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THE JOINT COMMITTEE ON THE DRAFT HOUSE OF LORDS REFORM BILL

DRAFT HOUSE OF LORDS BILL

MONDAY 19 DECEMBER 2011

Dr Alan Renwick and Professor Iain McLean

Evidence heard in Public

Questions 541 - 568

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Members Present

Lord Richard (Chair)
Baroness Andrews
Lord Hennessy of Nympsfield
Bishop of Leicester
Lord Norton of Louth
Lord Rooker
Baroness Scott of Needham Market
Baroness Shephard of Northwold
Baroness Symons of Vernham Dean
Lord Trefgarne
Lord Trimble
Lord Tyler
Baroness Young of Hornsey
Gavin Barwell MP
Rt Hon Mr Tom Clarke MP
Ann Coffey MP
Oliver Heald MP
Dr Daniel Poulter MP
Laura Sandys MP

Examination of Witnesses

Dr Alan Renwick, Reader in Comparative Politics, University of Reading, and
Professor Iain McLean, Professor of Politics, Nuffield College, University of Oxford

Q541 The Chairman: Good afternoon, gentlemen, and thank you very much for coming. It is nice to see you again. You know what we are about. Would you like to make some kind of opening statement or would you like to go straight into questions?

Professor McLean: I will make a very brief statement, Lord Chairman. First, I apologise for my appearance, but I have to go straight from this to a carol concert for the homeless in Oxford—it is their Christmas dinner. Secondly, I understand that the purpose of this session is only to discuss electoral systems, but I have, as Members will know, given more wide-ranging written evidence, in conjunction with Simon Hix, and I have published an entire book on the subject. I understand that the purpose is not to go into other matters this afternoon and I will try to resist the temptation. The only other thing that I have to say is that I was also involved with the Political Studies Association pamphlet, which, as you know, was authored by Alan. I was on the commissioning body for the pamphlet, so we think that we are in a very similar place.

Dr Renwick: If you want me to offer some thoughts on the issues that I think the Committee should be talking about, I am happy to do so, but if you would prefer to go straight into questions—

The Chairman: By all means have two or three minutes to start off with.

Dr Renwick: Okay. I thought that it might be helpful to flag four issues that I think are at stake when we are thinking about the choice between the single transferable vote system and the open list system, which are, of course, the two systems that are mentioned in the draft Bill. There are four points that I think are particularly important. One is the degree to which voters can express a choice or preference among candidates. The second is the degree to which those preferences actually make a difference to who gets elected from within political parties. The third is the likelihood of electing people who are entirely independent of political parties. The

fourth is diversity within the Chamber. With regard to the first of those—the degree of voter choice—there is the question of whether you allow a party vote to be expressed at all, which is possible in different forms under both the list system and STV. There is also the question, particularly under list systems, of just how much choice you allow voters to express. The option given in the draft Bill is the simplest form, in which voters can express one preference for one candidate, but many other options are available that the Committee might be interested in. The second question is the degree to which these preferences can determine who gets elected from within political parties. Thinking particularly about list systems, there may be an option for voters simply to express a list vote without preferences within that list, so that the preferences within the list entirely determine who gets elected, but more commonly you would have some kind of process of combining the parties' ordering and the voters' ordering. There are many ways of doing that which it would be important to investigate. Thirdly, with regard to the electability of independents, the evidence is pretty clear that that is more likely under STV than under an open list system—I can certainly talk about that. With regard to diversity within the Chamber, the evidence is increasingly that, in a country where voters are not opposed to the election of women, it does not make terribly much difference which form of proportional system you use, except that, if you want to have quotas, those are more likely to work with a closed list system than with any of the alternatives. That is with regard to women; we do not have terribly much evidence on other minorities and ethnic minorities in particular.

Q542 The Chairman: Thank you very much. Let me start with the question that you identified, I think, as the one that we are really interested in here. The White Paper favours STV but then says that a case can be made for an open list system. When we had the first run around the course on this, I think that we were veering towards an open list system rather than STV. I am bound to say that, having looked a bit more at some of the documents, I am starting to veer back in the opposite direction. Can you encapsulate the different arguments in favour of the one rather than the other?

Professor McLean: I do not want to take sides, because they have different properties and I do not think that it is for me to say which properties are more important. Because, as you all know, STV is more candidate-centred and open list is relatively more party-centred, STV is the system that probably gives more choice to the individual voter, albeit that the voter can make a choice within open list—how effective that would be would depend on the detail that Alan has just referred to of which variety of open list it was. If it were a matter of concern to ensure that candidates entirely independent of party were elected, then STV would probably be more appropriate. I sense from reading the transcripts of previous sessions that there is some confusion between different concepts of independence—independent of party as against independence within party. My view is that the second concept of independence—people who take a party Whip but are perhaps not as beholden to that Whip as they might be if they were in the House of Commons—is secured by the non-renewable fixed term and that the electoral system is irrelevant to that point.

Dr Renwick: Yes, I agree with all that. The only clear difference between the two systems is that you are more likely to get independents—people who are independent entirely of party—under STV. If we look at the evidence from around the world, there are very few independents elected anywhere using any list system, whereas rather more are elected using STV, particularly in Ireland. There is a logic underlying that. If you are a very popular independent, under a list system you might win enough votes to secure three or four seats, but you can only fill one of them, so your voters are disadvantaged and you have an incentive either to gather extra people on to your ticket, in which case you cease to be independent, or to give some of your votes to parties. Under an STV system, however, you can be a very popular independent, but your votes can then transfer if you have more than you need in order to be elected. With regard to any other matter, it depends on how you devise the open list system. Under a simple open list system, where voters can express one preference, there is less choice for voters than under STV.

Q543 The Chairman: Pause there for a minute. I think that it would be helpful to the Committee if you could briefly run through the different types of open list system, giving us the pros and the cons.

Dr Renwick: Okay—

The Chairman: But quickly.

Dr Renwick: With regard to the preference that voters can express, you can have simple systems in which voters can simply express a preference for one candidate from within the party list; you can allow them to express multiple preferences, with

multiple Xs, giving an X to several different candidates; you can allow them to rank in order the candidates from within the list; or you can even devise a system where they can express preferences going across party lists, so that either some part of their vote goes to a different party or you have other immensely complicated ways, as in Switzerland, of working out exactly how that vote is allocated. Those are the options with regard to the preferences that voters can express. There is also the issue of whether voters must express a preference within the list or whether they have the option of expressing a simple list vote without changing the order at all.

The Chairman: A sort of above-the-line vote.

Dr Renwick: Yes, exactly so. If, for example, you allow for an above-the-line vote and you say that above-the-line votes count for the order of candidates preferred by the party, the party has considerable control over which people get elected if many voters use that option.

If, by contrast, you do not give those votes much weight or you do not allow those votes, the preferences of the voters determine the order in which candidates get elected.

The Chairman: I think that I understand.

Q544 Baroness Scott of Needham Market: Can I just ask you to rerun what you said with regard to size of constituency? It seems that, if we are talking about using existing regions, there may be differences in the way that one would approach the electoral system if you are looking at pretty large constituencies.

Professor McLean: If it was a question of simply using the standard regions—that is, European Parliament constituencies—as the constituencies for this House, as suggested in the White Paper, which then rather backs away from it, academic specialists are clear that that would not work with STV. That could work with open list, but I would prefer the decision to go in the opposite direction: decide which electoral system you want and then decide the optimum size of each constituency. For STV, it should probably not be bigger than a seven-Member seat max. Of course, that interacts with other decisions that Parliament will have to take on whether it is 300 Members or larger and whether it is 80% elected or 100% elected. Within the suggestions that have been made, it seems to me that the outer limits for each standard election would be that the smallest number of places to be filled would be 80, if you go exactly with the scheme in the White Paper; the largest number would be 150 at each filling, in the event that there was a feeling that the size should be 450 and that it should be all elected. Either of these is perfectly manageable under either open list or STV. Open list is an easier system to run with particularly large districts. That is my first take on the question.

Q545 Baroness Young of Hornsey: I have three relatively quick, relatively practical questions. First, do you think that it would be necessary to explain to the public, who are not used to voting in this way, how the system works in terms of the preference and the ability to vote across parties, and to what extent would there need to be some sort of education programme on that? Do you think that the extra cost of STV is significant enough to deter making that the system of choice? As I understand it, if

you want to overcome the issue of alphabetical bias, you need to introduce a system to ensure that that does not happen. Finally, do you think that the additional time taken to perform the count with STV is a significant deterrent to making it the system of choice?

Dr Renwick: I think that it would be necessary to have an education programme with either STV or an open list system; for example, if a voter simply gives one preference for one candidate, what that means and what effect that has is very different depending on whether you have STV or an open list system. It would be important for voters to understand that. With regard to the cost of STV, is your question about the extra cost relative to open list PR?

Baroness Young of Hornsey: Yes.

Dr Renwick: With regard to the issue of the alphabetical bias, I do not think that there is a significant cost there. The ideal way of tackling the alphabetical bias is to have what is sometimes called Robson rotation, where you have different versions of the ballot paper printed with the candidates in different orders. They do this in the Australian Capital Territory, and the Electoral Commissioner assures me that it does not cause them any trouble and it does not create any significant cost that causes any concern there. The greater issue of potential cost with STV relates to the counting process—we get into horrible details here—and how you transfer the votes of candidates who have already been elected. There are several different ways of doing this. The best way from the point of view of ensuring that the result reflects what voters intended is called the inclusive Gregory method, which involves transferring

fractions of fractions of votes, and it gets very, very messy. Scotland uses this for local government elections and concluded that using vote-counting machines was the only sensible way of doing it. It is possible to run it by hand, but it certainly takes time. There would be a strong case for using vote-counting machines in that scenario and that would of course entail an extra cost.

Professor McLean: Perhaps I may come in with a supplementary point to that. There is software out there—it would of course have to be tested and approved by Parliament—and although the task that Alan has just described, the inclusive Gregory transfer, is indeed very messy for human beings, it is trivially easy for computers.

The Chairman: I can see that Lord Trimble wishes to speak on this one.

Q546 Lord Trimble: I just cannot let this go on. What you call the inclusive Gregory method is the only proper way of doing it. It is the way in which it has always been done in Northern Ireland, since 1973. To say that it is messy is simply wrong. It is very simple indeed. Votes will transfer at different values depending on the circumstances and the stage of the count, and all you have to do, very simply, is to have each bundle of votes properly labelled. There is no problem. You are making a mountain out of this. I am sorry to interrupt your evidence, but what you are saying goes completely against 40 years' experience.

Dr Renwick: I agree absolutely that there is a very straightforward mathematical procedure that you follow and there is no uncertainty about what you should do. It just takes some time to go through it. The question is whether it makes sense to have

these long counts that take several days to do, or whether it is cheaper in the long run to have some equipment that, as Iain says, can do it very quickly.

Lord Trimble: The problem you will have with a counting machine is a lack of confidence in the machine, particularly if it tries to do several stages of the count rapidly. That would mean that the candidates and the parties would have great difficulty in verifying what was going on at that stage. You have to bear in mind that, if people ask for a recount, you can only get a recount of the latest stage—you cannot have a whole recount. Therefore, you have to go slowly so that the candidates and the parties can be sure that an accurate result has been taken. If you try to rush that, you will have a very serious problem in terms of popular confidence in the outcome.

Q547 Oliver Heald: There is a sort of voter who is looking just to go into the booth, do something relatively simple and then come away; then there are sophisticated people who no doubt wish to have all sorts of different considerations reflected in their votes. It is possible with both STV and open list to have an above-the-line vote, where you just go for the party. Which of the two systems better fits in with that?

Dr Renwick: The list system is designed to be based on political parties in a way that STV is not. However, if you wanted to introduce a party element to STV, I do not see any reason for not doing so. The only difference that needs to be considered is that, with a list system, when it comes to the counting of the votes, you can, if you wish, give more emphasis in deciding the final order of the candidates on the list. You can give more emphasis to those voters who have chosen to express a preference than to

those who have not; you can try to weight things against the parties' preferences dominating that. However, under an STV system you cannot really do that, because there is not a separate party vote in the same sense.

Oliver Heald: Of course, in Australia they eventually decided that they needed an above-the-line vote and they do that with STV now.

Professor McLean: Here is one area where the Australian experience is not very helpful for us. Australia not only introduced an above-the-line option but imposed what academics regard as ridiculously stringent rules for those who do not choose to vote above the line. Basically, unless you put every single number from one to 45, if there are 45 names on the list, once and once only, your vote is counted as what the Australians call "informal", which is a term of art that I was amused to see that your Australian guests used and understandably mystified Members of this Committee. "Informal" is Australian for "invalid", and in the view of most academic commentators that is a ridiculous system and that ridiculous stringency may have led to the extremely high proportion of Australian voters who vote above the line in Australian Senate elections. Once above-the-line voting goes into the 90% to 95% range, which it is in Australian Senate elections, then it no longer makes sense to say that the system is STV, but Members should bear in mind that there is an Australian peculiarity here that would not be replicated in the UK.

Oliver Heald: I think that it is the case that a lot of the votes are informal in Australia—is that correct? The percentage of above-the-line votes is so high relative

to the votes that are accepted because there are a lot of informal votes that are just thrown away.

Professor McLean: My sense is that the number is not that high, but it would be easier for us to supply you a note on that.

Dr Renwick: It is a bit higher than it is in the UK, but that is also partly because there is compulsory voting in Australia, so it is not really comparable.

Q548 Laura Sandys: To follow on from that point, out of STV and an open list system, what would you expect in terms of invalid votes? What sort of attrition rate do you get? Does the size of the constituency also matter?

Dr Renwick: Evidence from Northern Ireland—Lord Trimble can no doubt correct me—is that in most elections it has been about 1%, which is the same essentially as for a Westminster election under first past the post.

Lord Trimble: We have very intelligent voters.

Laura Sandys: That is STV, but what about the open list system? I suppose that that depends on which open list system you adopt.

Dr Renwick: I cannot give you a figure for that, I am afraid.

Professor McLean: Alan is the best placed person in the UK, as the only one who knows about the Hungarian electoral system, to answer that question. If he cannot, then I am afraid that we will have to come back with a note on that point.

Laura Sandys: Okay, but there is very little difference. People say that it is too complex and all the rest of it, but the attrition rate is not very different from that in our existing system of first past the post.

Dr Renwick: There are not big differences between different voting systems on this point. There are differences produced by whether you use different electoral systems at the same time, which is a concern, and there are differences produced by whether you have compulsory voting, but simply by the electoral system there is no evidence of which I am aware of big differences.

Q549 Laura Sandys: Professor McLean, you talked about—I hope that this is not going back over old ground for us; I am just interested in what you say—the hierarchy of decision-making. You said that you need to decide your system and then the number of people whom you are electing and that that then defines in some ways the size of your constituency. Is that the hierarchy? We decide the system and the number and that then throws up what the constituency would look like, or is the hierarchy different?

Professor McLean: Certainly in my view deciding district boundaries comes last of those three tasks. The draft Bill, of course, provides for that task to be delegated to an expert committee, who no doubt would act in the light of the decisions that had been taken upstream about the electoral system and House size. I do not think that the electoral system and House size in any real sense depend on each other, so long as the decision on district boundaries is taken last, as I understand the scheme in the draft Bill allows for, as it is delegated to an expert committee.

Q550 Mr Clarke: Could I go back to the points that were made about independents? I might have got this wrong, but it seems to me that we are all accepting that it is a good thing to have independents and to elect independents. Is that necessarily the

case? We have talked—and I underline “talked”—about a 15-year term. Heavens, you could elect a one-trick pony who opposed the closure of a hospital and find that over 15 years he or she could do whatever he or she liked. Am I being over-emphatic?

Dr Renwick: I do not want to express a strong view on whether there should be independents. There is polling evidence that the public like having independents in the second Chamber and a lot of the debate surrounding the House of Lords has suggested that many people find it desirable to have independents. I merely flag that as being an issue that seems to be of concern in the debate rather than one on which I have a strong position myself.

Professor McLean: I second that.

Q551 Dr Poulter: I just want to pick up on the issue of invalid votes that has been raised. It is almost certainly going to be the case that the elections for the reformed second Chamber will be on the same day as a general election or another election. You may have different voting systems in place at the same time. You will have first past the post if there is a council election or a general election and, alongside that, you will have potentially an open list or STV. Do you have any evidence from examples overseas or elsewhere of how different voting systems working alongside each other impact on spoiled ballots?

Professor McLean: Perhaps I can go first and then hand over to Alan. The awful example of Scotland 2007 may be in the mind of a lot of Members, when there undoubtedly was a high rate of invalid votes due in part to the conjunction of different systems at the same time. But I think that the report that was done on that

calamity after the fact discovered that other factors, which would not be replicated because the lesson has been learnt, were more important in leading to the high ratio of invalid votes. My impression is that Scotland 2011 has settled down back to the previous level of invalid votes. At that point, I will hand over to Alan, if I may.

Dr Renwick: Yes, I agree with that. The only other piece of evidence that comes to mind is that which Professor Jon Tonge has submitted to the Committee. He suggests that, in Northern Ireland this year, as a result of combining the STV elections with the AV referendum, there was a very small increase in the number of invalid votes—from about 1% to about 2%. Whether it was due to the fact that there were different forms of election or vote taking place at the same time, we do not know.

Dr Poulter: Is the experience that it is the established voting system—first past the post, say—that is disrupted by the introduction of a new system? Is it more likely to cause more spoilt ballots in that system or is it more likely to cause more disruption to the new system? Where does the balance normally fall? Clearly, if it is at the same time as a general election, there would be some concern that the introduction of a new voting system could have a disproportionate effect on the outcome in marginal seats.

Professor McLean: I do not think that there is any evidence on that from Scotland or Wales—or, indeed, Northern Ireland, since Northern Ireland also, as we know, uses first past the post for general elections. Are you aware of any evidence either way, Alan?

Dr Renwick: No, but one would expect it to depend in part on what returning officers were willing to consider to be a valid vote. If returning officers are willing to take an X in a box in an STV election as a first preference vote for that candidate, you would not expect too much of a problem in combining first past the post and STV. Similarly, if a returning officer is willing to take a rank ordering of candidates in a first past the post election as a vote for the first preference candidate, there is not too much of a problem.

Dr Poulter: And you think that, if the system was adopted, it would be useful to have very clear advice that, where a voter's intention is clear, that should be adopted as their preference of vote or candidate. For example, if under first past the post someone were to rank the candidates, that could invalidate the ballot paper, but if there is clear intention the returning officer should be mindful of it.

Dr Renwick: Yes.

Q552 Baroness Symons of Vernham Dean: In the list system that you have described and in comparisons that you have done with other countries, what level of the party concerned—national, regional or local—decides who should go on the list? Where are those decisions usually taken? Are they usually taken nationally or are they usually taken locally?

Dr Renwick: I think that there is considerable variation between different countries on that. I am not aware of a general pattern, to be honest.

Professor McLean: Nor am I, I am afraid. If it is not specified in the legislation, it would be a matter for the parties, I would have thought.

Q553 Baroness Symons of Vernham Dean: Okay. Do you support proportional representation in general?

Dr Renwick: In general seems irrelevant. For the House of Lords, it strikes me that, given that the near universal preference is for a system in which no one party has an overall majority, it is necessary to have a proportional system.

Baroness Symons of Vernham Dean: But would you have it in the House of Commons?

Dr Renwick: I really do not think that my personal view has any bearing on this issue at all, because I think that it is perfectly possible to advocate different systems for different Chambers.

Baroness Symons of Vernham Dean: It is a perfectly reasonable question to put to you. If you do not want to answer, because it is embarrassing, then do not, but I would have thought that it was a reasonable question to put to you.

Dr Renwick: My personal view is that our current system tends towards one extreme on the proportionality issue. A fully proportional system tends towards another extreme. In most such matters, some kind of middling compromise is probably better.

Baroness Symons of Vernham Dean: Can I ask you the same question, Professor McLean?

Professor McLean: Yes. I have no embarrassment in giving my views, as I am in print on the subject. The discussion of this matter, in my view, is pretty inadequate in most places. People talk about parliamentary elections but, if Parliament comprises two Houses elected with different purposes, it is a pretty basic principle that it makes no

sense to have the two Houses elected by the same system. Given that the overall objectives of the scheme in this White Paper are what they are, it is necessary, as Alan has just said, for the electoral system to the upper House to be proportional. It follows that I am in favour of retaining single-Member districts for the House of Commons and I have said so in print, so I have no embarrassment on that.

Baroness Symons of Vernham Dean: And therefore first past the post.

Professor McLean: Not necessarily.

Q554 Lord Trefgarne: Is it not the case that, whatever form of PR you use—party list, closed list, STV or AV—you almost always end up with a smaller turnout than you do with a first past the post system? Why do you think that is the case and what can we do about it?

Dr Renwick: This is a point on which we have very clear empirical evidence from a large number of countries, which is that, at least in advanced democracies, turnout is on average 8 percentage points higher under proportional systems than under majoritarian systems. So the evidence is, in fact, the opposite of what you have just stated.

Lord Trefgarne: But when we have PR-based elections here, such as European elections, the turnout is sometimes derisory.

Dr Renwick: It is less derisory than it was under first past the post before 1999.

Lord Trefgarne: Perhaps that is a European consideration rather than an electoral one.

Professor McLean: Perhaps I can help here. Political scientists recognise first and second order elections. European elections are second—or perhaps nth—order and public interest in them is very low. That is held to be the reason for the differential in turnout between European elections and House of Commons elections.

Lord Trefgarne: If the system that we decide on is too complex, one fears that, even if they do vote, people will spoil their papers, perhaps inadvertently, and so we shall need a good educational arrangement if that is what we decide on.

Professor McLean: My answer to that would be to appeal to the intelligence of voters in Northern Ireland, as Lord Trimble already has. It has not been found to be difficult there.

Lord Trefgarne: I must confess that I do not know the turnout figures for Northern Ireland—they are very good, are they?

Q555 Bishop of Leicester: In response to the Lord Chairman, you gave us some very helpful summarising observations about the relative merits of these two systems. Listening to the conversation, I think that these merits seem to be weighed in terms of voter behaviour, voter understanding and outcomes. I may have missed it but I have not heard from you an equally clear summary of political behaviour related to these two systems. Perhaps you could provide that. Is there some academic analysis of the way in which politicians elected under one system behave relative to those elected under the other system that might help us? I am sorry if that is a naive question, but I come as a non-expert.

Professor McLean: There is a lot of assertion in this area as to how politicians elected under the different systems behave. I am sure that this has already been presented as evidence to you, but the evidence of how politicians behave under single transferable vote is quite different in Northern Ireland from what it is in the Republic of Ireland. From that, I conclude that the electoral system is not the main thing that determines how politicians behave. I think that the behaviour of politicians elected to the House proposed in this White Paper would be influenced most of all by the non-renewability of their term. Therefore, the worries that a number of people have expressed about what is seen as the unduly particularistic behaviour of members of the Dáil of the Irish Republic competing against other members of the same party are not an issue with this scheme. I end up as I started by saying that, since the same electoral system leads to politicians behaving in quite different ways in two parts of a single island, it is impossible to make any generalisations based on system alone.

Dr Renwick: I agree with all of that. The issue of behaviour during election campaigns might be a concern—as well as behaviour after elections—and there is not a clear difference there between open list and STV because it depends on the nature of the open list system. If you have an open list system that places a lot of emphasis on party, the campaign will largely be a party campaign. If you have a system where candidates are competing rather more against each other for the vote—in the election campaign, not subsequently—there would be more of an individual campaign, as you would expect under STV.

Bishop of Leicester: If the electoral system is not a key determinant of subsequent behaviour, what would you say the key determinants are?

Professor McLean: I can only repeat that the most important fact about this scheme is its non-renewability. People will behave as they behave. Different people will bring different skills and attitudes to the upper House and will, I am sure, behave in quite different ways. Some will be party loyalists, some will not; some will wish to serve on scrutiny Committees, some will not. But that is going beyond our expert brief and I would rather not say more than that.

Bishop of Leicester: That is when it begins to get interesting. Is the implication of that that the outcome of what is proposed in the Bill—15 years non-renewable—is fairly difficult to predict or determine on the basis of available academic evidence?

Dr Renwick: If we try to simply derive knowledge from evidence, there is no Chamber with a 15-year non-renewable term. There is only one national parliamentary Chamber with a non-renewable term, in Mexico, and I do not think that we can garner very much evidence from that. We can hope to derive some insight from general patterns that operate elsewhere, but we cannot take direct evidence.

Professor McLean: If it helps, quite a number of executive posts are term-limited, the most obvious being the President of the United States, but no lessons can be drawn from that because the situation of a term-limited single person is completely different from that of a body of 300 Members, each of whom is term-limited but who retire in three different tranches.

The Chairman: On the issue of political behaviour, surely the existing House of Lords is very interesting. Life Peers are here for life; they cannot be thrown out. Nevertheless, the loyalty of the individual life Peer to his or her political party is really quite extraordinary. If you look at the voting, the extent to which Labour Peers vote Labour and Conservative Peers vote Conservative in Divisions in the House is really very considerable. It seems that political animals tend to act politically—I do not know whether that is a particular insight.

Dr Renwick: Yes, and I do not see any reason to expect significant change in that as a result of any of what is proposed.

Q556 Lord Hennessy of Nympsfield: I take Mr Clarke's point about independents riding in on the back of one particular issue and then being there for 15 years, but there does seem to be a groundswell, wherever you stand on the question of the Lords—whether you want it to remain much as it is now or whether you want it to be largely elected—that you need a very stiff dose of independence of spirit in the upper Chamber. I take Richard's law, as I now call it, that political animals tend to act politically, as well. Can you think of a cunning plan to increase the chances under STV, as would happen under this Bill, of that happening, bearing in mind John Major's dictum that the answer is not more politicians? If you can think of a cunning plan, you could have your footnote in political science for ever as "Rotating Renwick" and "Inclusive McLean". Do you have a cunning plan lurking in your little grey cells?

Professor McLean: That is a very hard question because it is not clear that all Members of this Committee actually want to maximise independence of spirit, so

anything that we said would be acceptable to some but not to others. Fundamentally, it is a decision for the British people. It is for the British people to decide how much independence of spirit they want in their elected representatives. So I am afraid that I have no "McLean Plan", at any rate.

Dr Renwick: As I suggested when I was here last time, the bigger issue is not the process by which people are chosen but the terms of service that they then serve under. The notion of being expected to serve full-time for 15 years seems likely to put off many able candidates with other good things to do whom we might want to continue doing those things during their time of service. That is where I would focus attention on that point, rather than the electoral system.

Q557 Lord Hennessy of Nympsfield: Mr Heald asked about Australia and your answers covered very well why there are so few independents there. The Republic of Ireland has a considerable number. Does that reflect the fluidity of Irish party politics? What are the other comparisons in the world? What systems and what countries tend to produce a more fluid mix in elected upper Chambers?

Dr Renwick: If we are looking at proportional systems, Ireland is the only country that has any significant representation for independents: there are currently 15. Australia has one, as you said. Malta is the only other case with STV; it has no independents, but it has a very strong party system. In Ireland, 15 independents is a post-war high, and that presumably reflects dissatisfaction with the political parties surrounding the current economic crisis. Background popular sentiment towards parties is a more important factor. There are very, very few independents elected in

any form of list system. In fact, at present there is a total of five in the world in national Parliaments; those are all in Chile. Chile has a proportional electoral system in which you elect only two people from each constituency, so it is barely proportional; it does not really work as a proportional system. Apart from that, if you look at list systems at the national level, there are no independents. Of course, the Scots will point to Margo MacDonald in the Scottish Parliament, so it is not impossible but it is very rare.

Lord Hennessy of Nympsfield: So the conclusion is, as was put rather well by somebody who knows about these things, that the British people seem to want elected experts in the House of Lords, which is the one thing they cannot have, and what you have just said seems to buttress that conclusion.

Dr Renwick: It depends on who chooses to stand for election, more than anything else. Given the popular interest in having independents, it seems reasonable to expect that, as long as they have some name recognition, given the very large regions that you would need, some would be elected.

Professor McLean: Of course, it also depends on parties' strategies for nominating their candidates.

Lord Hennessy of Nympsfield: Is there not a danger that the celebrity factor is the one that would make the weather? The independents would either be local celebrities or have national name recognition. Is that not the problem—the Jeremy Clarkson factor?

Professor McLean: National name recognition is not relevant because we are talking about sub-national constituencies. Within Scotland Margo MacDonald undoubtedly has national name recognition, but in general that is not a relevant factor.

Q558 Ann Coffey: To follow on from that, people who stand in the name of a party have considerable support from their party. One of the problems of standing as an independent is that you do not have that kind of support, and it is probably quite expensive to stand for election without a party organisation. If one of the reasons for proposing STV was to ensure that more independents were elected, rather than party politicians behaving more independently, what do you think about giving greater support to people to stand outside the party system as a way of getting more independents elected?

Professor McLean: If it were a policy aim to have more people who were independent of party elected, I would imagine that either the Bill or secondary legislation would have to have detailed provisions in which various thresholds were lower for independent candidates than for party candidates. I do not think it very likely that the UK Parliament would vote for such a set of regulations, but that is what would be required.

Ann Coffey: What about financial support? I was not thinking about having different criteria for election for independents.

Dr Renwick: I think it would be difficult to introduce financial support for independents because the question would arise of which candidates to give support to. There is unlikely to be a previous election for an independent that you could use

as an indication of levels of support. I would be more inclined to favour tight spending limits as a way of restricting the parties' advantage over independents rather than trying to boost independents.

Q559 Ann Coffey: If you were thinking of having a House of Lords with 400 Members, comparable to the Commons, on a regional system based on the current European parliamentary regions, what system would be best for ensuring transparency and ease of voting and maximising voter choice, in electing both independents or the party of their choice?

Dr Renwick: If a criterion is electing independents, in my view that already means STV—

Ann Coffey: No, just maximising—that is not the sole criterion.

Dr Renwick: You can have either an STV system or an open list system in which voters have a decent chance to express a range of preferences. As Iain suggested, in either case it is sensible to restrict the number of people being elected from each region in order to prevent the choice from becoming excessively burdensome. The proposal for five to seven seats per region is reasonable for achieving that under either STV or a form of open list system that gives voters quite extensive choice. If you have an open list system that gives voters less choice, you can allow bigger regions. However, if you want to give a lot of choice, you should restrict the size of the regions.

Professor McLean: As I said in my earlier answer to Laura Sandys, it seems that that is a downstream decision, both as a matter of this draft Bill and as a matter of common

sense. You decide the prior matters first and then, if this draft Bill is enacted, you hand the decision on district size to an external expert body.

Q560 Lord Rooker: I want to ask you about your points about vacancies on page 3 of your note, but I will start with a general point. In the main, would your answers change according to whether there was going to be a 100% elected House of Lords or the 80:20?

Dr Renwick: No.

Professor McLean: I think not, although some of the points made by Lord Hennessy are clearly easier to deal with in an 80:20 House than in a 100% elected House, but that is again straying outside our area of expertise.

Lord Rooker: So the 20% of experts and "independents" would be here already in the one system. You have made it clear that for you STV is a candidate-centred electoral system as opposed to the others, which are party-centred. We are told that this Bill is supposed to bring about new politics and smash up the party system. I agree with that, by the way. We are not electing a Government in the House of Lords; we are electing a revising Chamber, so why the hell have parties got to have a role in it? In other words, for a candidate-centred system, whether or not it is the 80:20 or the 100, it would still be STV, albeit constrained by having six or seven candidates elected. Would that still be the situation?

Dr Renwick: We should remember the distinction that Iain made at the start. I do not think that you can dichotomise between candidate-centred and party-centred, because you can be candidate-centred within parties or you can be candidate-

centred in the sense of having independents. STV clearly favours having independents. With regard to whether the system is party-centred or candidate-centred within political parties—this is about the amount of power the parties have—the simple choice between STV and open list does not make very much difference. The form of open list makes some difference but, given non-renewable terms and so on, probably not very much.

Q561 Lord Rooker: The paragraph on page 3 of your paper that refers to the “obscure aspect” in the Bill about filling vacancies suggests that the parties can basically rig the system by not putting up sufficient candidates so that there is no failed candidate to take a by-election—you cannot fill a vacancy in that way. What is the solution to that?

Dr Renwick: My expectation would be that parties would put up candidates in case they had to fill vacancies. The rigging that could happen if you did not have that procedure for filling vacancies—“rigging” is a bit of a strong word—would be that parties might put up only as many candidates as they thought would be elected and voters would not be able to choose among candidates from the same party. You guard against that possibility by having this procedure for filling vacancies in that parties have a strong incentive to put up more candidates than they think they are going to elect first time round because, if they do not and if there is a vacancy, they lose the seat and it goes to someone else.

The Chairman: I have two names left—Lord Trimble and Lord Norton—and then I want to ask another question, because we have been concentrating on this for a very long time.

Q562 Lord Trimble: I have several questions, actually, but I will try to run through them quickly. First, on a matter of information, looking to our neighbourhood in terms of Europe and the electoral systems there, how many closed list systems and how many open list systems are there?

Dr Renwick: Gosh, I cannot give you the figures off the top of my head. I could sit here and add them up, if you want. In terms of fully open list systems, in which the voters have full power to determine the order of candidates, there is Finland, Latvia, Lithuania, Greece—and that is about it. In terms of systems in which voters can express a preference or not and there is a combination of voters' choices and parties' preferred ordering determining the outcome, you have Belgium, the Netherlands, the Czech Republic, Slovakia, Slovenia, Iceland, Norway and Sweden.

Lord Trimble: Are the remainder all closed list?

Dr Renwick: Most of the remainder are closed list. There is also France, which has a majoritarian system, and Malta, which has STV.

Lord Trimble: So the really fully open list is only in a handful of comparatively small states.

Dr Renwick: The more common system is one in which voters have a choice to vote for the party list as a whole or to express a preference.

Lord Trimble: Of course, as we know, only Malta uses STV.

Dr Renwick: And Ireland.

Lord Trimble: Well, that is on the other side; I am looking towards Europe at the moment. Why has there been no campaign within Europe to have STV if STV is so much better?

Dr Renwick: Because political parties choose electoral systems, on the whole.

Lord Trimble: So it is purely because of the political parties. There is no popular feeling on this issue.

Dr Renwick: For public opinion to get excited about the electoral system, funny things need to happen. It does not happen very often; it has not happened terribly much. Also, you need people in influential positions who are able to steer the debate in the direction of STV.

Lord Trimble: There must be some significance in the fact that STV is such an eccentric choice. It hardly ever happens that people actually choose it.

Professor McLean: Perhaps I can follow Alan on that one. The triggers have not occurred in Europe, but they have occurred elsewhere. There was a trigger in New Zealand, as people know, and a trigger in Italy.

Lord Trimble: Ireland never decided to have STV; STV was imposed on Ireland, in both parts.

Professor McLean: That is certainly true.

Lord Trimble: It was never a choice.

Dr Renwick: It was supported by Sinn Féin in 1922.

Professor McLean: As Lord Trimble and, I am sure, other Members will know, although STV was imposed on both parts of Ireland by the British, it was the Irish who rose up twice against their political parties to retain the system when the then dominant party attempted to abolish it.

Lord Trimble: The public worked out the propensity of the Government towards gerrymandering, but that is by the way. Professor McLean, you said that there was a difference between Northern Ireland and the Republic of Ireland in the extent to which parochialism was a consequence of STV. I am just curious to know why you think that Northern Ireland varies from the Republic in this case.

Professor McLean: I would hesitate to offer an opinion on a subject on which you, Lord Trimble, are more expert than I am. I merely comment on the well-known fact that particularism and a desire for favours, not just for a Dáil constituency but for one corner of a Dáil constituency, have been a well-remarked feature of Republic of Ireland politics for decades, and I am not aware that it has been a feature of Northern Ireland politics.

Lord Trimble: I would suggest that it can be seen in Northern Ireland in the desire of people to retain district council seats. We are now trying to bring an end to this double-jobbing and we have managed to get a certain amount of popular support to end double-jobbing. But left to themselves the Members overwhelmingly wanted to stay in local government as well as being in the Assembly. Indeed—and this is a judgment that may not make me popular with Members of the Northern Ireland Assembly—this has tended to result in the Assembly being dominated by district

council types and the parochialism is just as marked. The clientism may not be as significant as in the Republic of Ireland, but parochialism is. Sorry, I am making speeches again. I will stop now.

Ann Coffey: I find it quite interesting, actually.

Q563 Lord Trimble: I must stop now. Reference was made to the experience of filling vacancies. Have you any views on the two different systems that have been adopted for filling vacancies? There have been three altogether: the original system followed by two different systems for filling vacancies in Northern Ireland—have you any views on them?

Dr Renwick: My view is that any system that involves the parties or the legislature merely choosing people at the time of the vacancy loses the benefit that I was discussing in relation to Lord Rooker's question.

Lord Trimble: Would you take account of the fact that the reason why there has been a move towards nomination on vacancies rather than having by-elections is that, if you have by-elections under an STV system, the by-election can distort the party balance as a determinant of the election?

Dr Renwick: Absolutely, yes. I think a by-election is not a good idea. With regard to the second Chamber, there is the further issue that we have large regions and therefore a by-election would be expensive.

Lord Trimble: It would be no more awkward than an individual independent running in the region at a by-election. If you have a by-election, you are electing one person

for the region and that is the same if an independent is contesting the region. It is the same awful uphill struggle in that respect.

Dr Renwick: Sure.

Lord Trimble: One other thing—

The Chairman: We are getting a bit Hibernian, I think. Perhaps we are concentrating too much on Northern Ireland.

Q564 Lord Trimble: On STV generally, have you any views on the way in which parties try to manage votes and the vote management systems for STV?

Professor McLean: Those systems exist. They do not always achieve what the politicians who designed them intended them to achieve, notably in the Republic of Ireland. I do not think it is that much of an issue in these proposed elections. For example, under STV a party may want to maximise the number of its candidates who get elected. There is not a lot it can do. As to which of its candidates get elected, the party can make its own view clear. I am not sure that clever Irish strategies can do much better for it than just making clear which is its favourite candidate.

Dr Renwick: The main concern about party management strategies that I am aware of comes from Australia, where “how to vote” cards are used by most voters. Again, we have to remember that Australian voters have to fill in all the preferences unless they just tick the box at the top, so the burden is greater.

Lord Trimble: I do not wish to invoke the ire of the Lord Chairman, but I have to say, Professor McLean, that I disagree with your comments.

Q565 Lord Norton of Louth: As has been mentioned, the intention is that Members of the second Chamber would not have constituency work and the limited single term is designed to discourage that from happening. Would not the obvious electoral system therefore be a closed list system, in that open list or STV would encourage potential competition between candidates in the same party, and the danger is that, to distinguish one from the other, they may be making promises to the constituency?

Professor McLean: On the other hand, a closed list system would give very extensive power to the Whips of whichever party it was to nominate in first position the kind of person who would be expected to cause least trouble to the Lords Whips of that party.

Lord Norton of Louth: As happens with the European list.

Dr Renwick: That seems to me a greater danger, given the points that have already been raised. If you have non-renewable terms and very large regions, there is not a significant danger of that kind of constituency focus in the proposed second Chamber.

Lord Norton of Louth: So there would not be much difference between open list and closed list.

Dr Renwick: You give voters a greater sense of being able to influence who gets elected. You give parties an incentive to come up with candidates who will attract votes. There are other benefits.

Lord Norton of Louth: But there is little likelihood of voters exercising that independent choice if you have constituencies on that scale.

Dr Renwick: I do not see any reason to think that. Voters would not be exercising that choice on the basis of perceptions of who would serve the constituency most effectively, although people who speak up for Scotland and Wales are likely to do rather well—and Northern Ireland, of course.

Lord Norton of Louth: What do you assume they would make the choice on the basis of if they are going to distinguish between candidates of the same party?

Dr Renwick: Hopefully who they think would do the best job. I do not think we can presuppose what voters will think that means, but it strikes me that they will have rather little opportunity to vote for people who are selling themselves as doing the best job in terms of bringing the pork back home to this little local area.

Lord Norton of Louth: Or large local area.

Dr Renwick: Exactly. It is not a little local area, so that argument does not work.

Q566 The Chairman: Does the fact that the proposal is for a 15-year non-renewable term have any effect on your answers?

Dr Renwick: It has a huge effect. For example, if the proposal were to have regions of this size but with renewable five-year terms I would expect the Members to make more effort to appeal to their region. They could not do that in the way that is possible in a local constituency—it would be very different from what is possible in a local constituency.

Professor McLean: We all know that that already happens with MEPs. We all get letters through our door from each of our MEPs saying what they have done for our

region. It is the non-renewability, not the length of term, that makes this system entirely different from the situation of MEPs.

Q567 The Chairman: If you have an open list, with the possibility of selecting individual candidates from different parties, which is one of the possibilities that we have been looking at, what is to choose between that and STV?

Dr Renwick: First you would work out the total number of seats won by each party, which would be determined by the total number of votes won by each party. Under STV, the total number of seats won by each party is a product of counting the votes for individual candidates. You would start off by aggregating the votes within each party and then use votes among the party's candidates in order to determine the distribution of those seats among those candidates.

Q568 The Chairman: I have one final question. We have heard that counts in Ireland, both north and south, tend to take a long time. Is that an inevitable factor as far as STV or open list is concerned, even without counting machines?

Professor McLean: My view is that it is a relatively small point either way, given that the technology exists. There is a question for computer scientists rather than for us as to how that technology is validated in real time on the night, but my view, for what it is worth, is that that is a secondary consideration.

Dr Renwick: Yes. I have seen some concerns about the notion that a count in Northern Ireland might take two days. That seems to me utterly trivial. It may cause upset among the candidates who are waiting but from a broader perspective it really does not matter.

The Chairman: It does if you are a candidate. To be hanging on 48 hours after the polls close before you know whether you are going to be elected or not does not seem like a very good idea.

Thank you both very much for coming. We have learnt a great deal. You have exposed our deficiencies and I am very grateful to you.