit on a massive scale - and I do not think you are going to get that because the risks to a political party would be overwhelming.
324. DAME PATRICIA HODGSON: Could I push you on that answer, because I may be misunderstanding you? You seem to be advocating something that I certainly find attractive, which is trying to find a way to make transparency work, rather than seeking tighter and tighter rules which generate more and more ingenuity on the part of the regulated that you never keep up with because of the fantastic drive.
325. ANDREW TYRIE: Yes.
326. DAME PATRICIA HODGSON: When we were in the States we saw apparently rigorous counts on this, that and the other and such endless ingenuity in activities that were not categorised as party political in any way but were enormously powerful. I just wondered whether that was worse than having donations and support that you may not like but at least you know about, because you then draw your own conclusions and it informs your voting

behaviour.

327. ANDREW TYRIE: I agree with absolutely everything you have said, Dame Patricia. We need to devise a system which is flexible and which those who are running it are being creative and innovative and trying to keep one step ahead of the game. We will not arrive at a system which is so steady state that it can work for many elections in a row. It is in the nature of the adversarial political system that we have that there should be people thinking intelligently about how to bypass the rules. Although I would rather in this area that that did not go on, I do actually want political competition, so we just need to be realistic.
328. I think that the Electoral Commission is in a good position if it can gather people around it with sufficient knowledge and experience of these issues to keep a step ahead of the game, as the gamekeepers have to, and to devise a set of rules which - probably in constant interaction with the political parties - will secure public confidence that we really do know the main sources of funding for the parties. I would like them to concentrate on the commonsense questions such as where is the money really coming from, rather than have they ticked all these boxes which are causing an administrative nightmare for a lot of quite junior people in political parties.
329. DAME PATRICIA HODGSON: This is very complex but terrifically important. If you felt able to just expand perhaps afterwards in writing to us, about how that might work and the sort of questions to ask, that would be very useful.
330. ANDREW TYRIE: How long have I got? How soon would you like that? It is a very good point.
331. SIR ALISTAIR GRAHAM: We are going to hold some further hearings in September; if you could let us have any information by early September I think that would be very valuable.
332. ANDREW TYRIE: I did actually write out, for my own use, a long list of questions I would ask the Labour Party to find out how they are funded. I would like to think about it further before putting it in the public domain. Maybe I will have a go at the Conservative Party, although I do not want to get too deep into trouble.
333. BARONESS SHEPHARD: No, but on the principle. Obviously it is not about trying particularly to find a battle over a specific thing; it is how you might be convincing about the principles as well as the examples.
334. DR ELIZABETH VALLANCE (Member of the Committee): But it is also, if I understand you, about your other point, which is that in effect there is a kind of category mistake here, which is in trying to assimilate this whole thing to a kind of financial process.

335. ANDREW TYRIE: Yes, absolutely.
336. DR VALLANCE: And that that is actually a total mistake to understand this as if you are auditing a collection of accounts. Patricia is right in saying that it would be enormously helpful for us if you could identify, as you saw it, the kind of questions - not just for the Labour Party but across the board - that could be asked that would indeed elicit the kind of information which would add to trust, if you like, rather than taking away from it because the wrong questions are being asked.
337. ANDREW TYRIE: That will require some thought. The document that I would produce will be much shorter, so I would rather go with that. I agree with everything you have said.
338. SIR ALISTAIR GRAHAM: Let us take one regulatory area. The loans to political parties which there was a great furore about; do you think that is an example in terms of the regulatory role of the Commission that their intelligence could have been better? That they could have been a bit smarter in really making nasty noises to all political parties that, "If you are financing your general elections along these lines you are going to run into difficulty with us if you do not declare them as, in a sense, you do a donation"?
339. ANDREW TYRIE: All I can say is yes to that, although I do not want to have too heavy a go at the Electoral Commission. When you are a new outfit you have so much to do in such a short space of time and if their eye was not on that ball at the time it is regrettable but understandable.
340. RITA DONAGHY: I am about to ask two of the wrong questions, I think, but it might help to illuminate your approach. As the Commission is a regulatory body, some have indicated that they think they have been reluctant to investigate allegations of wrong-doing. Do you think the Commission should be mandated to assess and, where necessary, investigate allegations of wrong-doing? In other words, do they have a policeman role under your transparency regime?
341. ANDREW TYRIE: On funding, or generally?
342. RITA DONAGHY: Generally. There might be specific things on funding and interpretations of grey area where, again, do you think the Commission would have an advisory role in that?
343. ANDREW TYRIE: I am not sure but I think I am right in saying that they have powers to seize documents and have considerable powers in order to fulfil their regulatory function in elections. That question that I do not know the answer to is whether they have those powers in order to fulfil the transparency requirements on funding.
344. SIR ALISTAIR GRAHAM: They laid down the law, did they not - I think to the Conservative Party if I remember rightly - that they wanted you to actually demonstrate that the loans that you had were based on commercial

arrangements, rather than some sort of quasi-donation?

345. ANDREW TYRIE: Clearly they have to be given the powers that are required to get to the truth. I am afraid I am not able to answer your question without checking, which is, "Have they already got those regulatory powers with respect of finance?"
346. RITA DONAGHY: Because obviously we would be intrigued about the balance between the policeman role and the system that you - and I suspect a lot of us - would like to see; which is about asking the right questions about having a transparent system, where they could perhaps take a step back from that policeman role and be more assured that it is working well. But the balancing act is that there must be circumstances where they would have to step in.
347. ANDREW TYRIE: Rather than give you an answer, may I think about that, because I have not thought that through carefully enough myself.
348. I have thought through one issue which I omitted to mention, which is related. When I was talking about how to find out whether the system is basically okay I said look at the recounts. One thing we do not have in the UK, as far as I know, is sunshine provisions; that is, powers to enable ex post people to go and count ballot papers themselves. I wonder whether we should develop that so there would be much greater pressure on returning officers. I am sorry to go back to a subject but I forgot to mention a point.
349. SIR ALISTAIR GRAHAM: No, that is fair enough.
350. ANDREW TYRIE: If they know that these things are going to be recounted by some very interested party in their constituency, they might develop ways of doing it even better. There is such an understandable priority for speed in an election because we all want to know --
351. SIR ALISTAIR GRAHAM: We have raised that. Are people cutting corners unnecessarily just to meet the media requirement of being the first or the second constituency to do that? So you want an incentive by these backstop powers, in effect, to make sure you have it right and you could be subject to audit and you would not produce a different result.
352. ANDREW TYRIE: If it was discovered by a group of statisticians from Nuffield College with nothing better to do that the average error was 500 as opposed to 50 - which we all hope it is - then this might generate quite a lot of pressure on returning officers to tighten up.
353. SIR ALISTAIR GRAHAM: I think we are probably moving on to the Boundary Commission issue shortly. Before we leave this area, however, can I just explore with you the issue of state funding of political parties, which is clearly a very live issue at the moment? We have Hayden Phillips having these private discussions with political parties to see if a deal can be struck about return for caps on donations; that you have some presumably

substantial increase on what we have at the moment of state funding of political parties. I am interested in your view as to whether you think public opinion is ready for such a radical shift. Or if there is any danger of a backlash if in fact the political parties all agree something between themselves behind closed doors and push it through Parliament and then - back to your consent principle, I suppose - the electorate become very uneasy about what taxpayers' funding is being spent for. If in fact you were to move in that direction there presumably would be some regulatory consequences, because not all categories of expenditure might be acceptable to the electorate. What do you think the regulatory consequences would be for the Electoral Commission?

354. ANDREW TYRIE: Well, there is quite a lot there, Chairman, but I will do my best. First of all, I think change is needed. I do not think we can carry on as we are. I think that public confidence has been very severely dented by the loans farrago and it will be very difficult for parties to continue funding as they have in the past. The transparency requirements on companies and individuals - coupled with Labour's desire to wriggle free of the perception that they are 100% funded by the unions - has dragged both the major parties to try and find support from a small number of wealthy donors. Labour are funded by less than half-a-dozen it appears, and the Conservatives by only a slighter larger number. The public believe that this cash buys access, influence, power, honours and the cash-for-peerages scandal has resulted. That is an unsustainable state of affairs and so we have to do something about it.

355. Your first question was, "Can we do something about it, bearing in mind the electorate's distaste for any state funding?" The short answer - which may not be a very good answer to Committee so it commits to transparency but is the fact - that actually roughly half of all central party political activity, one way or another, is funded by the state in casual kind already. It may be slightly less before elections and slightly more during elections. I worked up those figures and published them some three or four years ago. This is an area where I have supported radical reform quietly for 20 years, and where I have been on record as saying it more or less since I have been in public life.

356. SIR ALISTAIR GRAHAM: The current state funding does put a fairly strong emphasis, does it not, on political parties in Parliament, rather than in a campaigning sense?

357. ANDREW TYRIE: No, the majority of the state benefits are direct campaigning benefits; the two most important being the in kind benefit for free leaflet drops and free access to television, which is the key and most single valuable benefit in kind. Incidentally, whereas I have suggested the Electoral Commission may be missing the mark on all sorts of things, when it comes to this area they have produced a very interesting report that shows, to my amazement, that party political broadcasts are listed as one of the quite significant factors determining how people vote, by people in the survey that they produced.

358. Furthermore, they have produced a very interesting point, which is they have discovered that although the electorate are dead against giving the parties any more money from the taxpayers' coffers, when told that the alternative is the current funding system - which is basically for rich individuals and unions - they are dead against that by exactly the same proportion of roughly three to one.
359. Furthermore, which I think is very interesting, when you dig deep into the opposition to state funding, what you find actually is it is opposition to public expenditure generally, rather than to state funding. It is a very important point. So there is an explanation role here for politicians if we are to move further down this road.
360. The second point I want to make in response to you is I am not sure we need to do a lot, actually. What may appear to be quite radical changes can be done, in my view, incrementally, provided that the package is clear from the start about where you are going to end up and can be done with very little cost. My best guess is that if carefully thought through they can be done at virtually no net cost. Bearing in mind the very sharp rise in the cost of electoral politics overall from about £700 million a year to £1.3 billion a year in Britain, what we are talking here is trying to find £10 million or £15 million or £20 million a year. We have just had an increase of £500 million, so I feel confident we should be able to find savings to cover the bill in terms of total public expenditure, which appears to be what the electorates are most concerned about. That is something else I spent a lot of time researching with the House of Commons Library research staff and I published those figures a couple of years ago and they have not been challenged. Indeed, Hayden Phillips has almost accepted them and put them on his website as his best estimate.
361. I think that electoral politics is a matter for individual decision. It is not a matter for institutional decision, collective decision. Indeed, our former democracy makes that clear in spades; secret ballot, individual registration is where we are moving towards and so on. It is logical, therefore, that the funding of political parties should be an individual matter. I do not think that corporate, institutional, trade union donations are going to be politically sustainable in the 21st century. The sooner we grasp that nettle the better.
362. Furthermore, I think that the rich individuals have got to go. We cannot carry on with a system where someone turns up and says, "Here you are, I will give you a million quid" and then expect the public to believe that nothing is going to come back in return. We have Ecclestone, Mittal, Hinduja brothers. It is just not a sustainable position so let us just move away from trying to cling to it.
363. The second part of your very large question was, if the parties gather together in a cabal and do a fix where they raid coffers for £20 million, is public confidence in the electoral system going to be further eroded? Answer: I think if they do that, yes. I would not support that, I do not think that is the way we

should go and I think it is very important that there should be full transparency.

364. If we do go down this road your committee has a crucial role to play in speaking up for and outlining the direction that we need to go in order to maintain public confidence in the funding of political parties. I very much hope that you do speak up loudly on this issue when the time comes. I hope you will come to the same view I do: That the current system is unsustainable, that parties are essential for political life, that democracy requires them and that therefore some form of explanation by you to the electorate, to the wider public about why some additional support may be necessary, would be forthcoming.

365. SIR ALISTAIR GRAHAM: Where are the savings to be made? You have said within the £1.3 billion that is annually spent on political funding in this country ... you implied a redirection of funds could mean that any additional net cost to the Exchequer would be at the margins.

366. ANDREW TYRIE: If we struck the voter participation from the Electoral Commission that is £7.5 million of the £15 million-odd we need for a start. We have not even begun to think carefully about this.

367. SIR ALISTAIR GRAHAM: Some of that might be required for individual registration, let us remember, which will have some additional costs attached to it.

368. DR VALLANCE: You have not said that an educational role or the participatory role is not required; you have just said it should not be done by the Commission. So it might not be free money. It might be money that was spent by somebody else.

369. ANDREW TYRIE: Well, I said before having a real hack at Labour's most recent proposal I would like to think about it a bit more. However, you can take my tone to suggest a hint of scepticism about the need for that expenditure as well. Chairman, I think if you and I sat down for 20 minutes with the list of the £500 million, we would find 5% quite happily, and 3% is probably all we need. If I am right on the £7.5 million, then about 1% is all we need.

370. In any case, I have put forward another proposal which I think will command general public support, and that is that the House of Commons is far too large. It is linked to the Boundary Commission issue, which we may end up talking about before we are finished in a moment. Why have we got so many MPs? We do not need all these MPs. A modest reduction in the number of MPs, carefully done - even if you give the remaining MPs extra allowances to cope with the extra mail they would have as a consequence - would deliver you the extra money you would need to fund the political parties.

371. SIR ALISTAIR GRAHAM: Do you think a deal is going to be struck on all of this? Do you think it is within short term grasp that Hayden Phillips, by

the end of the year, is going to come out with an outline deal that everybody is going to sign up to?

372. ANDREW TYRIE: Well, now we are in the realm of high politics and of course I know nothing about that - I am in the very lowly foothills as a low form of political life as an Opposition backbench MP - but I will give you my view for what it is worth. I have absolutely no doubt that the Prime Minister devoted enormous energy in the mid-1990s to wresting himself free from the appearance and probably the reality of a considerable amount of control by the unions as a result of the financing tourniquet that he was in of 90%-plus funded by the unions. He wanted to get that down and Lord Levy came up with a set of proposals to do this. As a result, he got that number probably - I think the consensus of academic views is about half - down to about half. Incidentally, the Lord Chancellor came out with a figure of 23% in evidence to the Constitutional Affairs Select Committee when he appeared before the committee on which I serve recently, which gives you an idea of how far the Electoral Commission has to go in trying to establish what these real numbers are.

373. His main pit prop and Labour's main pit prop has just been kicked away, much as corporate finance was for the Conservative Party 15 years ago by the transparency requirements in public accounts. That leaves him and Gordon Brown with a choice: Do they want to go into the next election funded by the unions; go into the next election without any money; or go into the next election with a set of proposals to reform the whole area? It is on his capacity and willingness to deal with that issue that the answer to your question hinges. There is one twist to it, which is the capacity issue. Even if Tony Blair wants to do this, at the moment is it politically feasible to deliver it? I am not convinced of that and I said that in an article in The Guardian last week.

374. RITA DONAGHY: My colleague Elizabeth Vallance will now deal with the Boundary Commission and other issues.

375. DR VALLANCE: I am loathe to take us away from this fascinating discussion but we would like to hear your views on one or two other things. We are interested in the Boundary Commission because in PPERA the suggestion is that the Electoral Commission may take over the role in the Boundary Commission. It has not actually happened so far but that is the idea. We have had an interesting research paper done by David Butler which suggests that even if we do in the end support the idea of that transfer of power, that there are some policy issues which would need to be addressed first. In relation to parliamentary boundaries you have already mentioned the disparity in the size of the boundaries of the constituencies in this country, for example, and I wondered whether you think that this sort of issue would need to be addressed in any case?

376. ANDREW TYRIE: This issue of ...?

377. DR VALLANCE: The issue of, I suppose, proportionality versus geography.
378. ANDREW TYRIE: Absolutely. I think it certainly does need to be addressed. Incidentally, David Butler, who is a very good friend of mine and a mentor and a great man --
379. DR VALLANCE: He has come up with some very interesting issues for us.
380. ANDREW TYRIE: Yes, he and Ian Maclean put evidence into you.
381. SIR ALISTAIR GRAHAM: It is on our website, I think.
382. ANDREW TYRIE: I have only had a chance to glance at it so far.
383. DR VALLANCE: Fundamentally I suppose what I am asking is, is there always going to be this tension between proportionality and geography? That certainly seems to be what they are suggesting, although in the end they say, "Let us forget about the geography, largely, and let us concentrate on one person, one vote, one value" which means that you have to stay within a certain percentage in terms of the voter.
384. ANDREW TYRIE: I am with Messrs Maclean and Butler on this. They incidentally were prime movers in the creation of the Electoral Commission and I used to discuss it with them, "Are you sure this is broke? Are you sure we need to fix it?" We used to have these debates and I lost, so here I have a chance to win by siding with David. Yes, I agree with him and indeed I set that out in a paper called Pruning the Politicians, also arguing at the same time that we reduce the number of MPs by 10% over ten years and then possibly by another 10% in the subsequent review. So we do it very gradually. You will not get turkeys to vote for Christmas to come early. You have to do any reduction in the House of Commons very, very slowly, otherwise you will never get it through.
385. DR VALLANCE: Would you have views then on the other issue, which seems to us to be the one on integration between parliamentary and local government boundaries? Do you think that the commissions there should be merged?
386. ANDREW TYRIE: Yes, probably. What we have is an administrative nightmare at the moment, where the Electoral Commission appears to have responsibility for local government boundaries in England and everything else is spread all over the show. What a mess.
387. DR VALLANCE: Some of these, of course, you need primary legislation in order to change.
388. ANDREW TYRIE: Yes, absolutely. What we need to do is create one boundary commission for the whole of the United Kingdom, scrap the 1990

1944 structure and replace it with one boundary commission charged with the task of creating boundaries of constituencies of equal size. Probably no exceptions. If you want to legislate exceptions, legislate two and only two I can think of and that is the Western Isles and the Isle of Wight.

389. DR VALLANCE: The smallest and the biggest.

390. ANDREW TYRIE: Yes. Maybe there are some geographical considerations. There is some constituency in Australia which has a political tradition that owes a lot to ours, which I think I am right in saying - although I have not checked these facts recently - but I think it is more or less the size of Western Europe.

391. DR VALLANCE: It has probably only got about three people and a lot of sheep.

392. ANDREW TYRIE: It has one MP. They seem to do perfectly well with rather awkward geography because they have the principle of equality of constituency before geography.

393. The second thing we need to do is to agree a cap on the number of seats, so it does not matter what happens to the population of the company, that is the number of MPs you are going to have. We cannot have this drift up the whole time. Scotland has just been equalised with England but as migration takes place, with the two separate boundary commissions and Scottish representation relative to England, we will start to rise again. To put it another way, the average size of the electorates in those seats will fall.

394. I think if we do all that, particularly if it is recommended by you and then endorsed by the Electoral Commission, we will take the public with us and the public will understand what a vote should be worth. At the moment we have got votes worth double in different parts of England even.

395. DR VALLANCE: I think from your evidence you would not, but having dealt with these sorts of issues would you then take the step putting the boundaries commissions now under the auspices of the Electoral Commission?

396. ANDREW TYRIE: Your predecessor, Sir Alistair, Lord Neil gave a clear answer to that a long time ago, when he said, "I think we are giving these guys enough to be getting on with". Judging by the way they have struggled to handle what they have been handed so far I think that argument holds true in space.

397. So what we need to do is create one boundary commission. In my view you will never get past the geography problem unless you have got one boundary commission. You will have to draft that legislation so tightly and so cleverly it will become almost impossible to do. If you look at the current legislation it all seems perfectly reasonable when you read each of the clauses 1-7. There are seven key clauses. But when you look at the way they

have been quite reasonably interpreted you suddenly discover that this is a system that we should never have allowed to develop.

398. SIR ALISTAIR GRAHAM: We all struggled with that.
399. ANDREW TYRIE: I just want to say one thing. I do think the Electoral Commission could be given a role in giving advice on how to go about this. I have just given you my view on how to go about this in a few sentences.
400. DR VALLANCE: Rather than actually run the show?
401. ANDREW TYRIE: Yes, although please read my paper on it, which is sorter than this. I think they can have that but not actually run it.
402. DR VALLANCE: Can I just move very briefly onto governance and ask you whether you think the Commission, as it is currently constituted, has a suitable form of government? There are a lot of issues about non-executive channel and non-executive commissioners and issues about a ten-year balance, already referred to. Do you think these are things that we need to look at?
403. ANDREW TYRIE: Yes, it is an utter mess, is it not? We have got a Speaker's Committee where because the Speaker is not allowed to have any views we cannot publish the minutes. What an extraordinary state of affairs! With great respect to the Speaker he has a lot of things to do and I should not think he is terribly interested in this. He has a £26 million budget going through on the nod. Although I have made proposals for getting it down by about £10 million to you today. That level of accountability is wholly unacceptable, so I have a set of proposals of what to do about it if you want to hear them.
404. DR VALLANCE: Can I just pull you back a bit to governance rather than accountability? Obviously the two are not a million miles apart. We have received quite a lot of contradictory evidence, for example on whether there should be a greater more direct political input into the Electoral Commission. What is your view on that? Do you think that would destroy the perception of the independence of the Commission?
405. ANDREW TYRIE: Clearly the ten-year rule is absurd.
406. DR VALLANCE: Does that mean you would just put it down or you would get rid of it all together.
407. ANDREW TYRIE: I certainly would put it down for most of the roles in the Commission. This applies to a great swath of their staff. Most of their staff is utterly ridiculous. The question is whether you leave it for the top man. You certainly do need a political sanitisation zone for the top job. I do not think it would be helpful for Hazel Blears or Frances Moore to take it over next week. So we clearly need a rule but it does not need to be as fierce and vigorous. This is something I would have thought that could typically be subject to those

British compromises, which people will understand and it is set through discussion. To Sam's great credit he has already understood this and he has started informally gathering around him groups of people to advise him.

408. SIR ALISTAIR GRAHAM: Would you actually be in favour of a minority, three or four commissioners, at a senior level, put forward by political parties to be actual commissioners or carers of a minority group of a larger commission?
409. ANDREW TYRIE: That is one approach. I have some confidence it could be made to work. My instinct though would be to go for some advisory committee to a board so that they are not decision makers.
410. DR VALLANCE: They would not be commissioners.
411. ANDREW TYRIE: They would not be commissioners. They would not carry responsibility for the decisions of the Electoral Commission. I have not fully thought this through. I have tried to think it through but I have not come to a firm view, which is why I appear to be hedging.
412. Imagine the position where the Electoral Commission starts prosecuting or effectively handing over swaths of information for the prosecution of somebody in a political party. It is all getting quite tricky. There is Fred sitting there and he is thinking, "Blimey, Bill is aiming for the high jump here, this could be five years without the option". He is under scout's honour not to tip him the wink, "For God's sake shred those documents". I can foresee problems. There are areas of public life where we have got around that, where people honour the obligations that are placed on them, but there will be an issue there.
413. SIR ALISTAIR GRAHAM: We have three political nominees on this committee, so we are used to it.
414. DR VALLANCE: You are absolutely right, it is very overt. Can I just very briefly come back to the accountability issue that you started to talk about earlier, about the way in which the Commission is responsible to the Speaker's Committee? You are clear that this is not an entirely satisfactory arrangement. Your only suggestion is that there should be a new committee that would be something like the Electoral Commission's Scrutiny Committee or some such. You also talk about your role for the Constitutional Affairs Select Committee, in what sort of context? Could you just talk about that scrutiny framework as opposed to why you think it would be better than what we have at the moment?
415. ANDREW TYRIE: Yes. There is a logical division of scrutiny between the policy of the Electoral Commission, the way they fulfil their functions, on the one hand and the pay rations on the other and their overall budget. We have a precedent for this with the relationship between the Public Accounts Committee and their role, vis-à-vis the NAO, and the Controller and Auditor General's answerability and accountability for ultimately his budget and his

pay, to the Public Accounts Commission, on which I serve. A completely separate select committee that only meets a few times a year. It meets specifically to perform that function; that very narrow set of tasks. You would separate that task.

416. DR VALLANCE: The auditing of the £26 million?

417. ANDREW TYRIE: By the time we are done we will have it down to, £16 million. The auditing of the money and the setting of salaries and the identification of the staff that they need to perform their function on the one hand and, "How are you doing against your set of indicators, your targets, chaps?" I am sure you have looked at this. They have these targets. The sort of job I would expect a Constitutional Affairs Select Committee to do is say, "Well here, you have got these targets". We have started to try and do this.

418. Objective 1: confidence and participation in the democratic process. Well I think confidence has taken a knock and they should not be in the participation business, except for registration. So, there is something a select committee could get their teeth into.

419. SIR ALISTAIR GRAHAM: Do you think it is odd that you have only had one debate in the House of Commons about the work of the Electoral Commission in the five-year period?

420. ANDREW TYRIE: Yes I do. And I do worry that this is really sort of 19th club government run riot when we are trying to get into the 21st Century. This is the sort of thing that might have been dreamt up by Salisbury, the system we have here, is it not? Where you have very little to do with modern political life. It had practical deleterious consequences. The current chairman of the Electoral Commission will presumably have to make up his mind whether he is going to carry on. As I understand it, this committee have not even got around to deciding whether they are going to open up to competition, to the renewal. They will all go away with their buckets and spades for the summer and will be back in late October with the decision to be taken in a matter of weeks. This is not any way to run a railway.

421. DR VALLANCE: Could I ask you about the link between that, which is about doing this in a proper fashion and the wider question of independence? I have observed over a decade a greater and greater, shall we say, interest by ministers in appointments to public bodies. The interest has become closer as the apparent independent process of appointment has been polished and "Nolanised". That leads me to be interested in what other protections for the independence of public bodies that might be under great political pressure might be in place. An example I have given to colleagues is that the chairman of the Competition Commission is appointed for a very long period but only once with no renewal. It is very striking what a different mindset there then is when there is no point at which the question of renewal comes up. I wondered whether you thought this was relevant, important or neither?

422. ANDREW TYRIE: Another very interesting point. I think that may be the way we should go if we reform the House of Lords and have an election, which I think is also inevitable, although there is a lot of foot dragging going on there too. That we elect people for one long non-renewable term, so they have some measure of independence from the whips. Following on from the point I have just made, it may be that Sam, who is coming up for the end of his term, should be appointed for a longer and non-renewable term.
423. You do have a risk there, and of course that has been an issue endlessly discussed with respect to the Bank of England independence. You have then got to put in a lot of other checks. What do you do if the guy goes bonkers? Was it true that William Armstrong fell so ill that he ended up under the table looking for South African spies - or was it Russian spies? The cabinet secretary.
424. DR VALLANCE: You could go the line of the old university tenure. You had tenure unless it was proved gross immoral servitude.
425. SIR ALISTAIR GRAHAM: I think at this point we have overrun our time with you, Andrew. We are immensely grateful for the depth with which you have responded to our questions, and indeed your offer of some further written information, which will be very helpful to us.
426. ANDREW TYRIE: That was wrung from me. I will do my duty. Do less and do it better is my view on that.
427. SIR ALISTAIR GRAHAM: Thank you very much for coming today, we appreciate that.
428. We were due to have a break but I suggest as our next witness is here that we flow on.
429. Well thank you very much for coming today, Mr Clarke. We really appreciate that. Obviously our particular interest in hearing from you is that I understand the request of the Leader of the Conservative Party you are chairing a body. I am not absolutely sure what its terms of reference.
430. RT HON KENNETH CLARKE QC MP: I have a sort of written statement, so let me give you the short disclaimer.
431. I am Chairman of a body which we call Democracy Task Force, because we could not think of a better title for it. We are charged with advising David Cameron and the leadership of the party, in due course, on a whole range of constitutional issues and on the process of government generally. We have started our work. We had a meeting two days ago. All the subject matter you have indicated in this particular inquiry is part of our remit.
432. I have to say we are not making most of these things our first priority. I mainly lobbied about House of Lords reform or party political funding, neither

of which we have yet turned to, which have a life of their own outside anyway. We will in due course, no doubt, when we get around to it. It means I am not in a position to speak for the Conservative Party, which I keep pointing out to the press on these issues. Nor am I able to speak for the Democracy Task Force, although Andrew Tyrie who you have just had giving evidence is one of the members of the task force; he is working with me. I have read the evidence of Oliver Heald who I think has put in evidence on behalf of the official Conservative Party. I have read Andrew's evidence and heard the last ten minutes of his questioning and I am broadly in agreement with them. I think the only thing is I am more critical of the Electoral Commission so far than they are.

433. I do think one has to step back. It is not a criticism of individuals - I have met Sam Younger and discussed it with him - and it is not a criticism of intentions but I really do think one has to doubt whether, with hindsight, one would have set up this body. I do not think it is delivering £27 million worth of value to the public interests and it is still trying to find out what its scope is. Although it is not the fault of the Electoral Commission, there is no doubt that the reputation of our electoral system, which was excellent when they were set up, has since definitely deteriorated and become much more controversial and we have made no very great progress on most of the other matters that they have looked at.

434. Therefore, I am not quite sure it is the right body or even the right structure to go about these things. We have created yet another non-governmental body, yet another quango, and we are still trying to find it a role in these very difficult issues at ever growing expense, I have to say.

435. SIR ALISTAIR GRAHAM: Would it be useful in the dialogue between us to first of all concentrate on what you see are the major weaknesses or deterioration in the quality or integrity of the electoral system and then perhaps come back to the Electoral Commission and what it might have reasonably been expected to do about that?

436. KENNETH CLARKE: I would suggest if you went back ten years ago only an eccentric would have queried the integrity and functioning of the British electoral system. Of course, the British are inclined to be complacent about their constitution, or were until recently, but the fact is it was just regarded as a model of a secure, free and fair election and no sensible people doubted it. You got the occasional administrative pigs ears where you found that somebody's name was left off the register or some idiot had put their pet dog on the register and then complained that the dog was being offered a vote, or whatever it happened to be, but I would vouchsafe that 99.9% of the public, and probably the same percentage of foreigners, thought at least the process of a British democratic election was completely impeccable and a model.

437. I think that is still largely the case but we have had serious scandals and indeed criminal offences turning on the over rapid and careless extension of postal voting. These are quite serious problems with serious political

offences, serious doubts about the validity of the poll in one or two parts of the country. There are those who say we will never know who really won the Hodge Hill by-election. It is probable, fortunately, that the man who is still the MP - and an excellent MP, no one has ever made any accusations or complaints against him - probably did win it but nobody really knows. That is a rather dramatic step.

438. I think there was enthusiasm, probably part of their remit. They embarked upon the cause of increasing the turnout at British elections because the turnout had fallen, which was indeed a serious problem. The mistaken assumption behind that was that it was something to do with the process of casting your vote that was causing the decline in the turnout. I think that had nothing to do with it. This is not the place at all to dilate upon the various failings of the political debate, the politicians, the media, everything else, that had caused such disillusionment and disinterest that quite a proportion of the intelligent and educated population were refusing to vote. It was not because they were dissatisfied with the system of actually being enabled to cast their vote; they were simply refusing to choose. In order to get the turnout up, this enthusiasm for postal voting spread and was experimented with at a very great rate.

439. SIR ALISTAIR GRAHAM: Was this party-politically driven?

440. KENNETH CLARKE: I think it was a fashionable cause that cut across parties. My borough, rather than my constituency, was chosen for some of these experiments with the result that so many people found themselves in all-postal ballots, automatically registered for postal voting, that at the last election I think over 4% of my constituents were casting postal votes which was somewhat unreal and made campaigning for the last three or four days of the campaign almost completely irrelevant because the people really interested in politics had voted long ago. I do not think anything has gone wrong in my constituency because I trust the integrity of my opponents. There is nobody in my constituency who would start fiddling it. We were not one of the more dramatically controversial constituencies. I daresay that the result was thought to be in no particular doubt. We are suburban, we are provincial, we are dormitory villages, everybody cast their votes and found it faintly convenient to cast them by post. But it was predictable that in more difficult, narrowly fought, urban areas there were going to be difficulties.

441. During these experiments I could get no response from the Electoral Commission about the obvious security risks of the postal voting. I wrote twice saying I was troubled. I tried to get the letters out and I am afraid my antiquated system defeated my secretary's attempts to find them. The risks to security were absolutely obvious. I remember phrasing with the care the fact that there were parts of this country, there were communities, there were districts, there were urban areas with tradition of rather low ethical standards in politics of one kind or another, because the city boss and the city machine is not unknown in this country, where the temptation for people to start interfering with an insecure electoral process was obvious.

442. The experiments were proclaimed to be a great success by one measurement only, that the turnout had gone up. I am afraid it was no surprise to me that after a short interval it was found that the turnout had gone up in parts of Birmingham and Manchester and other large cities for less than reputable reasons. It has caused serious doubt and it is not being tackled now. I find that the current fashion is to charge on to internet voting on the basis that you do not go back to any more qualifications for postal voting, you just trust that will sort itself out, and now you go on to internet voting. I actually have a serious doubt about whether this is not somewhat undermining the integrity of the system for no worthwhile purpose because I do not think the enthusiasm and participation of the public in the genuine political process has been raised one iota by the change in the electoral system.
443. SIR ALISTAIR GRAHAM: Is it not true that the whole system that we have for electoral registration, certainly as you have said for postal voting, even the voting process itself, is all based on individual trust? The system of registration we have is based on head of household who you require, purely as a matter of trust, to put down the people in the house who are eligible to vote, or becoming shortly eligible, rather than individuals taking personal responsibility for the registration process themselves.
444. KENNETH CLARKE: I am in favour of individual registration. I do not know why we have not moved to that. It has worked in Northern Ireland, which used to be notorious for electoral abuse, and I cannot really see the arguments against that. Of course, that still is based on trust. You can register in a false identity at a false address if you are determined to defeat the system but that requires a participation, a personal attendance where you vouch that you are who you are, which I think is a significant different constraint from the postal vote.
445. The trouble with the postal vote is that you can be put under pressure to obtain one. You can be put under pressure to fill it in in front of somebody else. You can be made to feel guilty that somehow you do not wish to show your friend or the person who has an influential relationship with you why you are voting and how you are voting. Of course, it is even more difficult under our admittedly imperfect system to be sure that this person even exists, that the person has ever been at the address described. It is very difficult to follow up presumably and enforce. When the police were finally persuaded to start taking breaches of electoral law seriously, they did find difficulty in just chasing around to find out that people either did not exist or did not know they had voted or long ago had left the address at which they were now registered and so on. I think the abuse of the system was made simpler and actually you encouraged people to believe, they suddenly realised that they could get a massive --
446. SIR ALISTAIR GRAHAM: I think the Electoral Administration Bill has passed an amendment - I think it is called the Elder amendment - which does slightly tighten up the postal voting.

447. KENNETH CLARKE: It slightly does. You cannot go back to the old rules but the old rules, although old fashioned, were not silly. It was not that our ancestors wished to stop people voting. There was a reason why you required some doctor's note, medical evidence, to show you were unable to vote. There was a cause why you had to demonstrate that your job made it reasonably likely that you might not be able to vote on the day. That in itself did involve the person producing yet further evidence of identity, some doctor who described him by the same name and the same address and so on, to give some more validity to the postal vote. We all used to demand that postal votes should be allowed to people who were on holiday and that was a huge leap in modern times; we obviously could not possibly go back on that. I think recent scandals have demonstrated that it is not illegitimate to demand some validation, some cause, for requiring a postal vote because it is so much easier for it to be abused and we know it has been abused.

448. SIR ALISTAIR GRAHAM: I think it is fair to say that some of the recommendations of the Electoral Commission in some of the areas that you have been talking about have been rejected by the government, have they not?

449. KENNETH CLARKE: Yes, but again I think for political advantage because parts of the Labour Party I suspect, the old Labour sweats, the old Labour activists, believe that the non-voters tend to be the less well off, the less educated, the more working class, the Labour voter who does not have such ready access to transport. This is the kind of old saw that you would have been told by electioneers 30 or 40 years ago. If it was a sunny day and a high turnout, it was good for the Labour Party; if it was a wet day then the Conservative Party. I think certain vestiges of that led the government to believe they were going to do better in the northeast and they were going to do better in some of the other polls if they had postal ballots when the Electoral Commission were beginning to urge caution. But actually the security of the postal vote, as far as I am aware, has not been significantly addressed and I think it should involve some demonstration, even if it is only form filling, of a valid cause.

450. SIR ALISTAIR GRAHAM: Where did we go wrong with the Electoral Commission? Was it given too many functions?

451. KENNETH CLARKE: I think the Electoral Commission started off with enthusiasm from scratch and with a somewhat inadequate basis of understanding of the electoral process and it pursued the then fashionable cause of increasing the turnout, which was one of the things they were exhorted to do. That is why they proclaimed it a success by just declaring the percentage difference in the poll compared with the last time.

452. SIR ALISTAIR GRAHAM: Do you want to abolish the Electoral Commission?

453. KENNETH CLARKE: I would. I wait for your report we have got so many quangos now. One does have to have a judgement about the mounting

budget, the cost, as against the benefit that is being delivered. I do not see significant benefits being delivered and I am not quite sure why the Electoral Commission has to take over the boundary reviews of the Boundary Commission, why it has to be given these other functions which do have a slight air of finding it something a little less dangerous to do.

454. Many of our processes are imperfect. The Boundary Commission is a very curious set-up that we have at the moment. Whenever I occasionally hear people, who tend to be members of the public who think everything is politically biased, try to traduce the independence of the Boundary Commission, I do not believe them. We are almost unique in the Western world in having a system of reviewing boundaries in a first-past-the-post system which, again, no serious person thinks is fiddled. It may be a bit perverse in its outcome. The Conservative Party nowadays finds that it suffers from this process, which it used to believe that it benefited from, but nobody thinks that is a result of a conspiracy. It is the result of the unfortunate behaviour of the public in moving about as they do and the periods that have taken place between the boundary --

455. SIR ALISTAIR GRAHAM: You are the only witness that has suggested the abolition of the Electoral Commission.

456. KENNETH CLARKE: But we never do. I have never heard a politician recommend the actual abolition of a quango for 20 years, I think. They persist. When we had a quango hunt, as Mrs Thatcher did in the first years of her administration, we abolished a couple of dozen and they were ones that turned out never to have sat for very many years. They lie there on the statute book and this is growing.

457. SIR ALISTAIR GRAHAM: If Mrs Thatcher, given her sense of political will, had little success in abolishing these, is it not better to look at how it can be reformed for effective purpose?

458. KENNETH CLARKE: I think somebody should start with a zero-sum game saying in most of the areas concerned there was not a problem really when it was set up. Of course, I do not say it has done nothing worthwhile and they are rationalising some of the systems of the actual administration of elections but the zero-sum game says, "Do you need a separate body to do that? Is it necessary to transfer things to it?"

459. SIR ALISTAIR GRAHAM: What would you do with the elections? Would you pass it back to the Home Office, which has hardly got a ringing endorsement of approval at the moment?

460. KENNETH CLARKE: It is one of the few things the Home Office has not been accused of making a mess of in recent years. The very fact it was a sleepy backwater of the Home Office, given very low priority, not usually disturbed, utterly immune to political pressure from the Ministers, which they thought quite improper, and they never wanted to change anything, meant that its extremely high reputation rumbled on. It had weaknesses. Local authority

returning officers trying to get advice found it was a little frustrating. I am not sure that practice was altogether uniform across the country because local authorities had slight eccentricities.

461. I go back to why was it thought necessary to reform it. It was thought necessary to reform it to have an independent body to protect it against being tainted with any doubt. It is not the Electoral Commission's fault, although they were party to it by being so careless about postal voting, that it is actually now tainted and it was not before. I therefore do not think anything worthwhile was achieved.

462. The one subject we have not touched on - and Andrew who is the expert on it has produced a paper for our party which I totally agree with - is the funding of political parties which was a screaming scandal that was already growing before the Electoral Commission was set up. It has been a very difficult problem for very many years and I do not think the Electoral Commission is the right group to sort that out. I do not think we need an Electoral Commission to deal with that and I do not think the Electoral Commission had very much to do with exposing the problem. Left to themselves, if everybody said that is a matter for the Electoral Commission, certain of the dubious practices that were going on might have gone on for very many years more.

463. SIR ALISTAIR GRAHAM: My colleague would like to ask some questions.

464. DAME PATRICIA HODGSON: I just wanted to bring together two strands of evidence. One we were looking at a little while ago which was is there a trade-off between the integrity of the vote and participation? I have never understood the concept that there could be a trade-off because they seem to me to be apples and pears, different things. Interestingly, we have had quite a lot of evidence today which is attached to the idea that there could be a trade-off and said, "No, you must address those two things as particular issues that are separate and discrete".

465. Then moving on to your challenging proposition that the Electoral Commission could be abolished. One of the problems with quangos is that they are set up to do something admirable that everybody roughly agrees on and some ingenuity is expended in the kind of motherhood and apple pie which is the specification in the statute that sets them up. Then that motherhood and apple pie takes on a life of its own that becomes separated from any parliamentary discussion about the underlying issues. There becomes an increasing separation of accountability which almost no structures will mend because the quango, doing what it is required to do under the statute to the best of its ability and as independently as possible, is in this case balancing participation with integrity and doing all those things and has no responsibility for and no link with the place where people might actually say, "What is the integrity of the vote? In what does it consist? Does it matter? What is the principle here?" That seems to me to be possibly a

conundrum at the root of everything we are trying to get at.

466. KENNETH CLARKE: I think I agree with really everything you said. There is a connection between the integrity of the vote and participation because if the public started to doubt the integrity of the vote, if they felt that the process was suspect and was being fiddled in their locality, then participation would fall. It obviously would be a good reason for not taking part in the vote.
467. I hesitate to be anecdotal but since the spread of postal voting in my constituency I have noticed a slight increase in the number of people who complain about the number on the ballot paper. Both myself and the returning officer had to start explaining to more people who noticed this number on the ballot paper sent to them in the post - they do not normally look at it in the polling station - and then started complaining that actually, given the mood we have at the moment with big brother state intruding on us all, it is not secret anymore. I give the explanation that it has always had a number; that they have always been stacked away, I do not know whether it is still in St Stephens Tower; if you ever have a challenge to the integrity of a result then in absolute confidentiality people do check who voted and all the rest of it but it has not happened, as far as I am aware, for about 30 years; and that there is absolutely no way, one could guarantee you, would anybody go to the secrecy of the vote.
468. If people thought it was not being counted properly then you would have a big fall in participation. I think at the moment there is no link because nobody had any doubts about the integrity of the vote in mainland British Isles and the result was they were not put off at all by the thought that not even their husband or their wife was going to know how they voted if they did not wish them to do so. There are lots of other reasons concerning the nature of the political debate, the political process and the scandals associated with other areas, of course.
469. On your history of the problem with setting up a quango, I agree with that as well.
470. SIR ALISTAIR GRAHAM: Kenneth, could we just presume for the moment that the Electoral Commission in some form or another continues and we do need to address the issue of its governance.
471. KENNETH CLARKE: It rather depends on what it is going to do.
472. SIR ALISTAIR GRAHAM: Let us presume for the moment that it concentrates on the regulatory integrity of the system.
473. KENNETH CLARKE: The actual management of the electoral process?
474. SIR ALISTAIR GRAHAM: Yes.

475. KENNETH CLARKE: I have had a discussion with Sam Younger and I am not sure he disagrees with me. Within that area there are some decisions about who votes, how they vote and so on, which are much more sensibly matters for government, accountable certainly to Parliament. For example, I do not see why the Electoral Commission gets into the whole business of votes for 16 year olds. Regardless of one's views one way or another on votes for 16 year olds, I really think if I was a member of the Electoral Commission I would say this really should not be pushed over to us.
476. SIR ALISTAIR GRAHAM: We have had some strong evidence that perhaps policy issues, voter participation - as you heard from your colleague - might be divested elsewhere. There is an argument at least that is going around in terms of those particular issues. So let us say it is concentrating on the management of the electoral process to make sure that it is effective, has consent and all of the rest of it. How do you think we could improve the actual governance of it? Should we have, as some have suggested, political party representatives as a minority on the Commission to strengthen its basic nous about how the electoral system operates? We have an executive chairman and a chief executive at the moment. Should we have a non executive chairman with a chief executive? Do you have views about any of those issues?
477. KENNETH CLARKE: If it confines itself to the management of the process, that is essentially an executive task. I would put that in the executive division of the Home Office but if the whole idea of putting anything back in to the Home Office at the moment is completely off the landscape then let it remain an independent agency. I think that pay and rations; it should be audited in the ordinary way as a public body and I suppose the NAO would supervise that to make sure it was audited. For accountability - and it should have some accountability - the Constitutional Affairs Committee of the House of Commons could have a look at it.
478. SIR ALISTAIR GRAHAM: You would abolish the Speaker's Committee, would you?
479. KENNETH CLARKE: I do not understand how the Speaker's Committee is meant to function at all because as far as I understand it is not allowed to report.
480. SIR ALISTAIR GRAHAM: It meets three times a year for an hour.
481. KENNETH CLARKE: I am surprised it meets that often and that long and I do not know what it does at those gatherings. With no disrespect to the Speaker's Committee, if that is its accountability it is not really accountability.
482. If this executive does its job in a straightforward way, which would be independent, free of political controversy, with reasonable efficiency, to the satisfaction of the people who have to run elections on the ground, I doubt whether the Constitutional Affairs Committee would bother to turn its attention

to the Electoral Commission more than once in a while.

483. When the process of change comes up, if you are going to change the mechanics and the administration in such a way you are likely to cause some controversy or some frisson, then I would have thought they should liaise with the political parties. If you have got the right people, it would not really matter if you had three members of the Commission who are members of political parties but whether you got in the electoral gurus from the parties when you were contemplating a change. I do think close liaison with the political parties is quite important because the real experts, not the leading figures or the campaigning experts in the political parties, might have been rather helpful to the Electoral Commission when they started going into this postal votes thing. There are people in the political parties who have spent their lives immersed in the mechanics of elections - in the case of the Conservative Party some of the old agents - who would have been very useful members of the Electoral Commission because they know how it works and they would have instinctively had a feel for what was going to go wrong, if you started saying, "Probably the system has not been changed for a very long time so we had better think how we are going to change it in order to increase the participation".

484. SIR ALISTAIR GRAHAM: Thank you very much for that. Do any of my colleagues have any further points they would like to raise?

485. KENNETH CLARKE: You have done party political funding with Andrew. I endorse Andrew's comments, by and large. If the political parties do not produce a consensus on that in the next two or three years they will all be hanged together. The previous system was a disgrace and they have been lucky to get away with that.

486. SIR ALISTAIR GRAHAM: Thank you very much, Kenneth. We very much appreciate that.

487. That brings this session to an end. We are meeting again on Thursday.