HOUSE OF LORDS

# Library Note

## House of Lords Reform (No 2) Bill (HL Bill 92 of 2013–14)

The House of Lords Reform (No 2) Bill is a private member's bill, which was introduced into the House of Commons on 19 June 2013. The Bill makes provision for retirement from the House of Lords, and for the expulsion of Members of the House of Lords in specified circumstances.

This Note provides background reading on the Bill, which is due to have its second reading in the House of Lords on 28 March 2014. It outlines the key provisions of the Bill, and provides a brief overview of the recent debates and proposals on reforming the House of Lords. It then provides a short summary of the proceedings at second reading and committee stage in the House of Commons, and examines the debate at report stage in further detail, focussing on a selection of the amendments which were debated. Finally, it provides a brief summary of the debate at third reading.

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7 March 2014
LLN 2014/009

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# 1. Introduction

The House of Lords Reform (No 2) Bill (HL Bill 92 of session 2013–14) is a private member's bill which was introduced into the House of Commons on 19 June 2013 by Dan Byles (Conservative MP for North Warwickshire). It had its second reading in the House of Commons on 18 October 2013, and was considered by a public bill committee on 15 January 2014. The Bill completed its remaining stages on 28 February. It was introduced into the House of Lords on 3 March 2014, and is scheduled to receive its second reading on 28 March 2014. Lord Steel of Aikwood (Liberal Democrat) will sponsor the Bill in the House of Lords.

This Note is intended to provide background information in advance of the Bill's second reading in the House of Lords. Section 2 outlines the Bill's provisions. Section 3 provides a brief overview of the recent debates and proposals on reforming the House of Lords. Section 4 provides a summary of proceedings at second reading, and section 5 gives brief details of amendments made at committee stage in the House of Commons (further information can be found in the House of Commons Library Standard Note, *House of Lords Reform (No 2) Bill 2013–14*, 24 February 2014, SN6832). Section 6 then examines the debate at report stage in the House of Commons in further detail, focussing on a selection of the amendments which were debated and accepted. Finally, section 7 provides a brief summary of the debate at third reading.

# 2. Key Provisions

The House of Lords Reform (No 2) Bill, as introduced to the House of Lords, consists of seven clauses:

- Clause 1 would make provision for a Member of the House of Lords to retire or resign. The Member would have to give notice in writing to the Clerk of Parliaments, in which they would have to specify the date from which the resignation would take effect, and would have to be signed and witnessed. Resignation could not be rescinded.
- Clause 2 contains measures which would provide that a Member who did not attend the House during a session which lasted at least six months, and who had not been granted leave of absence, would cease to be a Member of the House of Lords. However, a Member who was disqualified from sitting or voting, such as a Member of the European Parliament, could continue as a Member. The clause also contains measures which would allow the House to take into account special circumstances.
- Clause 3 would make provision for Members of the House of Lords that had been convicted of a serious offence, and sentenced or ordered to be imprisoned indefinitely or for more than one year, to be disqualified from the House of Lords. It would be given effect by the Lord Speaker issuing a certificate, which could be rescinded in the case of a successful appeal against conviction or sentence. The provisions would apply to offences committed abroad. However, a Member would only be disqualified in this circumstance if the House of Lords resolved that the measures contained in clause 3 should apply.
- Clause 4 would apply where an individual had ceased to be a Member of the House of Lords. The individual would be disqualified from attending the House, and would not be entitled to receive a writ to attend. An individual who had ceased to be a Member of the House of Lords would no longer be disqualified from voting at elections to the House of Commons, or from being elected to the House of Commons. However, the clause would also provide that a Member departing under the provisions of the Bill could not return to the House of Lords.

- Clause 5 would enable the Lord Speaker to issue a certificate under this Bill of their own initiative, which would be conclusive for all purposes.
- Clause 6 would provide the definition of a Member of the House of Lords and Peer for the purposes of the Bill.
- Clause 7 contains details of the short title, commencement and territorial extent of the Bill.

# 3. Background

## 3.1 Proposals for Reform between 1999 and 2010

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.[1]

Following the passage of the House of Lords Act 1999, there were a number of further Government initiated reviews and proposals, which made recommendations for completing the reform of the House of Lords.[2]

Further information on the key developments in the reform of the House of Lords between 1900 and 2010 can be found in the House of Lords Library Note, *House of Lords Reform: Chronology 1900–2010* (21 July 2011, LLN 2011/025).

## 3.2 Current Government Proposals

In the 2010 Coalition Agreement, the Government set out their intention to reform the House of Lords.[3] In May 2011, the Government published the House of Lords Reform Draft Bill, which was scrutinised by a joint committee.[4] The Government introduced the House of Lords Reform Bill 2012–13 in the House of Commons on 27 June 2012. The Bill received its second reading following two days of debate on 9 and 10 July 2012. The motion to give the Bill a second reading was agreed to by 462 votes to 124.[5] However, the Government withdrew the Bill in September 2012, before it had reached committee stage. The Deputy Prime Minister, Nick Clegg, explained that:

> [...] it is now clear that we will not be able to secure the Commons majority needed to pass the programme motion that accompanies the Bill [...] So, regrettably, the Coalition will not be able to deliver Lords reform during this Parliament. The hard work of many

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[1] House of Lords Library Note, *Lord Steel of Aikwood's Private Member's Bills on House of Lords Reform*, 11 May 2012, LLN 2012/017.

[2] These included: the Government White Paper, *Modernising Parliament: Reforming the House of Lords* (January 1999, Cm 4183); the Royal Commission on the House of Lords, chaired by Lord Wakeham, *A House for the Future*, (January 2000, Cm 4534); the Government White Paper, *The House of Lords Completing Reform* (November 2001, Cm 5291); the Joint Committee on the House of Lords Reform, *House of Lords Reform: Second Report* (April 2003, HL Paper 97 of session 2002–03); the Department for Constitutional Affairs Consultation Paper, *Constitutional Reform: Next Steps for the House of Lords* (September 2003, CP 14/03); the Joint Committee on Conventions on the Relationships between the Two Houses of Parliament, *Conventions of the UK Parliament* (November 2006, HL Paper 265–i of session 2005–06); and the Government White Paper, *The House of Lords: Reform* (February 2007, Cm 7027).

[3] HM Government, *The Coalition: Our Programme for Government*, May 2010, p 27.

[4] Joint Committee on the Draft House of Lords Reform Bill, *Draft House of Lords Reform Bill*, 23 April 2012, HL Paper 284–i of session 2010–12.

[5] HC *Hansard*, 10 July 2012, col 274.

> Members of this House, and the other place, to shape this Bill has, I believe, inched us forward, and my hope is that we will return to this matter in the next Parliament, emboldened by the historic second reading vote.[6]

The House of Lords Reform Bill 2012–13 included provisions to reduce the size of the House of Lords to around 450. This would have been made up of 360 elected Members, 90 appointed Members, up to twelve Lords Spiritual and any further Members that would have arisen through ministerial appointments. The Bill would also have placed limits on the length of membership, with Members only able to serve three electoral terms.

Further information on the Draft House of Lords Reform Bill and the House of Lords Reform Bill 2012–13 can be found in the House of Lords Library Note, *Joint Committee Report on the Draft House of Lords Reform Bill: Reaction* (27 April 2012, LLN 2012/015).

## 3.3 Backbench Proposals

A number of private members' bills have also been introduced in Parliament since the House of Lords Act 1999, setting out proposals for the reform of the House of Lords. Notable among these are the five private members' bills introduced by Lord Steel of Aikwood (Liberal Democrat). Each of the Bills introduced by Lord Steel has included provisions for permanent leave of absence for Members who did not attend for an entire session, and for the expulsion of Members in specified circumstances. Lord Steel's most recent private member's bill, House of Lords (Cessation of Membership Bill) (HL Bill 21 of session 2012–13), completed its passage through the House of Lords, and was introduced in the House of Commons on 4 December 2012.[7] However, a date for second reading was not scheduled and the Bill did not progress further

At the beginning of the 2013–14 session, on 15 May 2013, the House of Lords Reform Bill (HL Bill 23 of session 2013–14) was introduced by Baroness Hayman (Crossbench). The Bill would grant Members the opportunity to "permanently retire" (with no chance of rescission), would end the by-election process to replace hereditary Peers, and would allow the permanent removal of Members who did not attend for an entire session (unless on leave of absence or if the session was less than six months long) or who had committed a serious criminal offence. The Bill would also confer upon the House of Lords Appointments Commission sole responsibility for appointing Members. At the time of writing, the Bill did not have a date set for the next stage of proceedings.

Christopher Chope (Conservative MP for Christchurch) has also sponsored the House of Lords (Maximum Membership) Bill (HC Bill 67 of session 2013–14), which received its first reading in the House of Commons on 24 June 2013. The Bill would limit the number of Members of the House of Lords who were entitled to vote to 650, would introduce a compulsory retirement system to achieve this figure (based on seniority) and set a cap (at 45) on the number of new Members that could be appointed up to 1 June 2015. The Bill is scheduled to receive its second reading on 16 May 2014.

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[6] HC *Hansard*, 3 September 2012, col 36.

[7] Further information on Lord Steel of Aikwood's private member's bills on House of Lords reform can be found in the House of Lords Library Note, *Lord Steel of Aikwood's Private Member's Bills on House of Lords Reform*, 11 May 2012, LLN 2012/017.

## 3.4 Recent Proposals and Debates on the Size of the House of Lords

A number of the recent debates and proposals for reforming the House of Lords have focussed on the increasing size of the House.

In July 2010, Lord Strathclyde, the then Leader of the House of Lords, set up the Leader's Group on Members Leaving the House. The Group consisted of six Members and was chaired by Lord Hunt of Wirral (Conservative). The Group published its final report, *Members Leaving the House*, on 13 January 2011, and recommended the introduction of an informal voluntary retirement scheme, and the strengthening of the leave of absence system.[8] The report was debated in the House of Lords on 13 February 2013.[9]

The Government's announcement on 1 August 2013, that 30 new Members would be introduced in the House of Lords,[10] led to expressions of concern about the increasing size of the House of Lords. For example, on 19 November 2013, Lord Foulkes of Cumnock (Labour) tabled a question asking the Government what representations they had received about the increase in the size of the House of Lords. Lord Dubs (Labour), asking the question on behalf of Lord Foulkes, argued that there was "virtually no support on the Benches behind [the Minister]—or anywhere else in the House—for further increases in the size of the House".[11] Responding for the Government, the Leader of the House of Lords, Lord Hill of Oareford, stated that it was important to "keep refreshing the House with new and young membership".[12]

On 12 December 2013, the issue of reducing the size of the House of Lords was again debated in the Lords under a motion moved by Lord Norton of Louth (Conservative). The motion called for the House to take note of the case for reducing the size of the House of Lords. The debate was welcomed by Lord Hunt of Kings Heath (Labour),[13] who argued that the size of the House "[had] grown, [was] growing, and ought to be reduced".[14] Baroness Hayman (Crossbench) also insisted that the "size [of the House] did matter", and welcomed the House of Lords Reform (No 2) Bill, which had been introduced by Dan Byles.[15] Responding for the Government, Lord Hill stated that there had been progress on a number of the issues that had been raised in the debate. He also expressed support for the Bill introduced by Dan Byles, and argued that it would make a number of "modest but [...] sensible changes".[16] However, Lord Hill insisted that "pending more fundamental reform that would decisively address the issues that have been raised, we should focus on the important job with which we are all tasked".[17]

Further information about the size of the House of Lords and its changing membership patterns, as well as a summary of the recent debates and proposals in the House of Lords about the size of the House, can be found in the House of Lords Library Note, *Debate on 12 December: Reducing the Size of the House of Lords* (9 December 2013, LLN 2013/039).

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[8] Leader's Group on Members Leaving the House, *Members Leaving the House*, 13 January 2011, HL Paper 83 of session 2010–11.
[9] HL *Hansard*, 28 February 2013, cols 1165–85.
[10] Prime Minister's Office, 'Working Peerages Announced', 1 August 2013.
[11] HL *Hansard*, 19 November 2013, col 850.
[12] ibid, cols 849–50.
[13] HL *Hansard*, 12 December 2013, col 992.
[14] ibid, cols 992–3.
[15] ibid, cols 984–5.
[16] ibid, col 998.
[17] ibid, col 999.

### 3.5 House of Commons Political and Constitutional Reform Select Committee

On 17 October 2013, the House of Commons Political and Constitutional Reform Select Committee published the report, *House of Lords Reform: What Next?*.[18] The report focussed on the "desirability, practicality and effectiveness of a range of small-scale reforms to reduce the size of the House of Lords".[19] The Committee found that there was a "clear consensus" in favour of introducing legislation that would make it possible to expel Members who had been convicted of a serious offence; and that there was "widespread support for no longer replacing hereditary Peers in the House of Lords when they die, and for tackling the issue of persistent non-attendance". However, the Committee also found there was a strong measure of agreement that there should not be a long-term moratorium on new Members, nor should a compulsory retirement age be introduced.[20] Instead, the Committee recommended that there should be a "renewed political effort to strengthen the existing voluntary scheme".

The Government published their response on 17 February 2014.[21] The Government welcomed the Committee's report and said that it "now supports those recommendations that are in line with the provisions contained within the House of Lords Reform (No 2) Bill".[22] However, the Government also stated that it was "committed to a mainly elected upper Chamber and it is in that context that wider and substantive reform would be pursued".

## 4. Second Reading in the House of Commons

The House of Lords Reform (No 2) Bill received its second reading in the House of Commons on 18 October 2013.[23] In opening the debate, Dan Byles (Conservative MP for North Warwickshire) outlined the effect of his Bill, and explained that the measures in the Bill had already been passed in previous sessions by the House of Lords:

> I want to make it absolutely clear that the three principal elements of the Bill have already been agreed by the House of Lords, but the provisions have unfortunately faltered on their introduction to this House. Today I invite Members of this House to provide those of the other with the opportunity that they have repeatedly requested to make specific but necessary reforms that will contribute to their enhanced reputation and integrity. The cessation of membership measures will be an important step in enabling those who wish to leave the House of Lords to do so, and in removing non-attending Members. By doing so, the measures will assist in a small way in reducing the burgeoning number of Members of the House of Lords and in enhancing its reputation. The provisions to ensure that membership of the Lords ceases should a Member be convicted of a serious offence will also improve the integrity of that House and of our legislature as a whole.[24]

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[18] House of Commons Political and Constitutional Reform Select Committee, *House of Lords Reform: What Next?*, 17 October 2013, HC 251 of session 2013–14.
[19] ibid, p 3.
[20] ibid.
[21] House of Commons Political and Constitutional Reform Select Committee, *House of Lords Reform: What Next?: Government Response to the Committee's Ninth Report of 2013–14*, 17 February 2014, HC 1079 of session 2013–14.
[22] ibid, para 4.
[23] HC *Hansard*, 18 October 2013, cols 1001–57.
[24] ibid, cols 1005–6.

He further stated that the Bill had already received "broad cross-party support", and "broad support across both Houses of Parliament, in the media and across the country".[25]

Responding for the Government, Greg Clark, Minister of State at the Cabinet Office, confirmed that the Government was "prepared to support" the Bill.[26] He stated that:

> The changes that are set out [...] are relatively straightforward and represent common sense. There are those who argue that no change should be made until the wider case for reform, or improvement, as the right hon Gentleman had it, or change, as other people might have it, can be agreed, but there is a clear consensus, after five attempts in the House of Lords, on the need to describe some arrangements that constitute incremental but nevertheless practical changes. It is only right that this House should listen to that call and take time to scrutinise it.[27]

During the debate, Jacob Rees-Mogg (Conservative MP for North East Somerset) raised the issue of the potential for Members of the House of Lords resigning from the upper House to stand for election in the lower House. He suggested that this might lead to situation where individuals were "ping-ponging" between the two Houses. He stated that:

> I can foresee a circumstance in which a body of entirely professional politicians—people who have never done any work outside the political arena—stand for Parliament in a marginal seat and win one election but lose the next, upon which the party bosses put them in the House of Lords and then the week before the next election they stand down in order to stand for election in their former constituency.
>
> [...] If people are to retire from the House of Lords, they should retire from politics. They ought not to be allowed back into the House of Commons. If they were allowed to come back, there should be an extended period of quarantine before they could do so.[28]

In response, Dan Byles explained that the issue was complicated but stated that he was open to suggestions: "I do not think there is an easy solution. I would be interested to look into whether a time bar solution could be achieved and would be legal".[29]

The Bill was given a second reading without division. However, the House did divide on a motion moved by Mr Rees-Mogg, which would have sent the Bill to be considered by a committee on the floor of the House. The motion was defeated by 39 votes to 7.[30]

## 5. Committee Stage in the House of Commons

The Bill was considered by a public bill committee on 15 January 2014. Dan Byles (Conservative MP for North Warwickshire) tabled 27 amendments and proposed adding one new clause. He described some as technical and drafting amendments and others were intended to address concerns raised during the debate at second reading. No other amendments were tabled, and all Mr Byles' amendments were made.

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[25] ibid, col 1001.
[26] ibid, col 1011.
[27] ibid.
[28] ibid, col 1043.
[29] ibid, col 1055.
[30] ibid, col 1057.

Amendments were made to clause 2 to ensure that any Member disqualified from sitting or voting for a whole session, for example, because they were serving as a Member of the European Parliament, would not lose their membership,[31] and a provision was accepted which would allow the House of Lords to take into account special circumstances. Mr Byles explained that the amendment would:

> [...] allow the House to disregard disqualification for non-attendance to allow for situations in which a Peer is perhaps being held as a prisoner of war.[32]

Clause 3 was amended to ensure that the application of the clause to convictions and sentences was not retrospective, and to allow Members who received a suspended sentence of imprisonment to retain their seat. However, Mr Byles stated that "the clause applies to offences that were committed at any time and to offences that are committed abroad".[33] He also confirmed that disqualification would be automatic, "although it will be open to the House to disregard a foreign conviction if special circumstances apply". During the debate on the amendments to clause 3, Dan Byles also responded to the question of why twelve months had been chosen as "the length of time that would be the cut-off date for imprisonment" for a Member to be considered as having been convicted of a serious offence.[34] Mr Byles explained that the aim "was to bring the House of Lords into line with the House of Commons", and argued that it would not "be right at this stage for the House of Lords to have a different threshold from the House of Commons".[35] Thomas Doherty (Labour MP for Dunfermline and West Fife) expressed a desire for the issue to be reviewed further "perhaps on Report or elsewhere, at whether the law [could] be amended".[36]

Amendments were also made to clause 4 to provide for by-elections to take place so that hereditary Peers who resign, retire or who are disqualified can be replaced. Mr Byles explained that the amendment:

> [...] provides that, on a vacancy emerging for one of the 90 hereditary peerage places as a result of resignation or disqualification, a by-election for that place should be automatically triggered. It is a requirement in the House of Lords Act 1999 that there must be 90 excepted Members.[37]

Clause 4, as amended by the public bill committee, also provided that any Member departing under the legislation could not return to the House of Lords.[38]

Further information on the Bill's committee stage in the House of Commons, and on the amendments made to all the clauses of the Bill at this stage, can be found in the House of Commons Library Standard Note, *House of Lords Reform (No 2) Bill 2013–14* (24 February 2014, SN6832).

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[31] House of Commons Public Bill Committee, 15 January 2014, cols 6–8.
[32] ibid, col 6.
[33] ibid, col 10.
[34] ibid.
[35] ibid.
[36] ibid, col 12.
[37] ibid, col 14.
[38] ibid, col 16.

## 6. Report Stage in the House of Commons

The Bill was debated at report stage on 28 February 2014. A number of amendments were tabled by Jacob Rees-Mogg (Conservative MP for North East Somerset) which would have made changes to the provisions in the Bill relating to: retirement from the House of Lords; conviction of serious offence; and the effect of ceasing to be a Member. Amendments were also tabled by Dan Byles (Conservative MP for North Warwickshire) and Thomas Docherty (Labour MP for Dunfermline and West Fife). There were no divisions at report stage, and only the amendment tabled by Mr Byles was accepted.

### 6.1 Resignation from the House of Lords

Jacob Rees-Mogg tabled amendments 2 and 3 which would have inserted in clause 1 a requirement for a Peer to have been a Member of the House for a certain period, and to be of a certain age, before they could retire or resign from the House of Lords: amendment 1 would have added a provision to the effect that a Peer would not be able to resign from the House of Lords until they had been a Member for a minimum of ten years; and amendment 3 would have inserted a minimum age for retirement, whereby no Peer under 65 would be able to retire, as well as a requirement that they had been a Member of the House for a minimum of ten years.

Speaking to his amendments, Mr Rees-Mogg stated that:

> If somebody accepts a great honour, it seems to me that they have an obligation to live up to that honour. Circumstances might change and require a different lifestyle that makes it impossible for them to attend the House, but to enter lightly into the receipt of a peerage—that great honour bestowed by our sovereign of being a legislator in the second House of Parliament—and then to give it up after a day or two or, conceivably, even after a minute, seems improper.[39]

He further explained that the intention of the amendments was to:

> [...] offer the House the choice of saying that there ought to be a minimum period and that it ought to be longer than a single Parliament. Ten years obviously equates to two Parliaments under the Fixed-term Parliaments Act 2011. That gets away from the risk that people might use the House of Lords as a means of advancing their political career in relation to the Commons [...] The amendments are about expecting people to follow through on the commitment they have given, so that when their letters patent are issued they will be doing this for life.[40]

However, in reply, Dan Byles reiterated that the intention of the Bill was to introduce "a straightforward, honourable statutory provision that allows those who no longer feel able to serve in the House to resign".[41] He stated that it would be "unfair" to remove for non-attendance a Member who had been in the House for less than ten years, "but suffered a terrible health problem or had become a full-time carer for a family member". He explained that "such a Member would seem to have been naughty, rather than to have been allowed to make a dignified and honourable resignation".

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[39] HC *Hansard*, 28 February 2014, col 524.
[40] ibid, col 525.
[41] ibid, col 532.

Responding for the Government, Greg Clark, Minister of State at the Cabinet Office, stated that he understood the intention of the amendments, and agreed that "Peers should not come into Parliament for the legislative equivalent of a weekend break [...] and I am concerned that they should take their commitment to the House seriously".[42] However, he stated that the purpose of clause 1 was to ensure that there were mechanisms for Peers "who take seriously their responsibilities [...] by reflecting the circumstances in which they may no longer find it possible to answer the summons".

Speaking on behalf of the Opposition, Stephen Twigg, Shadow Minister for Political and Constitutional Reform and Justice, stated that it would be unlikely that a Member would resign "after a day or two, or even a minute of two", and argued that the "likelier scenarios" that a Member would wish to retire before the age of 65 or before being a Member for ten years, would be because of "illness, or a change in family or work circumstances".[43] He concluded that "on balance, it makes sense to retain the flexibility to allow Members of the other place to resign".

Amendments 2 and 3 were withdrawn.

Jacob Rees-Mogg also moved a number of other amendments relating to clause of 1 of the Bill, which included: a requirement that a statement of resignation was witnessed by two, rather than one person, and that they were both "Peers of the same degree"; a measure which would have enabled a Peer to withdraw the notice of resignation prior to it becoming effective; exemption from the clause for unelected hereditary Peers, the Lord Great Chamberlain and the Earl Marshal; a provision which would have allowed the heir to a hereditary Peer who had resigned to be eligible for election in the hereditary by-elections; and a mechanism for a Peer who had resigned to be raised to the state degree style dignity title and honour of viscount. Nevertheless, Mr Rees-Mogg also withdrew these amendments following a debate on the provisions.

## 6.2 Length of Imprisonment for a Criminal Offence

The Bill, as introduced to the House of Commons, provided for the Members of the House of Lords, convicted of a serious offence, to no longer be a Member if they had been sentenced or ordered to be imprisoned or detained indefinitely for more than one year. Thomas Docherty tabled amendment 1, which would have made provision for a Member of the House of Lords who had been convicted of a serious offence, and had been sentenced or ordered to be imprisoned for six months, rather than one year, to be disqualified from the House. He had previously raised the issue at committee stage, and had questioned whether the length of imprisonment which triggered disqualification from the House should be reviewed further and reduced.

Speaking to his amendment, Mr Docherty explained that the origin of the requirement in the House of Commons "for someone to have been given a jail sentence of more than year to be disqualified is almost accidental".[44] Addressing the concerns that had been raised previously at committee, that the length of sentence if reduced for Members of the House of Lords to six

[42] ibid, col 536.
[43] ibid, col 531.
[44] ibid, col 541.

months would be different to that of the House of Commons, he argued that:

> If a Member of the House of Commons receives a jail sentence—of nine months, let us say—and tries to tough it out, the electorate still has an opportunity at the next general election to remove them from office. As things currently stand, however, in the House of Lords there is no term limit and therefore no other mechanism for recall. I believe there is merit in exploring whether the period set should be shorter, because the people of Britain do not have an opportunity to remove a Member of the House of Lords who tries to tough it out.[45]

However, in response to the amendment, Dan Byles disagreed "about the idea that we should have different time limits for the House of Lords, the House of Commons, the Scottish Parliament and so on",[46] and Greg Clark, responding for the Government, stated that while he was "sympathetic to the reasoning behind the amendment", he argued that the "thrust of the Bill" was to bring the rules of the "House of Lords broadly into line with those of the House of Commons".[47] Speaking on behalf of the Opposition, Stephen Twigg said that his "instinct" was also that "if we look to a lower limit, it would be preferable if we had a lower limit across the board". However, he also said that he would welcome "a dialogue on this issue as it related to the rules of the House of Commons".[48]

Amendment 1 was not moved to a division.

## 6.3 Criminal Justice Systems in other Jurisdictions

Jacob Rees-Mogg spoke to amendments 15 and 16 which would have made provision for distinguishing between criminal offences committed in the United Kingdom, Ireland and the Commonwealth countries, and those committed outside of the Commonwealth. Amendment 15 would have made provision for the measures in clause 3 on conviction of a serious offence to be applied to criminal offences committed in the United Kingdom and Ireland, and amendment 16 would have made provision for clause 3 to apply to criminal offences committed in any Commonwealth country or realm, but convictions or detentions which took place in a non-Commonwealth country would not be relevant under the provisions of the Act.

Mr Rees-Mogg explained the reasoning of his amendments and stated that:

> My amendments distinguish between the jurisdictions of a variety of foreign countries, and with good reason. The reason for including Ireland along with the United Kingdom is that it matches the form used for exclusion from the House of Commons, and there seems to be a logic in maintaining that. It is also set down in statute that we recognise the unique relationship that the United Kingdom continues to have with Ireland [...] The Commonwealth realms are either serious nations such as Australia, New Zealand and Canada that have a legal form based on ours and that follow the legal traditions of the United Kingdom that they inherited them from us, or they are smaller nations, nine of which have the Privy Council as their court of appeal. We can therefore say that any conviction within the Commonwealth realms will be of such standing that we can

[45] ibid, col 543.
[46] ibid, col 544.
[47] ibid, col 553.
[48] ibid, col 552.

> recognise it because it has been made in a nation with which we have the friendliest relations and the tightest of historical links.[49]

However, Dan Byles responded that it would "be difficult to justify the suggestion that countries such as Germany and France" should be "put in a different category from some members of the Commonwealth",[50] while Thomas Docherty highlighted that the "Foreign Office [was] troubled by the judicial process in some Commonwealth countries".[51]

Dan Byles tabled amendment 23, which also related to the measures in clause 3 on conviction of serious offences committed abroad. The Bill, as presented at report stage, provided that a Member who was convicted abroad of a serious offence would be disqualified unless the House of Lords decided that the Member should not be. However, amendment 23 would have made provision for a Member to be disqualified for an offence committed abroad, only if the House resolved that the penalty should be applied.

Speaking to his amendment 23, Mr Byles stated that:

> I believe that anyone convicted of murder or any serious offence, whether in Bolton, Belgium or Brunei, should be subject to disqualification from the House of Lords. However, we all agree that criminal justice systems in different countries vary, and of course other jurisdictions sometimes try people in very different circumstances from those in which they would be tried in the United Kingdom. In addition, some countries impose lengthy sentences on individuals for actions that might be deemed to be minor offences, or not offences at all, in this country.[52]

Stephen Twigg welcomed the amendment, which he said "intelligently addresses the concerns" that to "simply rely upon the laws and legal systems of other countries is not sufficient and not proper in our own constitutional arrangements".[53] Greg Clark concurred that it was "right that their Lordships should review the circumstances in which a Member was convicted abroad in order to satisfy themselves that the offence is recognised as being serious in the United Kingdom", and he confirmed that the Government were "pleased to lend their support to it".[54]

Amendment 15 and 16 were not moved, and amendment 23 was agreed to without division.

## 6.4 Election to the House of Commons

Jacob Rees-Mogg moved amendments 19 and 21 which would have changed the provisions in clause 4 which allowed a former Member of the House of Lords to stand for election to the House of Commons: amendment 19 would have removed the right of a former Member to stand for election to the House of Commons; and amendment 21 would have prevented an individual who had ceased to be a Member of the House of Lords, in accordance with the Act, to stand for election to the House of Commons during the course of the following two Parliaments, and would have made provision for a former Member to be entitled to all other privileges state degree style title and honour of peerage.

[49] ibid, col 547.
[50] ibid, col 545.
[51] ibid.
[52] ibid, col 545.
[53] ibid, col 551.
[54] ibid, col 555.

Mr Rees-Mogg stated that the purpose of the amendments were to "deal with the issue of Members of the House of Lords going from the Lords to the Commons".[55] He suggested that the Bill, as it stood, could be used as a mechanism for "preparing people for political life before bringing them to the Commons". He argued that:

> As the Bill was initially drafted and as we debated it on second reading, it would have been possible to have a revolving door or ping-pong back and forth, depending which phrase is preferred. It would have been possible for someone to leave the Commons, go to the Lords, leave the Lords, come back to the Commons and go back to the Lords again. I am glad to say that that was amended in committee [...] As more and more professional politicians come through—I know this is a matter of concern to the electorate—people can have the following career path: becoming special advisers, going to the Lords and then coming to the Commons, without any real pause in-between. As the Bill stands, it would be possible to resign a seat in the Lords immediately before the close of nominations for the House of Commons at a general election.[56]

Dan Byles acknowledged that there was consensus across the House that "we would not want the House of Lords to become a training ground for a seat in the House of Commons and thereafter provide an opportunity to ping-pong between the Houses".[57] He highlighted that the possibility for an individual to return to the Lords, after they had ceased to be a Member, had been removed at committee stage, and argued that the likelihood of the concerns raised by Mr Rees-Mogg of "becoming reality [were] quite slim". Mr Byles also insisted that the "argument need[ed] to be weighed strongly against the very serious issue of barring a British citizen from seeking election to the House of Commons".

Responding on behalf of the Government, Greg Clark, agreed that "preventing someone from running for elected office is a serious sanction".[58] He further stated that:

> This is not the last word on House of Lords reform and some of the principles that even this short debate has thrown up are very serious and have consequence, such as whether it is right to restrict someone who is not a Member of Parliament from standing for Parliament. That debate of some constitutional consequence needs to be approached carefully and to happen in the context of other debates that will no doubt take place in the years ahead about further reform of the House of Lords.[59]

Speaking for the Opposition, Stephen Twigg explained that "experts on this matter outside the House" had highlighted that previous proposals for reform "of the other place have included some sort of cooling-off period and that it should, therefore, be considered".[60] However, he also concurred with the view that "we have to balance" the risk, and therefore, he stated that he could not "defend the principle of barring a UK citizen from standing for election simply on the basis of their previous occupation".

Thomas Docherty also raised the point that a system whereby "Members of the House of Lords can serve simultaneously in both the Lords and the Scottish Parliament", already existed, and argued that there had been "no suggestion" that "being a Member of the House of Lords

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[55] ibid.
[56] ibid, cols 555–6.
[57] ibid, col 560.
[58] ibid, col 562.
[59] ibid.
[60] ibid, col 561.

gave an unfair advantage".[61] However, Therese Coffey (Conservative MP for Suffolk Coastal) "disagreed on the grounds that we already know of many Members of the European Parliament who have sought to come to this place having been very proactive in parts of their constituencies", and argued that Mr Rees-Mogg had been right to highlight the issue".[62] Nevertheless, she expressed concern that "he may have given the idea to our political parties, rather than dissuaded them", and argued that it was not necessary to legislate on the issue.

Amendments 19 and 21 were not moved to a division.

## 7. Third Reading in the House of Commons

Opening the debate at third reading, Dan Byles expressed "delight" that Members of all the political parties had lent their support to the Bill,[63] and reiterated that the purpose of the Bill was to:

> [...] implement the urgent, housekeeping reforms that the upper Chamber welcomed during the passage of Lord Steel's Bill. Those include a statutory resignation provision, so that Peers may leave the House if they no longer feel able to serve or if they wish to retire; a mechanism for the removal of persistent non-attendees who fail to fulfil their important duties to the House; and a system to remove Peers who commit serious criminal offences, thereby safeguarding the reputation of the House of Lords.[64]

The consensus of support for the Bill, which had been expressed during the previous stages of the Bill, was repeated at third reading. Jacob Rees-Mogg (Conservative MP for North East Somerset) stated that although proceedings of the Bill "should have been on the floor of the House", the Bill would "allow transitions to take place, which although minor in themselves, are actually quite fundamental".[65] Stephen Twigg, Shadow Minister for Political and Constitutional Reform and Justice, reaffirmed the Opposition's support, and argued that while it was a "modest" Bill, it was "important and sensible nevertheless".[66] However, he also stated that it "remains the view on the Labour Benches that these changes do not go far enough. They should not be seen as the end of the road, but merely as the next stage of reform". Thomas Docherty (Labour MP for Dunfermline and West Fife), also expressed a wish that "this is not the last Bill on the subject", and urged the Government to have "another look at the composition and operation of the House of Lords".[67]

Concluding the debate, Greg Clark, Minister of State at the Cabinet Office, confirmed that the "Government fully support[ed] the important and reasonable measures that the Bill seeks to implement".[68] He further stated that:

> I hope that the other place will accept the strong and positive endorsement of the House for the Bill. While discussions on the wider membership and structure of the Lords will continue, the Bill is useful. The three elements that it will introduce—a statutory resignation process, a disqualification mechanism on conviction of a serious

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[61] ibid, col 559.
[62] ibid, col 561.
[63] ibid, col 563.
[64] ibid.
[65] ibid, col 565.
[66] ibid, col 566.
[67] ibid, col 564.
[68] ibid, col 568.

offence and removal for those who persistently fail to attend the House without reasonable excuse or leave of absence—are steps in the right direction. It is right that a conscientious Peer who has played a full and active role in the House of Lords, but feels in all conscience that they can no longer maintain that level of commitment, should be entitled to an honourable release from that commitment. The Bill, very sensibly, will provide for that.[69]

[69] ibid, col 567.