HOUSE OF LORDS
Library Note

Lord Steel of Aikwood's Private Member's Bills on House of Lords Reform

This Library Note provides background information on the Private Member's Bills introduced by Lord Steel of Aikwood containing proposals to reform the membership of the House of Lords. Other Library Notes focus on broader developments surrounding reform of the House, including Government proposals for reform, most recently *Joint Committee Report on the Draft House of Lords Reform Bill: Reaction* (27 April 2012, LLN 2012/015).

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11 May 2012
LLN 2012/017

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1. Introduction

Lord Steel of Aikwood has on four occasions introduced a Private Member's Bill in the House of Lords, setting out proposals for the reform of the House: the House of Lords Bill [HL] 2006–07 received its second reading in the House of Lords on 20 July 2007; the House of Lords Bill [HL] 2007–08 reached committee stage in the House of Lords on 17 January 2008; the House of Lords Bill [HL] 2008–09 reached committee stage in the House of Lords on 19 March 2009; and the House of Lords (Amendment) Bill [HL] 2010–12 received its first reading in the House of Commons on 20 March 2012. None completed their passage through Parliament. In each of these Bills, the main provisions were substantively the same: to establish a statutory appointments commission; bring an end to hereditary Peerage by-elections; make provision for permanent leave of absence; and for the expulsion of Members in specified circumstances.

These Bills have been introduced in the context of broader developments surrounding reform of the composition of the House. The House of Lords Act 1999 removed the right of all but 92 hereditary Peers to sit in the House of Lords, and represented the first of two stages of Lords reform envisaged by the then Labour Government. The current Government has also proposed further reform of the composition of the House, with a view to moving to a largely or wholly elected, rather than appointed, House. Thus Lord Steel's Bills have been seen by many observers as potentially beneficial, relatively small-scale reforms in their own right, or as measures designed to address some of the issues surrounding the composition of the House during a 'transitional' period before a second or final stage of reform.

On 2 June 2010, the Prime Minister, David Cameron, set out the current Government's proposals:

> There will be a draft motion, by December, which the House can vote on. I have always supported a predominantly elected House of Lords, and I am delighted that agreement has been reached on the coalition programme.
>
> (HC *Hansard*, 2 June 2010, col 426)

On 17 May 2011, the Government published a white paper and draft Bill to reform the House of Lords. The *House of Lords Reform Draft Bill* contained proposals for a reformed House of 300 Members, 80 percent of whom would be elected using the single transferable vote, with the transition to the new House staggered over three electoral cycles beginning in 2015. In a statement to the House of Commons, the Deputy Prime Minister, Nick Clegg, announced that the Bill would be scrutinised by a Joint Committee, which would report in early 2012 (HC *Hansard*, 17 May 2011, col 155).

The Joint Committee on the Draft House of Lords Reform Bill published its report on 23 April 2012. The Committee recommended: on majority, that the reformed second chamber should have an electoral mandate; if the reformed House is to be elected, 80 percent of the Members should be elected and 20 percent nominated; the size of the House should be 450, and Members should serve for 15 year non-renewable terms.

This Library Note summarises the discussions on the four iterations of Lord Steel's Private Member's Bill on the subject of House of Lords reform. Sections 2 to 4 provide a brief précis of the debates held on the first three versions of the Bill, and present an overview of the main issues that were discussed. Section 5 considers the most recent version of the Bill, the House of Lords (Amendment) Bill [HL] 2010–12, and focuses on the debates of the separate clauses of the Bill. The section concludes with a summary of the changes that were made to the Bill as it progressed through the House. The final

section provides a brief introduction to the discussions at the evidence gathering sessions of the Joint Committee on the Draft House of Lords Reform Bill, which considered Lord Steel's Bill in the context of the wider debate on House of Lords reform.

2. House of Lords Bill [HL] 2006–07

On 14 March 2007, Lord Steel of Aikwood introduced his first House of Lords Bill (HL Bill 52 of 2006–07) in the House of Lords. On the same day, Peers voted on the options for the composition of a reformed House of Lords which had been proposed in the Government's white paper, *House of Lords: Reform* (HL *Hansard*, cols 741–59). The House voted in favour of a fully appointed House.

Lord Steel's Bill would have established a statutory appointments commission, restricted membership by virtue of a hereditary Peerage, made provision for permanent leave of absence from the House and provided for the expulsion of Peers in specified circumstances.

The Bill received its second reading in the House of Lords on 20 July 2007 (HL *Hansard*, cols 483–542). Introducing the Bill, Lord Steel explained it was the product of "a lot of work by an all-party group that has been greatly concerned that the years of debate about long-term reform are obscuring the need for what we call effective, immediate reform" (ibid, col 483). He argued this was an opportunity for consensus on a limited range of reforms, and had the potential to unite all three parties in both Houses. He stated the purpose of introducing the Bill at this stage was to "listen to the voices in this debate and reintroduce the Bill, possibly with amendments in light of the comments today, early in the new session" (ibid, col 486).

During the debate, Lord McNally, the Liberal Democrat spokesman for Constitutional Affairs, acknowledged the Bill had considerable merits, and argued there was a need for the House to "move on from working out how to delay reform to working out how it can be facilitated". However, he argued there should be wider consultation about reform, and suggested one of the best ways would be for the Government to bring forward a draft Bill which could be considered by a joint committee.

Lord Strathclyde, the Leader of the Opposition, welcomed the Bill and the debate it had generated. However, he argued the Bill did not represent "stage 2" in the reform of the House of Lords and stated:

> I would be failing in my duty to those Peers who voted for and accepted their own removal in 1999 if I did not remind the House, if it needed reminding, that the undertakings given in 1999, remain, in the words of the noble and learned Lord, Lord Irvine of Lairg, "binding in honour" on all.
>
> (ibid, col 531)

He argued that the Bill left "uncovered substances of great issue—powers, role, conventions, pay and retirement provisions among others", and therefore it was "still work in progress, not stage 2". He also questioned the need for haste and suggested that any proposals for change should be introduced to the House of Commons first.

The Parliamentary Under-Secretary of State, Ministry of Justice, Lord Hunt of Kings Heath, responding for the Government, confirmed that the Bill did not contain the comprehensive reform which they sought:

> I know that it has been suggested in the past, as the Government have themselves proposed, that a gradual approach to Lords reform might be the best way forward. However, life has moved on. We have now had a very clear steer from the elected Chamber of this Parliament; namely that it thought that the right answer to Lords reform was for the House to be substantially or wholly elected.
>
> (ibid, col 534)

In answer to the concerns expressed during the debate over the timing for major reform, and the calls from some Members that it would be best to agree interim measures before major reform took place, he stated:

> We have the prospect of agreement between the parties on the way forward. Many noble Lords here are connoisseurs of the history of reform of your Lordships' House. Surely the prospect of that party agreement, in the mechanism that we have made clear to your Lordships' House, is how we will take it forward. Surely that suggests that we must put our efforts into completing Lords reform and ensuring that it takes place as part of a comprehensive approach.
>
> (ibid, col 535)

3. House of Lords Bill [HL] 2007–08

Lord Steel reintroduced the House of Lords Bill (HL Bill 3 of 2007–08) to the House of Lords on 7 November 2007, and it received a second reading on 30 November 2007 (HL *Hansard*, cols 1415–84). In his motion for the Bill to be read a second time, Lord Steel stated that the Bill was broadly the same, and the changes that had been made were a result of the debate at second reading of the first Bill (ibid, col 1415).

He briefly set out the four main purposes of the Bill, which he believed would provide "effective and immediate reform": Part 1 would establish a statutory appointments commission, which he asserted all the political parties agreed "is long overdue"; Part 2 would bring an end to hereditary by-elections which were never intended to be "long-lasting"; Part 3 provided for a permanent leave of absence and retirement, in order to reduce the size of the House and the average age of its Members; and Part 4 was designed to bring the House of Lords into line with the rules of the House of Commons by stipulating that anyone sentenced to twelve months imprisonment "should no longer sit as a legislator in the UK Parliament" (ibid, cols 1416–18).

Lord Steel argued the Bill was not intended to address the issue of whether the House should be fully appointed, elected or a hybrid of the two:

> We now know for certain that the future proposals for an elected or partly elected House cannot come about until after the next election, which will not be until at least 2010. We are looking at fundamental changes to this place perhaps by 2012, or perhaps by 2014—we do not really know. There is plenty of time for a debate in future about an elected or an appointed House, but that is not a debate for today; the Bill is not about that argument.
>
> (ibid, col 1418)

He asserted, however, the reforms set out in the Bill could not wait until after the next general election:

> I do not believe that the issues that we are placing before the House in this Bill can wait that long. Perhaps I may paraphrase what the noble Lord, Lord Norton of Louth, said in our previous debate. There are those in this House who regard the measures in this Bill as necessary and entirely sufficient and there are others who regard the proposals as necessary but wholly insufficient. The point on which we should all agree is that they are necessary.
>
> (ibid, col 1419)

Baroness Boothroyd welcomed the Bill, commending it as a "realistic reform of this Chamber" (ibid, col 1430), and the Earl of Sandwich believed the Bill was a "means of helping the Government towards a second stage solution during their lifetime" (ibid, col 1446). However, Lord Richard criticised the timing of the Bill and branded it as "grossly premature" (ibid, col 1426) and Lord Strathclyde cautioned against "sending a half-built ship—indeed, any ship—down that Corridor" (ibid, col 1473).

Lord Trefgarne reiterated the argument that the clauses which would end the by-elections of hereditary Peers conflicted with the undertakings given by Lord Irvine of Lairg in 1999, then Lord Chancellor, that the 92 elected hereditary Peers would remain until the second and final stage of reform. He maintained the undertakings were binding on the Labour Government and "by no stretch of the imagination does this Bill meet that requirement" (ibid, col 1436).

Lord Hunt of Kings Heath, responding for the Government, repeated that the Government's efforts were "focused on comprehensive reform" (ibid, col 1480) and their intention was to continue with the work of the cross-party working group, consisting of people appointed by the leadership of the three main parties, which would "inform the basis of a white paper to be produced by the Government in the New Year" (ibid, col 1481).

The first day of committee was held on 17 January 2008 (HL *Hansard*, cols 1500–44). The first amendment was tabled by the Earl of Caithness. This would have renamed the Chamber the Senate, and renamed its Members Senators. He recommended that a distinction and split should be made between a Peerage and the right to sit in the second Chamber. He argued if this was done, a new name would be required for the House (ibid, cols 1501–2).

In reply to the amendment Lord Steel warned:

> If the Bill is to have any chance of succeeding we have to restrict ourselves to the subjects of the Bill. If we go wider, frankly, the Bill is dead in the water. It will not go anywhere.
>
> (ibid, col 1526)

When the committee adjourned, amendments one, two and three had been moved, all of which dealt with the re-naming of a reformed second Chamber. The Bill did not progress further.

4. House of Lords Bill [HL] 2008–09

Lord Steel's House of Lords Bill (HL Bill 4 of 2008–09) was introduced a third time in the House of Lords on 4 December 2008. It received a second reading on 27 February 2009 (HL *Hansard*, cols 431–96). Moving that the Bill be read a second time, Lord Steel stated that it may "surprise the House to know" it was also his view that "this was not a suitable subject for a Private Member's Bill" (ibid, col 431).

Outlining his reasons for reintroducing the Bill he said:

> It is intended as a spur to the Government, in the hope that they will take over these measures and proceed with them.
>
> (ibid, col 431)

Lord Steel explained the Bill was the same as those discussed in previous sessions, with the exception of clause 12, which allowed for the reduction of the size of the House by removing those Members, except in certain circumstances, who never attended the House.

Baroness D'Souza, Convenor of the Crossbenchers, welcomed the reintroduction of the Bill, arguing "something must be done to prevent the House of Lords becoming a large, untidy, and unnecessarily expensive body", and "what we have is a ready-made solution in the Bill" (ibid, cols 438–9). Lord Jay of Ewelme, Chair of the House of Lords Appointments Commission, shared the view of Lord Steel "that such reforms could prepare the way for more substantial reform later" (ibid, col 446). Lord McNally also welcomed the Bill, declaring "I change my mind as the circumstances change. The challenge of what the noble Lord, Lord Howarth, described as the reputational crisis facing this House dictates that we can no longer play this long" (ibid, col 480). However, Viscount Astor insisted that, as an elected hereditary Peer, he remain in the House of Lords "due to an undertaking given by this Government to ensure that second-stage reform comes about. I am also here to ensure that when it does, the role and power of the second Chamber, whether elected or appointed, is not diminished" (ibid, col 455).

Lord Strathclyde acknowledged the support the Bill enjoyed, but again argued that proposals for the future of the House of Lords should not take the form of a Private Member's Bill. Lord Hunt of Kings Heath reiterated that the Government were "committed to substantial reform" (ibid, col 486), and that legislating on issues such as a statutory appointments commission or repealing the hereditary by-elections would be inconsistent with the "Government's intent to legislate for fundamental reform" (ibid, col 491). However, he stated the measures relating to the conduct and discipline of Members were of "cardinal importance" and hoped there was "support for the proposition that conduct and discipline questions need swift action" (ibid).

The first day of committee was held on 19 March 2009 (HL *Hansard*, cols 405–40). The debate was dominated by discussions over the composition of the House. Lord Steel tabled amendment A1, inserting a new clause designed to set out the purpose of the Bill. The intention behind the amendment was to provide a "perfectly open and transparent device" for the House to "come to a specific view on whether it wants to see these measures brought into effect" (ibid, col 407). He argued that if the committee agreed the

amendment it would:

> ... be a clear signal to the Government either to take over the Bill and thereby introduce the four measures into the legislative programme or to introduce them into the Constitutional Renewal Bill, which we expect in the next few weeks.
>
> (ibid)

In response to Lord Steel's amendment, Lord Selsdon tabled amendment A1A, which would have inserted an additional subsection at the end of Lord Steel's new purpose clause: subsection (e) "to create an all-appointed House". Lord Selsdon stated his reasons for tabling the amendment:

> Under the 1999 Act there is a register of people who can stand for elections should one come. I suggest in amendment 40, to which I will not speak now, that all 175 on the register should be placed before the Appointments Commission. You cannot exclude them totally just because they are hereditary. My amendment would, in part, determine the view of the House and also create the correct position. If we place the list of Peers who wish to stand before the Appointments Commission, that effectively removes the election. They would be appointed.
>
> (ibid, cols 410–11)

Responding to both amendments, Lord Strathclyde stressed:

> There will not be a single elected Peer. Nowhere in the House will there be an elected Peer, and that is what the Bill is about. That, in essence, is its purpose.
>
> (ibid, col 414)

Both Lord Higgins and Lord Norton of Louth disagreed that voting on the amendment would indicate how an individual Member stood on the issue of an elected or appointed House, with Lord Norton stating "that is a debate for another day" (ibid, col 415).

Amendment A1A was withdrawn and only one more amendment, Lord Strathclyde's amendment A1B was moved before the House was adjourned. Amendment A1B would have inserted at the end of amendment A1 a provision for the appointment of Members to the House of Lords to be placed "in the hands of a commission of nine people meeting in secret". This amendment was also withdrawn after debate, and Amendment A1 was agreed to before the House adjourned.

During the debate, Lord Strathclyde also suggested a timetable for reform:

> There has to be an election in twelve months. We know the end game of this. After the next election, there will be a brand new House of Commons with 100 or 150 new Members of Parliament, almost whichever party wins. A Bill should be proposed in the House of Commons. The single most important outstanding issue, which is the electoral system, can be resolved only in the other place. If the Labour Party and the Conservative Party believe in first past the post, which I do, and I think most people in the Labour Party do as well, then that is the kind of Senate that we would have. The Bill would then come to the House of Lords just over a year from now to be debated. It would take a long time and, although I would regret it very deeply, the Government might have to resort to a Parliament Act and therefore, before the centenary of the 1911 Parliament Act, we would have a statute for a 21st-century directly elected senate.

> To those who make the charge that there can be no progress, I say that there can be, and I challenge the Government to accept my timetable, and they will find that the Conservative Party is very co-operative in helping to make it so.
>
> (ibid, cols 416–17)

5. House of Lords Reform Bill [HL] 2010–12

The Constitutional Reform and Governance Bill 2009–10 (HC Bill 4 of 2009–10), which was introduced in the House of Commons in July 2009, contained provisions to end the by-elections for hereditary Peers and to allow for the suspension, resignation and expulsion of Members of the House of Lords. However, these provisions were excluded from the final version of the Bill, which received Royal Assent on 8 April 2010. Lord Steel said, during the Bill's committee stage in the House of Lords on 7 April 2010, that if these provisions were not brought back to Parliament after the general election, he would reintroduce his Private Member's Bill (HL *Hansard*, col 1628).

On 26 May 2010, Lord Steel introduced the House of Lords Reform Bill (HL Bill 8 of 2010–12), and on 3 December 2010 it received a second reading (HL *Hansard*, cols 1688–742). It was considered in one sitting at committee stage on 21 October 2011 (HL *Hansard*, cols 460–534), subject to a one day report stage on 10 February 2012 (HL *Hansard*, cols 521–44) and completed its passage through the House of Lords with its third reading on 1 March 2012 (HL *Hansard*, cols 1542–48).

During the 2010–12 parliamentary session, the new Government also set out their proposals for House of Lords reform. Following the statement from the Prime Minister, David Cameron, in June 2010, announcing that the Government would introduce a draft motion on the subject of Lords reform (HC *Hansard*, 2 June 2010, col 426), the Government published their draft Bill on 17 May 2011.The *House of Lords Reform Draft Bill* was subsequently debated in the House of Lords on 21 and 22 June 2011 (HL *Hansard*, cols 1155–74, 1184–250 and 1314–80) and was considered by a Joint Committee, composed of 13 Peers and 13 Members of the House of Commons, which reported on 23 April 2012.

Opening the debate at the second reading of the House of Lords Reform Bill, Lord Steel explained his reasons for reintroducing his Private Member's Bill for the "umpteenth time":

> I was prevailed on by Members in all parts of the House to proceed with my Bill on the basis that we are getting a little impatient, and that even if the coalition Government's proposals in draft form were to proceed smoothly and to timetable, the earliest moment at which the House could begin to enact them would be late in 2012. In the meantime, Members are increasingly concerned that the House goes unreformed.
>
> It is important that we relay to Members in the other place that, contrary to the conventional wisdom, we are not sticks-in-the-mud who are saying that this House is perfect. We are willing to embrace sensible reforms and we are anxious to proceed with them.
>
> (HL *Hansard*, 3 December 2010, col 1689)

Lord Hennessy of Nympsfield described the Bill as a means of "effecting organic reforms as an alternative surgery" (ibid, col 1708). Lord Trefgarne, however, reiterated his belief that backbench legislation was not the way to introduce major reform.

Baroness Verma, replying for the Government, recognised that Lord Steel's Bill put forward measures that overlapped with Government proposals, which she argued "demonstrate a sense of shared purpose" (ibid, col 1736). She explained, however, that the Government were obliged to express reservations about the Bill:

> There remain many fundamental decisions yet to be made by the cross-party committee, including whether an appointments commission will be needed, whether it should be statutory, and what its role and functions would be. The Government therefore consider that it would be an ineffective use of parliamentary time to take these provisions forward at this time.
>
> (ibid, col 1737)

Lord Steel summarised the Bill's provisions as follows:

- The first section sought to establish a statutory appointments commission.
- The second section would bring to an end the by-elections for hereditary Peers.
- The third section dealt with the "vexed question" of whether they should provide for leave of absence or remove those Members who never attend.
- The fourth section was intended to bring the House of Lords in line with the House of Commons, by removing those convicted of offences that carry a sentence of more than one year.

(ibid, cols 1689–91)

5.1 Appointments Commission

At the Bill's second reading, Lord Steel emphasised that the purpose of the Bill was not to consider the future composition of the House or to provoke debate on whether it should be a fully or largely elected House (HL *Hansard*, 3 December 2010, cols 1689–90). He argued Part 1, which set out his proposals for reforming the Appointments Commission, was included in the Bill because a commission would still be necessary, even if the House were to become a mainly elected House:

> I still believe that if we move in future to a mainly elected House, a statutory appointments commission will still be required. In the mean time, it will be required until we get to that point. Therefore, my Bill sets out both the composition of the commission, the principles under which it operates, and in particular the important one that the Government of the day, whether they be a single party or a coalition, should not have a majority in this place. That would set it in statute for the first time.
>
> (ibid)

The Bill proposed that the Commission should consist of nine Members, jointly appointed by the Speaker of the House of Commons and the Lord Speaker of the House of Lords.

In determining how many new Peers could be appointed each year, the provisions stipulated that: not less than 20 percent of the Members of the House of Lords should be independent of any political party; no one party, nor a coalition of parties forming a Government should have a majority of Members in the House of Lords; and the Government of the day (or the largest party in a coalition Government) should be entitled to have a larger number of Members than the official Opposition, but that majority should normally be no greater than 3 percent of the total membership of the House of Lords.

Baroness Verma, responding for the Government, stated that while the Government recognised there were strong arguments for putting the Appointments Commission on a statutory footing, the Government were compelled to take into account when considering these provisions that they would apply to a fully appointed House, and would establish the system of appointments more firmly in legislation (ibid, col 1736). She outlined why the Government felt it would not be favourable at that time:

> There are several important considerations that the Government are compelled to take into account when considering the provisions in the Bill for a statutory appointments commission that would apply to a fully appointed House. Moreover, the provisions would establish the system of appointments more firmly in legislation. Let me remind noble Lords that reform of this House is a priority, but an appointments commission designed for a fully appointed House may have a useful life of only a few years.
>
> (ibid)

At the committee stage of the Bill, Lord Steel opened the debate with a motion that the committee consider clauses 10 to 20 of the Bill before clauses 1 to 9, ie Part 1, the Appointments Commission (HL *Hansard*, 21 October 2011, col 451). He explained that the intention was to withdraw Part 1:

> There are two reasons for doing so—one of principle and one of practicality. The one of principle is simply this: that I would like to attract as supporters of the Bill both those who think that the Bill is necessary and sufficient and, to quote my noble friend Lord Norton, those who think it is necessary but wholly insufficient. We will in due course get to a point where the House has to choose, in the Government's own paper, between an 80 percent elected House and a 100 percent elected House. The position on this side of the House is that we, the Liberal Democrats, support 100 percent and the Conservative Party supports 80 percent. If that view were to prevail, then of course the provisions for a statutory appointments commission are already in draft in the Government's own Bill and, in the mean time, we can retain our confidence in the non-statutory Appointments Commission under the noble Lord, Lord Jay. That is the point of principle.
>
> The point of practicality is that one can see on the Order Paper that, of the 160 amendments the Bill has attracted, three-quarters of them are to the section of the Bill on the Appointments Commission. I submit that we would be wasting our time on a Friday debating endless amendments to a part of the Bill that we do not propose to proceed with.
>
> (ibid)

Opposition to this move was expressed: Lord Hughes of Woodside felt it was a mistake because the issue still needed to be debated (ibid, col 452), and Lord Trefgarne was concerned at how it would affect the rest of the Bill (ibid). However, both Baroness Royall

of Blaisdon, Shadow Leader of the House of Lords, and Lord Cormack commended Lord Steel for listening to the concerns of his colleagues and for producing something that was more acceptable to the House, so that discussion on this matter would not impede the progress of the Bill (ibid, cols 456–7).

Towards the end of the debate, after some discussion, Lord Trefgarne suggested that to allow the Bill to complete its committee stage and go to report, the clauses concerning the Appointments Commission should remain and the amendments to this part of the Bill should not be not moved, but should be debated at report. This was agreed to by Lord Steel and the proceedings continued accordingly (ibid, cols 532–3).

Nevertheless, at report, Lord Steel reiterated his desire to remove this part of the Bill explaining that "since the Bill was given its second reading a long time ago, the Government have come forward with their own plan for a statutory appointments commission in the course of their promised Bill, which will come to us in the next session" (HL *Hansard*, 10 February 2012, col 522). He argued it would be a "waste of time to attempt in a Private Member's Bill to do what the Government are planning to do anyway in a very different way later on" (ibid). He moved that Part 1 of the Bill be considered at the end so that "we can take these clauses out of the Bill one by one".

The clauses were removed at the end of report stage.

5.2 Exclusion of Hereditary Peers

At second reading, Lord Steel explained Part 2 of the Bill, on the exclusion of hereditary Peers, was designed to end the hereditary by-elections, because he believed they had only been intended to be a temporary measure that was to last for a few years, and they had in fact "lasted for nearly a decade and a half" (HL *Hansard*, 3 December 2010, col 1690). Lord Rennard supported the provisions, arguing the elections were a "farcical process" and their removal would make the House subject to less ridicule (ibid, col 1696).

However, other Members argued the agreement made in 1999, that the 92 hereditary Peers would remain until reform of the House of Lords was complete, and the undertakings given by the Lord Chancellor and frontbench of the time, had been made in order to secure the passage of the 1999 Act without the need to use the Parliament Acts.

The definition of "stage 2" of reform for the House of Lords was debated at both second reading and committee stage. The Earl of Erroll argued the hereditary Peers had remained in the House as an incentive for change, and if the incentive was removed, "steadily and slowly the whole House will become under the control of unaccountable people" (ibid, col 1714). Lord Trefgarne argued at committee stage that "this Bill is by no means full reform", particularly if the clauses relating to the Appointments Commission were removed as proposed (HL *Hansard*, 21 October 2011, col 460). The Earl of Caithness maintained "this will certainly not be a Bill to reform the House of Lords. That goes quite against the 1999 agreement. We agreed to that important principle—with hindsight, some of us against our better judgment; I should not have agreed; I should have continued to fight the cause of a proper reform of the House of Lords" (ibid, col 462).

Also debated at committee stage was the extent the current frontbench and Members of the Privy Council were bound by the undertakings made in 1999. The Earl of Errol stated:

> The agreement or promise was not made by the noble Viscount, Lord Cranborne; it was a commitment made from the Front Bench by the then Lord Chancellor, the noble and learned Lord, Lord Irvine of Lairg. I remember his words. He said that his promise would be binding in honour on all the Privy Council. Therefore, as far as I am concerned, all Privy Counsellors present, including the noble Lord, Lord Steel, should be bound by the oath and promise given from the Front Bench.
>
> (ibid, col 467)

Lord True agreed and explained that while he could not speak for others, he had been part of the discussions held at the time and considered the agreement binding in honour. Nevertheless, Baroness Royall stated:

> ... Clause 10 is not about the abolition of hereditary Peers today, tomorrow or whenever the Bill may be accepted. We are talking about a very gradual diminution in the number of hereditary Peers. Therefore, as a Privy Counsellor, I do not feel that I have any conflict of interest in voting for Clause 10.
>
> (ibid, col 468)

Lord Wallace of Saltaire, commenting on behalf of the Government, stated:

> The Government are not in favour of undertaking piecemeal reform. We are moving with all deliberate speed towards second stage reform. I am sure that all Members of this House have read the Draft House of Lords Reform Bill. I have now read the transcript of the first two meetings of the Joint Committee considering it. As noble Lords know, we are proposing a wholly or mainly elected reformed second Chamber, which will of course end hereditary membership, allowing for hereditaries to stand for election or to put themselves forward for appointment.
>
> (ibid, col 473)

At committee stage, the House divided on whether clause 10 should stand part of the Bill and it was agreed to by 142 to 18 (ibid, col 475). However, opening the debate at report stage, Lord Steel announced that he had come to an agreement with other Members of the House and that he would move for clause 10 to be removed:

> I have not changed my view that the hereditary by-elections, particularly in the Labour Party and the Liberal Democrats, are really quite farcical. In the 21st century to have elections to Parliament by heredity by three votes to one is simply absurd. On the other hand, other Members of the House feel strongly about the principle that undertakings were given back in 1999 that the numbers would continue to be topped up until major reforms were made. That has been the issue between us and what has caused the sudden appearance of some 300 amendments, which is a perfectly legitimate parliamentary tactic in order to scupper the Bill. However, there have been congenial discussions between us and we have agreed that, provided I take clause 10 out of the Bill, these amendments will not be moved.
>
> (HL *Hansard*, 10 February 2012, col 523)

The clause was removed at the beginning of the report stage (ibid, col 526).

5.3 Permanent Leave of Absence

At second reading, Lord Steel explained the purpose of Part 3 of the Bill, on permanent leave of absence, was to provide "for the first time the capacity for Members to leave this place with dignity and honour" (HL *Hansard*, 3 December 2010, col 1691).

The Bill set out provisions to allow Members to apply for permanent leave of absence, which would be the equivalent to retiring from the House of Lords, and Members who did not attend the House of Lords during a parliamentary session that exceeded three months, would be deemed to have taken permanent leave of absence.

A series of amendments was tabled during the progress of the Bill concerned with defining what constituted reasonable absence, and a number were tabled in order to create exemptions for certain professions in the public service.

At committee stage Viscount Astor tabled amendment 124 to change the wording of subsection 2 of clause 12, by replacing the word "sufficient" with the word "reasonable" (HL *Hansard*, 21 October 2011, col 484). This clause related to the provision which set out that the House, by Standing Order, could exempt a Member from the provisions stipulated in subsection 1 of clause 12: permanent leave of absence by failure to attend the House. Viscount Astor felt that by using the word "reasonable" it would allow for Members who were appointed as an ambassador or high commissioner abroad to be exempt (ibid). Viscount Astor also moved at report stage amendment 234, which stipulated that non-attendance in a parliamentary session should exceed six months rather than three, before a Member would be deemed to have taken permanent leave of absence (HL *Hansard*, 10 February 2012, col 527). Clause 12 was amended further at report stage by Lord Trefgarne, who moved amendment 237, allowing for Members serving in the army to be exempt (ibid, col 528) and at third reading he moved that those who work for the diplomatic service should also be exempt (HL *Hansard*, 1 March 2012, col 1543).

At committee stage Lord Trefgarne and the Earl of Caithness tabled amendment 128 which would have inserted a retirement clause in to the Bill, and would have introduced a retirement age of 75 (HL *Hansard*, 21 October 2011, col 485). On moving the amendment, the Earl of Caithness expressed doubts that the current retirement system would encourage people to leave the House and that the proposals in the Bill would work. Explaining the intention of the amendment he stated:

> The average age of this House is 69 according to the noble Lord, Lord Tyler. I do not know of any other institution or corporate body where the average age is 69. I have now been here for 40 years, and I am still below the average age of the House. To me, that is an absolute nonsense. It has worked very well, I have enjoyed it and I am extremely grateful. However, in 2011, it is not a terribly good way. If the average age of the House is 69, it should be made younger.
>
> My noble friend Lord Trefgarne and I have therefore tabled the amendment. It refers to the 75th birthday; I am open to arguments for 70 or even perhaps 80. But we should at least have this debate, which is really important because it will reduce the size of the House which has been a cause of concern to so many people.
>
> (ibid, col 486)

Lord Steel supported the intent of the amendment, but argued it was not for the committee stage of this Bill to prescribe a retirement age, and suggested it should be left to the Government (ibid). Lord Wallace of Saltaire, also commenting on the amendment, reminded the House that under Government proposals Members of the House would only serve for a term, thus resolving the question of an age limit (ibid, col 491). The Earl of Caithness withdrew the amendment (ibid, col 494).

During the debate at report stage, Lord Steel argued that the "retirement section" was the most important part of the Bill:

> The point of passing today the statutory provision is that we could possibly then see, in short order, the number of Members of the House being reduced to below that of Members of the House of Commons; in other words, from some 800 who will shortly receive the Writ of Summons for the new session down to below 650. That would be very desirable and is, as I say, the most important part of the Bill.
>
> (HL *Hansard*, 10 February 2012, col 523)

5.4 Conviction of Serious Criminal Offence

At second reading, Lord Steel stated the purpose of Part 4, on conviction of serious criminal offence, was to "bring the House of Lords into line with the other place, by removing those convicted of offences that carry a sentence of more than one year in prison" (HL *Hansard*, 3 December 2010, col 1691).

At committee stage, the Earl of Caithness, a former Minster for Prisons, tabled amendment 130 modifying clause 15: to extend the length of a prison sentence by which if convicted a Member would be automatically expelled, from one to five years (HL *Hansard*, 21 October 2011, col 495). Explaining the amendment, the Earl of Caithness queried whether "more than a year" was "too short a timescale and would catch too many trivial offences". Lord Steel explained that his rationale for choosing the length of sentence was that "it has long been the practice in the elected House that anyone sentenced to a year's imprisonment is automatically expelled" (ibid, col 496).

While debating amendment 130, concerns were also expressed that this clause of the Bill failed to make provision for rehabilitation. The Earl of Caithness described the clause as going "against the principles of British justice" and suggested there may be a certain benefit from permitting Members of the House who have been convicted and sentenced to prison to return for their insight and experience (ibid). Viscount Astor also expressed the view that "such noble Lords might, in some circumstances, be able to come back and rehabilitate themselves" (ibid, col 497). Viscount Astor also highlighted "the difference for the House of Commons is that you have to be re-elected, but if you go to prison you do not lose your title—you are stuck with it, I am afraid. Such noble Lords should be given a chance" (ibid).

However, Baroness Royall of Blaisdon, responding to these concerns, argued that while she believed in rehabilitation, "we must bear in mind that we are legislators and make laws" and she thought it "absolutely right that we bring our own procedures into line with the House of Commons" (ibid, col 497). Lord Wallace of Saltaire also agreed and highlighted that the Government had made similar proposals in their Draft House of Lords Reform Bill (ibid). Lord Norton of Louth also suggested that the "clause does not prevent rehabilitation because it would be open for somebody who had been expelled from the House to be considered for a life Peerage in the event of them doing good work and rehabilitating themselves" (ibid, col 500).

The amendment was withdrawn and although the issue was debated further at the later stages of the Bill, Lord Steel reiterated his belief that the House of Lords should be brought into line with the House of Commons and the clause remained in the Bill when it passed to the Commons, stipulating that those convicted of offences that carry a sentence of more than one year in prison would be removed.

Another concern raised at committee stage, by Lords Trefgarne, Northbrook and Swinfen, was that clause 15 did not make provision for Members whose sentences had been appealed or reduced, or for Members who had been detained abroad on a potentially "trumped up offence" (ibid, col 498). Following these discussions, and a further debate at report stage, Lord Steel tabled amendment 7 at the Bill's third reading, which "made clear that sentences imposed outside the United Kingdom did not result in automatic expulsion from the House" (HL *Hansard*, 1 March 2012, col 1544).

A debate concerning the refusal or failure to repay wrongfully claimed expenses was initiated at report stage by Lord True, who moved amendment 292 (HL *Hansard*, 10 February 2012, col 532). The amendment stipulated that those who had been found to have made fraudulent claims and ordered to repay the money within a year and did not do so, would be removed from the House. He explained that his intention behind tabling the amendment was to hear if the Government had considered it and acknowledged that it was not a matter for inclusion in Lord Steel's Bill (ibid, cols 532–3). Lord Steel expressed his sympathy for the amendment, but agreed it should be discussed at a later date (ibid, col 533) and Lord Wallace of Saltaire, speaking for the Government, also advocated that the amendment be withdrawn, explaining "I think a number of us may wish to look at this particularly complex additional matter" (ibid, col 534). Lord Steel raised the matter again at the Bill's third reading, with amendment 8, arguing that the purpose of the amendment was to bring the House in line with the House of Commons (HL *Hansard*, 1 March 2012, col 1544). Although a number of Members agreed with the principle of the amendment, it was suggested the issue required further debate, and therefore the House should wait for another legislative opportunity. The amendment was disagreed to (ibid, 1546).

5.5 House of Lords (Amendment) Bill (HL Bill 127 of 2010–12)

Towards the end of the debate at report stage, a degree of consensus emerged that the Bill should be kept short and simple, and the House should seek to resolve any remaining difficulties quickly, so the Bill could be passed to the House of Commons before the end of the parliamentary session. Baroness Butler-Sloss asserted "if the Bill is kept simple and anything that has the potential to be contentious in the other House is removed, we have a good chance of getting our own House in order" (HL *Hansard*, 10 February 2012, col 538) and Lord Grocott argued that if the House could progress with the Bill at a suitable speed, it would "demonstrate to the Commons, at least, and I hope to a wider audience, that on key issues that need reform we have reformed ourselves" (ibid, col 534).

At the end of report stage, the Short and Long Title of the Bill were changed to bring it in line with its reduced content: removal of the clauses that dealt with the Appointments Commission and the hereditary Peerage by-elections. In moving that the Short Title be changed to the House of Lords (Amendment) Bill, Lord Steel explained:

> Having pared the Bill down to just two succinct issues—retirement and expulsion—I think it is rather grandiose to describe it as a House of Lords Reform Bill.
>
> (ibid, col 539)

Closing the debate at the Bill's third reading, Lord Steel summarised the evolution of the Bill as it had passed through the House, and gave a précis of the remaining provisions of the Bill that were being sent to the House of Commons:

> Believe it or not, the Bill first saw the light of day in March 2007. It has been five years in gestation. Two major issues have been dropped from it: one was turning the Appointments Commission into a statutory body; the other was the ending of hereditary by-elections. I have no doubt that we will return to those two issues when we get the report from the committee of the noble Lord, Lord Richard, and the subsequent legislation.
>
> We are left with two issues in the Bill. One is to benefit the reputation of this House and bring it into line with the other House in dealing with offenders; the other—and, in my view, more important—is the retirement provision which would, for the first time, enable us, if the House authorities move quickly, to get the numbers in this House down from about 800 to below the level of the House of Commons at 650, something which is greatly to be desired.
>
> (HL *Hansard*, 1 March 2012, col 1547)

He called for the House of Commons to give the Bill "a fair wind", arguing:

> It is very important that, when the Bill goes to the House of Commons, the Government move forward quickly with those plans, because they are both intended to improve our internal workings in the House.
>
> (ibid, col 1547)

The House of Lords (Amendment) Bill 2010–12 received its first reading in the House of Commons on 20 March 2012. It did not progress further.

6. Evidence Presented to the Joint Committee

The question of whether incremental reform would be more beneficial or practicable than large scale, comprehensive reform was also discussed during the oral evidence sessions for the Joint Committee on the Draft House of Lords Reform Bill. Lord Steel of Aikwood's most recent Private Member's Bill was mentioned in these discussions. Giving evidence on 31 October 2011, Meg Russell, from the Constitution Unit at UCL, presented her views on this matter:

> Reforms that have happened in this country in the last 100 years are small, piecemeal reforms that have dealt with the most obvious, urgent questions on which the broadest consensus can be gathered. There are good reasons for proceeding in a gradualist fashion.
>
> ... My advice would be to proceed in small steps, one at a time, and stop and look at the effects of each reform as it happens.
>
> (Joint Committee on the Draft House of Lords Reform Bill, Oral Evidence, 31 October 2011, HC 1313-iv of session 2010–12, pp 19–20)

In reference to Lord Steel's Bill, she stated that her "immediate proposals would be slightly different" (ibid, p 21).

However, giving evidence to the Joint Committee on 10 October 2011, Mark Harper, Minister for Political and Constitutional Reform, argued that given the current Government proposal to bring forward legislation "to do wholesale reform of the Lords in the context of a mainly or wholly elected House, spending a lot of time in the existing session on Lord Steel's Bill in the context of a fully appointed House does not make a great deal of sense". He also asserted the suggestion that this "Bill would somehow be an uncontroversial proposition—one that would get through the House of Lords and the House of Commons without any trouble at all—I do not think that that holds water, given its subject matter" (Joint Committee on the Draft House of Lords Reform Bill, Oral Evidence, 10 October 2011, HC 1313-I of session 2010–12, pp 52–3).

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