



HOUSE OF LORDS

Revised transcript of evidence taken before
The Select Committee on the Constitution
Inquiry on

ENGLISH VOTES FOR ENGLISH LAWS

Evidence Session No. 1

Heard in Public

Questions 1 - 17

WEDNESDAY 15 JUNE 2016

10.20 am

Witnesses: Rt Hon Tom Brake MP and Pete Wishart MP

Professor Michael Kenny and Daniel Gover

Members present

Lord Lang of Monkton (Chairman)
 Lord Beith
 Lord Brennan
 Baroness Dean of Thornton-le-Fylde
 Lord Hunt of Wirral
 Lord Judge
 Lord Morgan
 Lord Norton of Louth

Examination of Witnesses

Rt Hon Tom Brake MP, Liberal Democrat Party, and **Pete Wishart MP**, Scottish National Party

Q1 The Chairman: Welcome, Mr Wishart and Mr Brake, shadow Leaders of the House for your respective parties. We are very grateful to you for coming. We are just starting our inquiry into EVEL. We are interested mainly in the impact on the House of Lords but obviously also in the broader constitutional position. Your views, which I hope will emerge in the course of questions, will be of great interest to us. Do you agree that the West Lothian question is a constitutional issue that needs to be addressed, and, if so, in what way?

Pete Wishart MP: Thank you, Chairman, for the very kind invitation to come along to your proceedings this morning. It is a bit unusual to see a Scottish National Party Member in the House of Lords. I would like to reassure all the Scottish viewers who have of course tuned in today that there is no change in the Scottish National Party's approach to this undemocratic House, but we will do what we can to help you with your proceedings because it is important that you look at this.

Do I think that it is a constitutional issue? No, I do not believe it is a constitutional issue, but English votes for English laws should be treated with concern, the proper approach and respect. I have been Chief Whip and Business Convener for the SNP for the best part of the past 15 years. In the Scottish National Party, we have always taken this very seriously indeed. When we looked at the business for the following week we always scoured the legislation to see whether there was a Scottish interest. If there was not one, we did not take part in any of the proceedings on that legislation or any votes on it. There is a practical reason for that, too. I am the Member of Parliament for Perth. Why should I take an interest in the policing arrangements, for example, of Peckham or Plymouth when it has absolutely nothing to do with my constituents? There is a practical element. There is also respect for the asymmetric

devolution in the arrangements we have throughout the United Kingdom. We very much believe that English Members of Parliament should get on with managing their own affairs and that we should leave them to do that. I think they can do it quite well without Scottish Members of Parliament.

I do not think that even the Government believe this is a constitutional issue, because, if they did, they would introduce legislation in a Bill. Instead, they have just changed the rules of the House of Commons to try to accommodate the concerns. If it was a constitutional issue, we would see a constitutional Bill with full proceedings, not just in the House of Commons but in this House too. Obviously, the Government do not take that view. The short answer to your question is no, but there is an issue that needs to be addressed fairly.

Tom Brake MP: Thank you for inviting both of us to give evidence this morning. In contrast to Mr Wishart, I think the West Lothian question raises some constitutional issues. It certainly raises very strong political issues. Anyone who has been out and about campaigning in recent years will know that it is an issue that regularly comes up on the doorstep. I guess it is portrayed as an issue where Scottish MPs are voting on issues that affect England, whereas the opposite does not happen in relation to many things that are devolved to Scotland. It was both a constitutional issue and a very strong political issue.

As to whether what has been brought forward is the solution, my party's position was that the proposal in front of us for English votes for English laws and what has now been implemented by the Government was a useful trial and could be implemented quickly. It fails to address much more fundamental issues about our constitution, particularly how the Westminster Parliament relates to the Scottish Parliament and the impact of a whole suite of devolutionary measures: for instance, the city deals, where we see diversity of decision-making in different parts of the country. They are changing not just the relationship between Scottish MPs and the Westminster Parliament, or between English MPs and the Westminster Parliament, but the relationship English MPs will have with their own regions in decisions being taken perhaps at regional level by city mayors in which the MPs representing those areas will now not have much say.

The Chairman: Thank you very much. To pursue those issues, I bring in Lord Hunt.

Q2 Lord Hunt of Wirral: For Mr Wishart, it is an issue that needs to be addressed, and for Mr Brake it is a useful trial. Do you think there is a better answer than this form of EVEL, with a veto for English and Welsh MPs, and, if so, what is it?

Pete Wishart MP: There is a better answer. I do not see much difficulty in what had gone on previously, which was an arrangement whereby we would look for the Scottish interests in

English legislation, and, if there were none, we left it alone. I propose that we could get together at a business level where shadow Leaders of the House, with the Whips, could look at the legislation. It would be an arrangement whereby, if there was clearly no Scottish interest, we would not take part. It would be an agreed and consensual process. With this proposal, we seem to have the opposite of that; it is a matter of exclusion. What it has done—we will probably go into this in some of the questions coming to us later in this session—is create a situation where there are two classes of Members of Parliament: those involved in all sections of legislation who participate fully in the House, and Scottish Members who are effectively excluded from certain parts of a Bill. That has an impact on the way the House assesses itself, given that we are the UK Parliament—the unitary Parliament of Great Britain and Northern Ireland. All of a sudden, this has been created. There are ways to do it.

I know this is an issue. I listened to Mr Brake's response. He is quite correct that it seemed to emerge as a key issue during the last general election campaign. We want to do all we can to help find a solution that meets the concerns of everybody throughout the United Kingdom but does not create the two classes of Members of Parliament that we seem to have created in the past few months and the past year. Through consensus, agreement and reaching a considered position, we could achieve that solution.

Tom Brake MP: I am not sure that I can articulate a well worked-through answer to the question. We have not yet challenged the English votes for English laws procedure that we have in place. For it to be challenged, there needs to be a vote at national level that is contradicted by a vote at English level, and it has not happened. We do not know yet, and we may not know in this Parliament, whether the trial we have now can work in practice or whether there are perhaps unseen consequences in the arrangements. That is why we have always argued that, given the changes that have happened in the relationship between the Westminster Parliament and the Scottish Parliament and the devolutionary thrust that we are seeing in cities around England, we need to take a step back and instigate a constitutional convention that would look at these issues and possibly others.

I accept that the problem with that sort of approach is that, if you start with a narrow remit, people will want to add things to that constitutional convention. There will be those who want to add the issue of whether young people should have the vote at 16 and 17, so you could start to expand the scope of it and guarantee that perhaps you would never come to a conclusion at the end of the convention.

A convention set up to look at the relationship between the constituent parts and the impact of city deals and devolution down to individual regions, at different rates and levels of

devolution, is something we need to undertake. Out of that might come a better arrangement. Historically, as a party we have always argued for regional governments, but that did not find much favour with the public when it was attempted under the previous Labour Government.

Q3 Lord Norton of Louth: Where would you put the process that has been adopted in allowing for what is in effect a double veto? I chaired the Conservative Party Commission to Strengthen Parliament. We came up with one scheme, but the Government have implemented another. The whole point of the double veto, is it not, is that it gives a veto to English and Welsh Members but still allows other Members to participate, so the underlying concept is that it does not exclude Members from participating. Do you think there is value in that? Do you think it achieves a balance?

Pete Wishart MP: I think I understand what the Leader of the House was trying to achieve with the double majority. You are right to describe it as such. There is nothing to stop me participating in a debate, but where we are stopped is in the vote. That is the key issue; we are not allowed to give our view on certain sections of legislation, which creates the notion that there are two classes of Members of Parliament in the House of Commons.

We have seen some curious examples. Perhaps I may read the first two sentences of a whole page of guidance from the Speaker on an EVEL-certificated Bill on Monday: “Under the provisions of Standing Order 83L, the Speaker must, after the conclusion of Report on any government Bill that has been amended since Second Reading, reconsider the Bill for certification under Standing Order No 83J. To assist Members ...” It goes on and on. It is convoluted and barely comprehensible. I asked the Deputy Speaker, who is also Chair of Ways and Means, when he made another indecipherable statement like that from the Chair, to try to explain to me what on earth it meant. He said he was sorry; he could not tell me.

We are now at a stage where not only do we have this solution, which has a double majority, but we break down legislation into compartmentalised nonsense. We then have to attempt to understand what is going on. It is my job as shadow Leader of the House to look at legislation, to look at Bills. Sometimes things are presented to me and I do not have the foggiest what is being attempted. I hazard a guess that very few of my fellow Members of Parliament understand one thing that is going on. It is a convoluted and deeply indecipherable process and nobody seems to understand what is happening.

Tom Brake MP: I agree to some extent with what Mr Wishart said. If this is a process that the public are looking at, clearly it is a very complex one that they would find hard to decipher. I agree with Mr Wishart that indeed some of our colleagues may find it hard to decipher, although I would commend to them this flow chart, which I found online and which does a

good job of explaining it. I spent some time familiarising myself with the flow chart before I came here to make sure that I understood the process in detail. I think I now do so, but without my glasses I am not sure whether I showed you the flow chart upside down or the right way up.

For the public, it is not clear, but as a compromise—a typical British compromise—it helps. However, because the driver in previous years has always been some, perhaps small, antagonism towards Scottish Members of Parliament taking part in English decisions, or votes that affect England, and obviously they are still doing that, the public's perception may be that it does not quite do the job. Notwithstanding what Mr Wishart said, in this Parliament there have been at least a couple of votes when Scottish MPs chose to vote on purely English matters, for reasons that were perhaps political.

Lord Norton of Louth: I wonder whether one can distinguish between the concept and its delivery, because what you have been stressing is the way it is implemented and that it is very difficult to decipher. Is the concept one you would see some merit in and that, therefore, it could be delivered in a different way?

Tom Brake MP: Do you mean by concept the idea of the double-voting process?

Lord Norton of Louth: Yes.

Tom Brake MP: We see it very much as a trial. I would want to withhold judgment on whether it has merit until we see it used in anger. It has not been used in anger, and it is only at that point that we would really know whether it functioned for Members of Parliament, or indeed the House of Lords, and what the public thought about the process. There might be some significant clashes in the future when Parliament as a whole adopted one position and English MPs adopted another. At that point, we would really understand whether the public thought it was a sensible solution to the West Lothian question.

Pete Wishart MP: If it helps you, Lord Norton, as well as being indecipherable it is unnecessary. The Government have a majority within England and in the United Kingdom, so effectively we are doing all this for nothing, because the Government will always get their way when it comes to what is considered to be English-only legislation. I cannot imagine that the Conservatives are going to do any worse than one Member of Parliament from Scotland, so that condition is unlikely to change.

The Labour Party has already made it explicit that one of the first things it would do is change the Standing Orders. That is a very easy thing to do because it is not legislation; all it would need is a majority of Members in the House of Commons to reverse what has been agreed on English votes for English laws, and the Standing Orders can be changed again. We are in a

really strange situation. First, it is unnecessary. Secondly, nobody knows what on earth is going on. Thirdly, if we decide to change it we can do so because it is not legislation.

Q4 Baroness Dean of Thornton-le-Fylde: I would like to ask about the advantages and disadvantages of the way the change took place: that is, a change in the House of Commons Standing Orders, which meant that it was less liable to be challenged in court. It is also possible to change it, and the Government are to review it this autumn. If they wish to change Standing Orders and get the support of the House of Commons, they will be able to do that, whereas primary legislation would have been subject to much more scrutiny and, equally, would have come to this House for scrutiny under its procedures. Chris Bryant, Labour's shadow Leader of the House, said they did not support a change in Standing Orders; they would have preferred the proposal to be subject to much more detailed scrutiny, which implies that they would be in favour of legislation on this, not, as Mr Wishart said, just going back to where it was. I do not think that is the view. From your individual standpoints, what are the advantages of its being a Standing Order, which, after the review this autumn, could change relatively simply but with less scrutiny, as opposed to being in primary legislation?

Tom Brake MP: I felt comfortable with the idea that it should happen through Standing Orders, for the very reason that it could be changed relatively easily, because we cannot predict the impact of the English votes for English laws procedure. We might, post-23 June, be about to get into a quite complicated political scenario in the House of Commons, and it is hard to predict what might happen to allegiances. We might be about to go into a period when, who knows, the provision might actually be tested and we may find that there are unanticipated consequences. Had we pushed it through in the form of a legislative measure, there would have been some hard work to do to unpick it. The Liberal Democrat view at the time was that we should allow it to go forward as a trial, through Standing Orders, and that would provide the capacity to change it, should we need to do so.

Baroness Dean of Thornton-le-Fylde: Can I press you on that, Mr Brake? You agreed earlier that this was a constitutional change. Of course, a change in the constitution is normally subject to the scrutiny of both Houses, whereas a change in Standing Orders is not. Are you saying that after the review in the autumn you would like to see the provision changed to primary legislation, following the trial period, or that it should remain where it is?

Tom Brake MP: My personal position is that I want to see it used in anger before we consider switching to a legislative measure, although, as I said in my opening remarks, I do not think that what we have in front of us is necessarily the solution to the West Lothian question. I am hedging my bets as to whether, even if we get to test this in anger at some point, we would

back the idea of introducing it as a legislative measure. For instance, we might want to push another agenda for devolution throughout the UK that is more extensive than it is currently.

Pete Wishart MP: You are absolutely right, Baroness Dean. This was done through Standing Orders because it might be open to legal challenge had it been done through legislation. I chair the Scottish Affairs Committee. We had a couple of conversations with some of the clerks who helped to frame some of the Standing Orders and had looked at this previously. There was a real concern and worry that, if it became legislation, it would be opened up to all sorts of legal difficulties and technicalities. Members of the public, who perhaps disliked the Speaker's certification, would have the opportunity to challenge it.

If the Government are serious about this, and if it is a constitutional issue, as it seems to have been presented to us, they should have the courage of their convictions and bring forward legislation so that it can be tested in both Houses of Parliament. We have had so little scrutiny of this. I tried to do it with my Committee, and I am really grateful, Chairman, that your Committee is doing it here. We have not had a chance to have a look at some of the consequences and hidden things down the line. I hope we get to talk about Barnett consequential, because that is my real concern about the issue. We have not had an opportunity to look at that. If it was primary legislation, we would have that chance; it would go through Committee and come to the House of Lords, and there would be the usual study and examination. We have not had any of that. We had two days on the Floor of the House to consider it, which may be why we are seeing—I use some good words for you, Chairman—bourach or guddle when it comes to how these things are being enacted.

Baroness Dean of Thornton-le-Fylde: Could you translate that for me, please?

Pete Wishart MP: A mess—a dreadful mess, if that helps the Committee. Maybe we have these difficult and indecipherable bits of nonsense because that the provision has not had the scrutiny it should have. No other parliament in the western world has decided that there must be two classes of Member of Parliament in its national legislature. To have a day and a half, maybe two days, to look at it is totally bizarre, so, if the Government have the courage of their convictions, bring on the legislation.

The Chairman: I am very glad you find the House of Lords useful.

Q5 Lord Morgan: Gentlemen, as you know, we have asymmetry in devolution, much to the disadvantage of Wales, I think. Does the EVEL proposal suggest almost an asymmetry of a different kind within the House of Commons? How far do you think it affects, mitigates or undermines the role of a House of Commons where Members of Parliament reflect equally all parts of the United Kingdom?

Tom Brake MP: That is a perfectly valid question. I referred earlier to city devolution, for instance; that is exactly what is happening there. I am a London Member of Parliament, and many of the decisions that relate to transport infrastructure in London—the Tube, the buses, the DLR and so on—are matters over which I have no real say. They are matters on which the Mayor of London makes decisions. Although from a budgetary perspective we allocate the overall amount, the decisions on how that money is spent are taken by the Mayor of London, with scrutiny by the London Assembly.

Whichever constituency MP you look at, I think you will find that there are already asymmetries in the extent to which that Member of Parliament is involved in decision-making processes in their locality. I do not feel that as a Member of Parliament representing a London constituency I am being excluded, or that I am a second-class citizen, because I am not able to influence spending in relation to London buses. I hope that other colleagues who are Members of the Westminster Parliament, whether they represent a Scottish constituency or any other constituency around the country, equally feel that they still play a major role in our Parliament.

Pete Wishart MP: There has been a deep psychological impact and effect as a result of bringing forward English votes for English laws and changing Standing Orders, because we have created two classes of Members of Parliament. There has been real anger and resentment in Scotland during the process. Lord Lang and I are deeply familiar with the notion, “Welcome. We want you to be equal members of the family of nations”. The minute they got back to the House of Commons we were branded as second class and not allowed to participate in all aspects of legislation as it goes through the House of Commons. The Government have been deeply divisive in the way they created this situation. I understand that there seems to be some sort of desire for an English voice when it comes to English-only legislation. Here is a solution: get your own parliament. Do it yourselves. Why try to usurp the unitary Parliament of Great Britain and Northern Ireland to make it a quasi-English parliament? If there is serious intent to ensure that an English voice is exclusive to English legislation, surely the solution must be to get an English parliament. As 87% of the population of the United Kingdom is based in England, we understand that maybe it would not solve all the asymmetry, but it would solve at a stroke the concern that somehow the invidious Scots are coming down here and getting involved in all this English-only legislation and imposing our view on the rest of the nation, when nothing could be further from the truth. There has to be a test down here. If you want to do this, go ahead and do it. We will give them our absolute blessing, if that is the way they want to proceed.

Tom Brake MP: To follow up that point, the difficulty with an English parliament, which on the face of it is a simple solution to the problem, is that there is a real risk that the devolution and subsidiarity that Liberal Democrats want to see in England would simply not happen. What you would have with an English parliament, in the way that has happened, I am afraid to say, in relation to the Scottish Parliament and the Scottish Government, is a transfer of responsibilities from local level back to central government. That would be the consequence. Far from encouraging devolution to Cornwall or Essex, it would concentrate power in the English parliament to the detriment of areas being able to take their own decisions. That is why we would not support the idea of an English parliament.

Lord Morgan: I take your point, and I agree with you about English regional government, but is there not a qualitative difference between excluding London matters, which are an extension of local government, from the operations and debates of the national Parliament, and removing a large territorial chunk of the country—in the case of England, the largest one—and saying that Parliament cannot deliberate on that?

Pete Wishart MP: That is an elegant solution to what has emerged as a problem. Several politicians in the last general election made this a real issue. You will remember some of the posters we saw where Ed Miliband was in Alex Salmond's pocket, such was the fear of the Ajockalypse, as it was called—the coming of the Scots having a view on all English legislation. If this is the serious concern the Government seem to be telling us it is, given that it was a priority in their first few months of office, that is the only solution. We cannot have a unitary UK Parliament of Great Britain and Northern Ireland with two classes of Members. This Parliament is as much mine as it is Mr Brake's. I should have equality in that Parliament, just as Mr Brake can participate in every part of every piece of any legislation. I cannot. There is something deeply flawed about that approach. No other parliament in western Europe attempts to have classes of membership and we should not either.

Lord Beith: If I understand what Mr Wishart is saying, if you think there is a knock-on consequence for Scotland—I am not talking about Barnett consequential—from a piece of very English legislation on, say, hunting or Sunday trading, you are entitled to take part in a vote on it as long as there is a United Kingdom Parliament, but the day we create an English parliament you are happy then to bid goodbye to all that and say, “Now there is an English parliament, we no longer worry about the knock-on consequences for Scotland of what the English parliament decides to do”.

Pete Wishart MP: Absolutely. That is the fair way to approach it. I understand and respect that Mr Brake does not have a say in the Scottish Parliament. Nor do I as a Member of the UK

Parliament, and I would get no opportunity to do that if there was an English parliament constituted on the same basis as the Scottish Parliament. If we can have a bit of clarity about what we are trying to describe, we are talking about something that I thought the Liberal Democrats agreed with, which is a federal arrangement throughout the United Kingdom whereby we would be in charge of nearly all our own affairs, whether that be budgetary issues or immigration, and we would come together on what are, according to most definitions and understandings of federalism, the big macroeconomic issues such as foreign affairs and defence. I am not arguing for that, but I am listening very carefully to Conservative colleagues who tell me this was about the most important issue they heard on the doorstep.

Lord Beith: I think you answered my question in your first few words. You have made your position clear.

Tom Brake MP: We as a party are in favour of federalism, but that does not mean that an English parliament is the last building block to put federalism in place. I set out earlier the concern that an English parliament would simply concentrate power in that parliament at the expense of the regions of England, and could also concentrate power in that parliament to the detriment of the Scottish Parliament, the Assembly and the other constituent parts of the UK.

Q6 Lord Judge: May I go back to the beginning? As I understand it, Mr Wishart, what you really think should have happened is nothing very much, because in your case you had what I would describe as a self-denying ordinance and you would not take part in English-only matters. Was there an offer to the Government of a discussion about these sorts of questions before we got to the EVEL Standing Order?

Pete Wishart MP: No, there was not. I gave evidence to the McKay commission, with which you are probably familiar, which preceded the current arrangements. It was initiated by a former Leader of the House, now Lord Hague. He put forward a number of options to try to resolve some of the issues. There has been ongoing debate in my 15 years in Parliament. There have been several attempts to try to ensure we get some sort of progress. All of a sudden, we had the Hague proposals, which were then brought forward as a change to Standing Orders. There has always been debate and discussion about it.

To be fair to both the previous Government and this one, we made our position quite clear. We talked about our approach to issues that are apparently English only. We offered that as a way forward, but the way the Government have proceeded is deeply non-consensual. Only the Conservative Government supported what was proposed and enacted. Every other party in the House opposed it and voted against it. Our approach is a way to try to solve some quite

complex issues that probably need a lot of debate and discussion. To go ahead and do it without any political support demonstrates an unwillingness to work on it.

Listening to Lord Beith's comments about Sunday trading and fox hunting, which are always the examples given to us, the gloves are off now. If we are having this imposed on us without consensus and agreement, the Government have no right to expect that we will meekly go along with what has been imposed on us. We are not playing the game any more, because of what has been done. We have been made second class in our Parliament. The days when we just accept that because we are going to be good boys have more or less gone.

Lord Judge: Was an offer of self-denying ordinance made to Mr Grayling, the Leader of the House, before the House of Commons decided that Standing Orders should be changed?

Pete Wishart MP: No. The direct answer is that there was no conversation about it at all; we were just told that it was going to be done by a change in Standing Orders.

Lord Judge: If Standing Orders come to be reviewed in the next 12 months, will such an offer be made?

Pete Wishart MP: I doubt it very much. From the conversations I have had with the Leader of the House—we had him in front of my Committee to discuss these very proposals—he seems very determined to pursue them. There was an opportunity early in the process to have a review, given the very deep unhappiness in the House of Commons about the issue. The opportunity was not taken, and I do not predict that there will be much change to the Standing Orders when they are reviewed.

Tom Brake MP: An offer of discussions was made to us as a party and we indicated that we were willing to go along with the proposals as a trial. I do not recall exactly, but I wonder whether an offer of discussions was made to the SNP and it was not taken up.

Pete Wishart MP: It was not.

Tom Brake MP: No offer was made?

Pete Wishart MP: The consultation went out and we were asked to contribute to it. No one came to the office to say, "Let me discuss your plans with you", or, "Yes, Mr Wishart, I think the SNP's proposals are a very sensible way forward". There was nothing like that. It was simply, "Here are the plans. This is what we are going to do. If you have anything to say about it, please write to us".

The Chairman: We have time for just one more question, and I am afraid it is not about Barnett, Mr Wishart.

Q7 Lord Brennan: Gentlemen, using your positions as public representatives for a moment, what do you assess to be the public reaction to the principle of English votes for English laws,

particularly as to the position of England and the union? Do you think that view differs across the different parts of our devolved country?

Tom Brake MP: I suppose that before the measure was implemented there was a fairly strong demand that something should be done about English MPs being able to vote on English matters. Now that the procedure is in place, the public's reaction to it, or their awareness of it, is absolutely minimal. I cannot recall anyone having contacted me since it came in, saying, "Why has this procedure been implemented? Why are the Government doing this, as opposed to adopting some other approach?" It may well be different in Scotland, but certainly in England the public have zero awareness of the issue. It may be that, because we have a referendum on 23 June, that matter, and the issue of sovereignty wrapped up in it, has taken over the concerns members of the public might have had previously about this slightly different sovereignty issue. If I were to go to Woodcote Road in Wallington on Saturday morning and ask people what they thought about EVEL, I am sure I would get lots of responses, but none of them would relate to English votes for English laws.

Pete Wishart MP: That is a very good question, Lord Brennan. I can speak more qualitatively on the effect in Scotland. I did not think it would have much of an impact in Scotland, but I detected outrage about it. It was going through at the same time as the Scotland Bill. Chairman, you will recall that we proposed over 100 amendments to the Scotland Bill, as it was then, only for the nearly 99% of Scottish Members of Parliament who voted for the amendments to be voted down by English Members of Parliament. That was being progressed at the same time, so in Scotland something curious seemed to be going on in the way Scottish Members of Parliament were being treated, particularly after all the warm comments and words we had secured during the referendum process. I was quite surprised at the anger that started to emerge in Scotland. It has dissipated a bit because we have not really challenged the measure, although we will get back to challenging it in time. I do not know about England. When we had the debates in the House of Commons, we were told it was the most important thing heard on the doorstep. I have no right to doubt Mr Brake's assessment that he heard very little about it. If I was an English member of the public, I would be looking at the arrangement and thinking, "What on earth is this? Does this satisfy what I thought I was going to get? How do I even start to understand it? Is it really what I want from a Government who were telling me day in, day out that they were going to address this?"

The Chairman: I promised I would get you away by 11 o'clock. You have kept your side of the bargain by being extremely articulate and, on the whole, pretty concise. Thank you very

much for covering the questions we asked. We are very appreciative. We look forward to pursuing our report, and we will see how much of your views emerges in it.

Examination of Witnesses

Professor Michael Kenny, Mile End Institute, Queen Mary University of London and **Daniel Gover**, Mile End Institute, Queen Mary University of London

Q8 The Chairman: I welcome Professor Kenny and Daniel Gover, both from the Mile End Institute, Queen Mary University of London. Thank you for the written evidence that you sent into us. You had a bit of a warm-up by hearing the previous witnesses. We have a number of questions for you. They are not all the same questions, but we are on a fairly tight timetable. You have been told that we should finish in 40 to 45 minutes. We will try to keep to that. Let me start. To what extent has the introduction of English votes for English laws helped or harmed the Government's aim of securing the union and making it fair for all four nations? Would you like to start, Professor Kenny?

Professor Michael Kenny: Yes. As a preamble to our responses, I should say that we are conducting academic research on this question. That involves interviews with people from Government and in Parliament—both parliamentarians and people charged with operating the system. We are currently in the process of producing a report, which we hope will feed into the Government's review. Our remarks reflect the research that we have conducted. Some of our judgments are of an interim character, while some of them are perhaps more clear-cut.

On the question you put, which is a very important one, the starting point is that clearly this particular system is motivated by a belief that English opinion has shifted in important respects in relation to politics in general, and to aspects of Parliament in particular—specifically, the West Lothian question. A strong argument has developed, and has become more robust over time, for a confidence-building measure, or measures, designed to make clearer to English opinion that English interests are, in some sense, more clearly protected and that an English voice of some kind is heard within the parliamentary system. Obviously that has to be balanced against the constitutional position of the lower House—the House of Commons—as an expression of the Parliament for all parts of the UK.

We have been very sensitive to that issue in the research we have conducted. As you have already heard this morning, clearly there are different perspectives on this question. To focus the answer on how the system has operated so far, for the most part, it has operated in a way that has not generated particular controversy. There is a question about how the system is

understood by parliamentarians, and by those charged with operating it—a slightly separate issue. Although concerns have been aired about whether this alters the character of the UK Parliament, key features of the current reforms are intended to address those concerns. I refer particularly to the so-called double veto system: the requirement that all Members of the House have the opportunity to vote on all parts of a Bill, that point has been retained, alongside the introduction of the new veto right. We are in the process of seeing how that will work out.

The Chairman: Mr Gover, would you like to add anything?

Daniel Gover: The only thing I would add is that the data on public opinion that we have so far suggests that a reform along these lines is popular in England. According to the data we have so far—there has not been any that I am aware of since the implementation of the new procedures—it also seems to have support in Scotland. There are questions about how the questions are interpreted. It remains to be seen how people across the UK will react to the system once it is fully embedded, but there is a case for at least seeing how it goes and exactly what the effects will be.

The Chairman: We will probe those issues further as we proceed. I bring in Lady Dean.

Q9 Baroness Dean of Thornton-le-Fylde: Good morning. In our report, *The Union and Devolution*, the Committee stressed the importance of consent and the perception of maintaining the union. Indeed, we had some criticism in the evidence that we received about the manner in which EVEL was announced by the Prime Minister, the morning after the Scottish referendum. In your written evidence to us, you emphasise the importance of presentation. You say that the Government “needs to present EVEL as a pro-Union—not as a narrowly pro-English—measure”, which is very similar to what we said in our report. Has that been achieved? If you are saying that it has not, what is the substance of your response to that question?

Professor Michael Kenny: We wrote the submission fairly soon after the general election. We were acutely aware, as I am sure you were, that in that particular election the question of how English voters might feel about a potential Government that involved a party in Scotland was a very live issue. Of course, in general election campaigns, these things are expressed in the vernacular. We thought it very important to make the point that, if this kind of reform were introduced, it ought to be presented, and indeed understood, as something that applied to the UK Parliament in the round. Partly, it is a question of timing. We were sensitive to how the Government were going to proceed with presenting and developing the change.

There is also a question of principle. Our own view, which we formed in the course of doing the research, is that this is most likely to be embedded—to become legitimate—if it is understood as a change that reflects a broader principle that has emerged in the wake of devolution: the principle that, in any particular territory within the UK that is affected by UK legislation, where that legislation has what the McKay commission calls “separate and distinct” effects, they should not happen without the express consent of a majority of representatives from that territory. That is a principle that many people can understand, across the UK as well as in England. When we raised that point, we were starting to think about urging the Government—we still urge them to think about it in their review—to consider it in the context of the UK Parliament and how it develops, rather than, as you say, considering the measure as something that evens up the score for the English. I certainly think that it is possible to develop a form of English votes for English laws that is congruent with that principle. Whether the particular system we have now is so is another matter. That was really the concern that we were starting to develop.

Baroness Dean of Thornton-le-Fylde: That was your concern, but has it been met?

Professor Michael Kenny: It depends on what that refers to. In some of the language used about this, the Government have been broadly mindful of that consideration. As they came to appreciate that there were different concerns within the House about this particular system, they moved to a more explicit recognition of that kind of feeling.

There is a second issue, which I think you are also alluding to, about consultation, and whose voice has been heard in the development of the process. That is a slightly different question. It seems to me that, there, we are into a question about politics. The Government felt that, broadly, they had this system included in their manifesto. The Conservative Party has talked about this reform for some considerable while, so clearly the Government felt they had a mandate to introduce a reform of that kind. The question to ask about all this is whether the reform they have introduced is likely to survive without ensuring wider consensus among other political parties in the UK Parliament. That is really the question that the Government ought to have in their mind in relation to these issues.

Q10 Lord Norton of Louth: A different, but rather important, dimension is the consequence of EVEL on the relationship between Government and Parliament and the devolved Administrations. What do you think are the possible consequences or implications of EVEL for those relationships?

Daniel Gover: So far, the English votes procedure has not had much noticeable effect, although at least some of the devolved institutions are certainly paying very close attention.

For instance, the First Minister of Scotland published an open letter that raised particular issues, some of which were to do with the relationships, often behind the scenes, between devolved bodies and the UK Government. Particular concerns were raised in the letter about whether or not the Scottish Government, in this case, would be able to participate in discussions about the UK Government's assessment of whether a provision met the two-part EVEL test. There were also questions about policy development, such as how it will affect existing relationships when policy is developed that may have implications for other parts of the UK.

As far as we are aware, there have been no particularly controversial cases. To some extent, that is an indication of how early we are in the process. The Speaker has certified provisions of seven Bills so far. None of them, to my knowledge, has been particularly contentious for the devolved institutions. Whether that will change remains to be seen. Overall, my sense is that the existing networks between devolved Governments and the UK Government are able to adapt, to some extent, to facilitate dialogue on these sorts of questions, but how successfully remains to be seen.

Lord Norton of Louth: Is there a potential implication for things like the normal process of seeking legislative consent from a devolved body, given the new procedure?

Daniel Gover: In what sense?

Lord Norton of Louth: It has been raised in evidence to us in Scotland that it is not clear whether there might be a problem in relation to the normal process of seeking legislative consent.

Daniel Gover: If I have understood correctly, that was one of the issues raised in the First Minister of Scotland's letter. All I can say on that is that I am not aware of it so far, but it is early days. It remains to be seen.

Lord Norton of Louth: Should there be any anticipation of what the problems might be, rather than waiting, as you suggest, for the normal processes to discuss this and see whether we can resolve it?

Professor Michael Kenny: That is a good question. There is an aspect to all of it that is somewhat experimental. The point about the networks that exist and have developed between the devolved institutions and central government departments is a very important one. In all honesty, you will find different answers to your question in the different devolved Administrations.

Lord Beith: Do you agree with Mr Brake's evidence, which you heard earlier, that we will not know whether the system works or indeed whether it has public acceptability until it has been used in anger?

Professor Michael Kenny: Yes, but—the “but” reflects the fact that we have some pretty robust polling evidence that shows that people in England, and, as Daniel said, even people in Scotland, broadly agree with the principle that lies behind this reform. With all due caveats about question wording and what exactly people understand by that, that tells us something, and this is a reform that can be presented as moving in line with that shift in opinion.

On the transparency and accessibility of the process, it is true that it is hard to think that there is much public consciousness of it. Yes, it is most likely to be the case that people will become aware of it when things go wrong. On the other hand, it is important to say that the Government feel that they have a democratic mandate, in that this was part of their manifesto promise. A scrutiny process, of sorts, has taken place; it is not as if this has been dropped in entirely from nowhere.

Although I think that was a fair point to make, it is important that the political parties are able and willing to talk about the procedure to the wider public. One of the things we have urged in the various written submissions we have made to various Committees is that the Government think harder about how they communicate the workings of and the principles behind this system.

Q11 Lord Beith: In your helpful paper, you talk quite a bit about the issue of consequential. As I see it, that has two aspects. There are direct consequential, as in the Barnett formula. We happen to have a system—not one I really approve of—in which particular decisions have direct consequences on the funding that will be available to the Scottish Parliament. There are also completely indirect things, simply because there is a border and a different jurisdiction on either side of it, and people access services across borders. Indeed, there is a more extended version of it: if this legislation is passed, it might lead to pressure for similar legislation in Scotland. There is a huge spectrum of consequential. Is there any way we can clarify this, or do we simply accept Mr Wishart's view that, as long as it is possible for Scottish Members to be involved in issues with vague consequential, they will be, but he would be quite happy if there were an English parliament and they were not involved at all?

Professor Michael Kenny: The current system is driven by a different proposition, as you say—that it is possible, broadly, to delineate consequential, for the most part. That responsibility falls both on the Government, as they draft legislation and make their recommendations about certification, and on the Speaker in the other Chamber. It is

interesting that so far, based on our analysis of Bills that have gone through, there have been very few disagreements, although there have been some, both between the Government and the Speaker and more generally. When it comes to interpreting potential consequential, we have not hit too many very difficult cases. It appears that many cases are fairly straightforward. No doubt we will come to cases that are more difficult to determine.

That throws an emphasis on to the nature of the Standing Orders that have been drafted, which reflect an attempt to produce a very comprehensive system of veto—a detailed, and if I may say so legalistic, formulation of the veto right. One of the things we are looking at is whether it is possible to be that comprehensive and clear-cut in the rules that are stipulated in relation to the many different consequential issues that will arise. That remains to be seen. There is a question about the nature of the Standing Orders that have been drafted in relation to this sort of issue.

Q12 Lord Hunt of Wirral: Delineating and interpreting consequential—the mind boggles. Can I turn to the more constitutional impact in Parliament? I hope that you have had the opportunity to read our report, *The Union and Devolution*, where we emphasised how the union—particularly the political union—is embodied in the sovereign UK Parliament and the UK Government, which represent and act on behalf of the whole United Kingdom. Taking that more overall view, how does EVEL affect the role of the House of Commons in representing all parts of the United Kingdom?

Professor Michael Kenny: Undoubtedly it affects it. This goes back to the first answer that I gave. It is clearly the case that introducing a reform such as this raises anxieties and worries on the part of some non-English Members about whether different classes of MP have now been created. As you know, that is a very long-standing worry, and an objection, in some cases, that has been put to this kind of reform.

To go back to my earlier point, we are in a different situation now. The attempt to develop a measure that ensures greater English confidence in some of the workings of the UK Parliament may well now be justifiable; indeed, it may well now be unavoidable. The question is how to introduce it in a way that does not cause the kind of tension and concern, and accentuate the sort of worry, you refer to.

I return to the point about the double veto system. It seems to us extremely important, as a characteristic of this reform, that the Government have accepted that all Members of the House should vote on the final Reading of all Bills. Indeed, as you have seen, they have accepted that non-English Members should be allowed to attend and to speak at the legislative

Grand Committees, which we happen to think is an important concession that they have made.

It is very important to be extremely mindful of the role of the House as the key part of the UK Parliament, but it is not impossible, we think, to balance that against this new system, whatever one thinks of some aspects of it. In principle, that ought to be possible to do. We also think that the Government need to be very mindful of the sensibilities you are talking about.

The Chairman: Lord Morgan has a supplementary.

Lord Morgan: It seems to me that one of the problems in determining this kind of distinction between the role of different MPs and different kinds of legislation is that it is complicated by the fact that the situation is so fluid. Discussions of devolution right now will be different from those in six months' time, with the extension of more fiscal devolution to Scotland and the likelihood of more reserved powers going to the Welsh Assembly. Does that not make the change in Standing Orders even more of a tentative and temporary expedient than it already seemed to be?

Professor Michael Kenny: That is a very good point, but I want to make a distinction. Hopefully, there will be an acknowledgement by the Government that there is a somewhat experimental aspect to this. We hope that that will be reflected in the way they embark on their review process, and that they will consider some of the possible downsides of the current system, as well as ways in which it has worked. That is a rather different point from the idea that, because things are fluid, this measure can only be temporary and we must not aspire to make it durable. It seems to me important if we are making a change that is of considerable constitutional significance, as you well know, that it is incumbent on its architects to attempt to devise a system that is likely to endure.

One way in which that is more likely to come to pass is if a process happens that involves other political parties. It seems to us feasible to imagine a version of English votes for English laws that might ensure more consensus, or more buy-in from some other political parties. I doubt very much whether the Scottish National Party would buy into any of these models, but potentially other parties would. That seems quite an important ambition—that we try to put these reforms on a footing that means they become embedded and accepted as the legitimate rules of the game within the House of Commons.

Q13 Lord Morgan: At the moment, it is perhaps fairly straightforward to get that kind of harmony between parties, but one can see all sorts of conflicts that might come. It seems to me that the revised Wales Bill is likely to make less harmonious an agreement than would

otherwise have been the case. Heaven knows, next week's vote may increase the ill will between Edinburgh and Westminster even more.

Professor Michael Kenny: That is indeed possible. I do not disagree with any of that. It still seems important that the Government attempt to put this issue on a footing that means that it enjoys wider legitimacy than it does currently.

Lord Judge: Will it enjoy wider legitimacy merely because there has been wider consultation, or do we have to have a different system and a different approach to it?

Professor Michael Kenny: Consultation is important, but I agree that it is a necessary, not a sufficient, condition for legitimacy. That is an interesting question to consider in relation to the existence of different models of English votes. It is interesting to go back to the McKay commission, which produced a very elaborate argument for a rather different system and model for English votes, although it included a suite of different options in its conclusions. What is notable about McKay, and is rather different from the current system, is that it gave more emphasis to a system that prioritises voice rather than veto. One of the conclusions we have begun to move towards in our research is that it is extremely difficult to combine voice and veto in one institutional device. It is extremely difficult to do both at the same time. McKay talks much more about the symbolism of making it clear and more transparent that the views of English representatives are considered, but it does not give those a veto right. There are some indications that other parties, notably the Labour Party—perhaps, the Lib Dems, too—might have been prepared to engage in talks on the basis of that kind of model.

That is not the only model. There are different versions of EVEL in circulation. The question about legitimacy goes to the question of which model we think we should start with. That is where we think that a more experimental attitude towards this may well be appropriate.

Q14 Lord Judge: Assuming that you had a blank sheet of paper and were all-powerful, what model would you advise us to have?

Professor Michael Kenny: That is always the question that academics are most reluctant to answer, of course. I will not be quite as blunt as perhaps you want us to be, because we are in the process of writing a report that will make—

Lord Judge: Subject to the fact that you have not finally made up your minds.

Professor Michael Kenny: Subject to the fact that we have not quite completed the research. I go back to the point that I have just made. We are leaning towards an argument that it is probably difficult, and perhaps unwise, to attempt to do voice and veto in one particular change. We think that there is a compelling argument for giving greater emphasis to voice than the current system does. If we want to take voice seriously, we ought perhaps to think

about different kinds of forums: for instance, an English Affairs Committee, which is just one example of something we are looking at in the report.

There are different options that you can follow. The key point is that it really depends on what you are trying to do. One of the things that we will talk about in the report is the importance of the Government clarifying their ambitions in this area, and then thinking about which of those are most likely to result in a change that can be regarded as broadly legitimate or more likely to become legitimate. There are different options that we will consider. It seems to me that there is also a question, which we will reflect on, about the nature of the Standing Orders as they have been drafted—their quasi-legalistic character and the attempt to develop a very comprehensive veto. Whether that is wise in the current circumstances is something we will look at.

Q15 Lord Morgan: We have heard much discussion—you alluded to it yourselves, gentlemen—about two classes of Members of Parliament perhaps being created under this EVEL arrangement. It seems to me personally quite clear that it is happening. It has been said, both by leading members of the Scottish Government and by the First Minister of Wales, Carwyn Jones, that that would mean that a Member of Parliament holding a seat in Scotland or Wales—for example, Lord Home, Lord Callaghan or Gordon Brown—would not be eligible to be Prime Minister, on the grounds that they would be putting forward a legislative programme on parts of which they could neither vote nor speak. What do you feel about that?

Professor Michael Kenny: We have certainly heard that concern expressed in the course of the research. On the Prime Minister question specifically, we are not particularly convinced by that argument, in all honesty. There is nothing within the remit of these procedures that directly inhibits the selection of a party leader or Prime Minister who is from a territory outside England. There is nothing that you can read off directly from these changes. Ultimately, that would probably be a question about politics and the decisions that the parties wanted to make, and would, I suspect, be only one of a number of considerations that would bear on that judgment.

There are some technical issues in relation to the process that are worth mentioning and which would be difficult for a Minister, or indeed a shadow Minister, to be directly involved with. Do you want to comment on those, Daniel?

Daniel Gover: On the broad point, I agree with everything that Michael has just said. It is really helpful to distinguish clearly between the English votes for English laws procedural change and the wider dynamics around politics and attitudes. They may be related, but I agree that the English votes for English laws procedure itself does not have the effect of making it

any more difficult for an MP from outside England to be Prime Minister, particularly because English votes for English laws is basically about legislation.

On the point that was just made, it makes it marginally more challenging for an MP from outside England or England and Wales to be appointed to certain other ministerial posts that would require them to take through legislation that would have England-only or England and Wales-only provisions, particularly if the whole Bill were England only. Even in those cases, there are ways around it. However, it is about those positions, because they relate to taking legislation through the Commons. It is not about the Prime Minister's position.

Lord Morgan: My MP is Mr Cameron. If he sat not for Witney, but, let us say, for Merthyr Tydfil—admittedly, an improbable thought—he would not have been able to vote or speak on the Housing and Planning Bill about a month ago.

Daniel Gower: He would have been able to speak and to vote on the Housing and Planning Bill. He would not have been able to vote in the legislative Grand Committee.

Lord Morgan: That is right.

Daniel Gower: He would have been able to speak there. This is why I make the distinction between the procedures and the politics. What the procedures themselves affirm is the right and the legitimacy of all MPs, from everywhere in the UK, to speak and to vote on all legislation that comes before the Commons. My reading of them is that they affirm that all MPs have an interest in all of that legislation. Whether there are different things going on in the realm of attitudes and politics is another question, but I do not think that it is directly about these procedural changes.

Q16 Lord Hunt of Wirral: In paragraph 3 of your evidence to us, you say, “There is also a question to be asked about whether EVEL will in any way change the relationship between the two Houses of Parliament, given that the legislative process in the Lords will remain unchanged”. What change did you have in mind?

Daniel Gower: Various issues were raised in the early debates in the House of Lords about the English votes for English laws procedures: for instance, a concern that amendments passed in the Lords would effectively be certified under the English votes for English laws procedures in the Commons. There was some concern in those debates about whether that would change the relationship between the two Houses. We mentioned it in our submission as a question. Having reflected on it, I see no direct impact on the House of Lords. For instance, this process is not like a money Bill, which effectively changes the ability of the House of Lords to propose amendments. It is not like the designation of amendments as engaging financial privilege, which, by convention, affects how this House would be expected to respond. It is

not like that, in that it does not have an implication for the procedure of this House or how this House would be expected to respond to the Commons.

Lord Hunt of Wirral: Having raised the question, you are now saying, “There has been no sign of it so far. We no longer think there is a question to be raised”.

Daniel Gover: It is always worth asking the question. It is an important constitutional change, and it is important to investigate those matters. I agree that I do not see any direct implications for the House of Lords of this change in the Commons. It may well be that a change in the Commons affects how this House interprets its role. For instance, if the House of Commons takes account of English interests more explicitly in its decision-making, might that affect how this House conceives of its role, perhaps in relation to a more explicitly union perspective? However, that is a political question. It is not about the procedural implications of the change.

The Chairman: Professor Kenny, do you want to add anything?

Professor Michael Kenny: No. That is a very full answer.

Q17 Lord Brennan: After its first year of operation, there is to be a review of how the system should continue. What do you think? Should it be by Standing Orders or by legislation? If it is by Standing Orders, is it a point of danger in our constitutional system, whereby the right to vote on a particular issue in Parliament, which is a primary right, is determined extra-legislatively? I have an example in mind from the Lords. Supposing the Lords disagrees with the certification of a Bill as an English law that requires English votes, and/or, after an English vote gives a majority in the Commons, the Lords, through Scottish, Northern Ireland and Welsh peers, changes that law. How will all of that work?

Professor Michael Kenny: Let me answer the first question. Daniel can pursue the second, the specific follow-up on the Lords.

On the question of statute or Standing Orders, there are clearly arguments either way, but we would agree with the Government that this was probably the best way to go, primarily on the grounds that it was less likely to open up decisions by the Commons to judicial review. That seems to be broadly the balance of judgment on that. Of course, as you point out, it opens up the possibility that a future Government could decide to revoke the current orders. That goes to the question of durability, which we have talked about, and whether it is possible to put the new system on a firmer footing—a footing that is likely to last. As we understand it, there would be nothing to prevent a future Government attempting to revoke the Standing Orders. It would be open to them to do that. Of course, political considerations would kick in and could

affect the nature of that judgment, but there is nothing in the procedures themselves to prevent that happening.

That is the downside of going for a reform through Standing Orders. If the Government conduct a serious review process, address the question of legitimacy and think about how this might be made to endure and try to construct a model that is more likely to survive, they may well take the question of cross-party consensus seriously at the current moment. Do you want to move to the second question, Daniel?

Daniel Gover: Could I clarify something? The question was to do with a Bill in which a provision had been certified and that was then changed by the Lords.

Lord Brennan: The Lords may say, “This is not a proper certification. This law is wider than an English law”. It is perfectly entitled to raise that argument. I am giving you an example of where you could have potential conflict. Equally, my point was that non-English Peers could create a majority on an English law issue.

Daniel Gover: I am not sure what the complaint would be. Presumably, a provision would be taken out of a Bill in the Commons because there was an English majority that opposed that clause. Is the issue that the Lords might want to put that back in, because they felt—

Lord Brennan: It is perfectly open to a Government, for their own reasons, to certify something as an English law because it suits them politically. Others may disagree. My question is: what happens if the Lords takes a wider view?

Professor Michael Kenny: As I understand it, the Lords can certainly take that view, but it has no right to pursue that query about certification. It may pass an amendment that alters the legislation. That then comes back to the Commons, when certification happens once more. There is nothing the Lords can do that has an effect in any direct sense upon the certification process that is overseen in the Commons.

Lord Brennan: Asymmetry may be attractive through necessity. However, for Scotland, Wales and Northern Ireland to have statutory devolution and for us in England to have it by Standing Orders of the House of Commons appears to take asymmetry a long way from what one would have expected.

Professor Michael Kenny: It certainly perpetuates asymmetry. There is a bigger question there about whether asymmetry is something that could ever be resolved within the union model we have. I am reminded of various constitutional authorities who have long argued that for the union to survive, if the English want there to be a union, they will have to put up with some kind of asymmetry. Although that is right, this change—or some version of English votes for English laws—at least offers something, potentially, to the English, who have

undoubtedly become more mindful over time of what they do not have in relation to devolved Governments elsewhere. It is something. It may not be ideal. It does not address the asymmetry issue, but in the territorial constitution that we have now, given the fluidity that we mentioned earlier, it is probably the most viable option we have, if we want to try to introduce a confidence-building measure at this point in time.

The Chairman: We have just enough time for a one-sentence answer from each of you to Lord Judge's final question.

Lord Judge: What Standing Orders give, Standing Orders can take away. Is that not a very flimsy basis for this constitutional change?

Professor Michael Kenny: That is very hard to answer in one sentence.

Lord Judge: Yes or no might do.

Professor Michael Kenny: Possibly, yes. I understand the basis of the question. It is flimsy in one sense, in that Standing Orders are revocable, but it is robust in that the procedures that result from them are pretty far-reaching and that, as I said earlier, have been drafted in a way that attempts to set out a rather comprehensive system. Actually, a very unflimsy system has resulted from the reform. It does not seem to me that the flimsy nature of these reforms is the difficulty, as we start to review how the system operates.

Daniel Gover: I would add only one thing. This is one of the reasons why we have emphasised the importance of some sort of cross-party consensus. Ultimately, if this reform is to survive, it will need to be perceived as legitimate, both in popular opinion and through some sort of cross-party consensus. If it is able to get that sort of backing, it may well be that it is not flimsy—that the Standing Orders implement and rest on something much more stable. That remains to be seen.

The Chairman: Thank you very much. I am sorry that we have had to curtail it. You have given us an extremely interesting and very thoughtful 45 minutes, which will be very useful to us. If you have any further thoughts about things that we have not asked or if there are things you would like to add, please do not hesitate to update us, because your last written evidence, useful though it has been, was really for our previous inquiry. In particular, we have to consider the implications for the House of Lords. You have dealt with those very well, but there may be other things that come to mind in that context. Thank you.