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# *The House of Lords Bill* – **Lords Amendments**

**Bill 156 of 1998-99**

Research Papers 99/5, 99/6 and 99/7 were published for the second reading of the *House of Lords Bill* in the Commons and give background to the proposals in this bill. This Paper concentrates on the amendments passed in the Lords, including the so-called Weatherill amendment, under which 92 hereditary peers will remain in the Lords, with provision for by-elections in the event of their deaths. A summary of submissions to the Royal Commission on the Reform of the House of Lords from the main political parties is provided, together with some detail on the leak of the Commission's proposals in the *Sunday Telegraph*.

Oonagh Gay and Edward Wood

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## Summary of main points

The *House of Lords Bill* was designed, in its original form, to exclude hereditary peers from the membership of the Lords. Before Second Reading, the Government indicated that it was minded to accept a Lords amendment, proposed by the Cross Bench convenor, Lord Weatherill, which would retain 92 'excepted' hereditary peers in the transitional House. The amendment was duly passed in the Lords, with further arrangements made for by-elections, on the death of any excepted peers. The text of the amendment is set out in Clause 2 of the Bill. Much of the detail of the scheme has been set out in Lords Standing Orders.

If the amendment is accepted in the Commons, the excepted peers will consist of the following:

- The Lord Great Chamberlain, as the Queen's representative, and the Earl Marshal, who is responsible for ceremony
- 15 'office holder' hereditary peers who would serve as Deputy Speakers or Committee Chairmen. These would be elected by the whole House
- 75 hereditary peers, to be elected by electorates consisting of hereditary peers of the three main parties and of the Cross Benches as follows:

- 2 Labour
- 3 Liberal Democrat
- 28 Cross Benchers
- 42 Conservatives

Changes to the Lords Standing Orders were approved in the Lords on 26 July 1999. The results of the office holder elections were announced on 29 October. 9 Conservatives were elected, with the Liberal Democrats, Labour and Cross Benchers gaining two each. Successful candidates were removed from the list of candidates for the party elections on 3-4 November. The results of the party elections were announced on 5 November.

There are provisions for by elections, set out in standing orders, which will come into force after an initial period. In the initial period vacancies will be filled by the nearest runner up in the relevant election. The initial period ends at the end of the first session of the next Parliament after that in which the *House of Lords Act* is passed. After that, vacancies will be filled by by-elections. The electorate for office holders will be the whole House, but the electorate for the party elections will be the remaining excepted peers in the relevant party grouping. Hereditary peers already excluded from the House will be able to stand, but not vote. The Government have argued that it is very unlikely that the by election procedure will actually be used, since it plans to continue with Stage II of reform of the Lords after the Royal Commission on the Reform of the House of Lords has reported in December 1999.

The Government is expected to oppose two further Lords amendments to the Bill:

- A statutory basis for the independent Appointments Commission which the Government propose would nominate non-party peers and take over the scrutiny of possible party-nominated peers from the Political Honours Scrutiny Committee
- Life peers appointed in one Parliament would be disqualified from voting on any bill to extend the life of that Parliament beyond five years

The Royal Commission is expected to report next month. The *Sunday Telegraph* 31 October 1999 claimed to have obtained an draft of the Commission's proposals, which recommended that the House should have only a minority of elected members, and that it should have a role as

- a constitutional watchdog, with a new human rights committee,
- in scrutinising European Union matters
- retaining the ability to delay bills for up to one year.

According to the *Telegraph*, the Commons would retain its predominance, and the Government party should generally be the largest although without a secure majority. The contents of the leak have not been the subject of comment by the Royal Commission.

The major parties have made submissions to the Commission. The Labour Party called for a "distinctive, representative and independent chamber" with a method of composition which did not lead to conflict between the two Houses of Parliament on a regular basis. The Conservatives urged the Royal Commission to give due weight to the importance of maintaining a strong independent element in the Lords, and stated their total opposition to the creation of an entirely nominated House of Lords. The Liberal Democrats proposed a wholly elected Senate with 261 Senators. Senators would be elected for six year periods, with one third facing re-election every two years.

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## I Introduction

The *House of Lords Bill* was examined in Research Papers 99/5, 99/6 and 99/7 and these should be consulted for background to the amendments passed in the Lords. This Paper looks at the passage of the Bill but is not a comprehensive guide to each issue and some, such as the representation of Scottish peers or the question of ‘club rights’ for hereditary peers are not covered, as no amendments to the Bill resulted.

## II Passage of the Bill in the Lords

The background to the Weatherill agreement, negotiated by Viscount Cranborne when Leader of the Opposition in the Lords, is covered in Research Paper 99/5. The Lord Chancellor accepted the agreement on the basis that the retention of some hereditary peers in the House was to be in return for no ‘abnormal’ obstruction of the Government’s legislative programme in the Lords. The Government could still resort to the *Parliament Acts* to force the enactment of the Bill, should it consider that obstruction had occurred. In that case, it made clear that the Weatherill amendment would be removed at Lords amendments stage in the Commons, and the Bill passed in its original form. Baroness Jay, Leader of the House of Lords, said during the debate on the referral of the Bill to the Committee for Privileges that the Government intended to move third reading in the spillover session. She went on to say:

Therefore I say calmly, but definitely, that attempts to frustrate the Third Reading of the Bill by the Opposition will be seen by the Government as a clear breach of the understandings reached between the noble and learned Lord the Lord Chancellor and the noble Viscount, Lord Cranborne. For the candidate Weatherill Peers, all those hours spent last week discussing the method for their election may prove to be for nothing. All those election addresses, so despised by the noble Earl, Lord Ferrers--who, sadly, is not present this afternoon--may well prove unnecessary. In those circumstances--I say this simply for information--government Ministers in this House will advise our colleagues in another place to remove the new Clause 2 of the Bill. I must tell your Lordships that that will not be unpopular advice. Meanwhile we are faced this afternoon with this Motion which seeks to ask for an interpretation of a law which Parliament has yet to make; to challenge the basic constitutional arrangement that common law can always be overturned by statute--effectively, to challenge the sovereignty of Parliament. What your Lordships are being asked to agree to is unprecedented. It is frankly selfish and it is wasteful of public funds. Informed calculations of the legal costs alone are in excess of £100,000. I urge the House to show common sense, to be realistic and to reject the Motion. But whatever happens, the Government will press on with our timetable for the House of Lords Bill.<sup>1</sup>

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<sup>1</sup> HL Deb 27 July 1999 vol 604 cc 1415-6

More recently, some media reports have suggested that Ministers have made veiled threats to overturn the Weatherill amendment if the House of Lords insists upon its amendments to the *Welfare Reform Bill*.<sup>2</sup>

## 1. Referendum on the future of the Lords

Amendments to provide for a referendum to approve the recommendations of the Royal Commission were debated at committee stage<sup>3</sup>, but the Government refused requests for a referendum on Lords reform.

## 2. Hereditary Peers who become Life Peers

In response to queries, Lady Jay stated that there would be no statutory bar to hereditary peers accepting life peerages and that life peerages had already been offered to hereditary peers of first creation.<sup>4</sup> On 2 November the Government announced that the Queen had conferred life peerages on 10 hereditary peers. These included five former Conservative, and one former Labour, Leaders of the House of Lords:

Viscount Cranborne  
Earl Jellicoe  
Lord Carrington  
Lord Belstead  
Lord Windlesham  
Lord Shepherd;

and four peers of first creation:

Lord Aldington  
the Earl of Longford  
Lord Errol of Hale  
the Earl of Snowdon.<sup>5</sup>

The figure which has been quoted in the press in recent days, of 102 hereditary peers who will sit in the transitional House, is composed of these ten new life peers and the 92 excepted peers under the Weatherill amendment.

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<sup>2</sup> BBC website, "Lords' trial of strength with ministers", Nick Assinder, 8.11.99, [http://news.bbc.co.uk/1/hi/english/uk\\_politics/newsid\\_509000/509535.stm](http://news.bbc.co.uk/1/hi/english/uk_politics/newsid_509000/509535.stm)

<sup>3</sup> HL Deb 20 April 1999 vol 599 c 1030-62 see also HL Deb 15 June 1999 vol 602 c 139

<sup>4</sup> HL Deb 20 April 1999 vol 599 c 1114 see also HL Deb 15 June 1999 vol 602 c 251

<sup>5</sup> *Financial Times*, 3.11.99, "Labour criticised over new life peers"



### 3. Purpose Clause

The question of a purpose Clause – a statement on the face of the Bill of the reason for the legislation - was raised on a number of occasions,<sup>6</sup> but the Government resisted this on the grounds that it was unnecessary. On third reading the Government also opposed successfully an attempt to insert a preamble to the bill.<sup>7</sup>

### 4. Writ of Summons

There were long debates as to whether hereditary peers sit in response to a writ of summons rather than by virtue of their hereditary peerage.<sup>8</sup> The drafting of the Bill was called into question by the Opposition who referred to a legal opinion from John Lofthouse that the writ of summons was the key element. The Lord Chancellor stated that the intended breadth of the wording of Clause one was designed to ensure that membership of the Lords would no longer be related to the holding of a hereditary peerage.<sup>9</sup> Some doubt was also expressed about whether peers who sat by virtue of a writ of acceleration would be excluded by the drafting of Clause one. Viscount Cranborne, the former Opposition leader in the Lords, is the only peer at present who holds such a writ.<sup>10</sup> In response, Baroness Jay stated that the legal advice was that such peers sit as holders of hereditary peerages.<sup>11</sup> Before third reading a motion was passed on behalf of Lord Mayhew of Twysden to refer the question to the Committee for Privileges, despite Government protestations that the motion was unprecedented.<sup>12</sup> On a formal motion the senior Lord of Appeal present was appointed Chairman of the Committee for Privileges.<sup>13</sup> On 19 October the Committee for Privileges decided against the Mayhew arguments.<sup>14</sup>

### 5. Scottish Peers and the Acts of Union

Following a series of debates on the question of a possible breach of the Acts of Union, due to the exclusion of Scottish hereditary peers, a motion was passed on 27 July to refer the issue to the Committee for Privileges.<sup>15</sup> This was against Government opposition. The Committee for Privileges reported on 20 October that the bill did not breach the Acts.<sup>16</sup>

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<sup>6</sup> HL Deb 10 April 1999 vol 599 c 1118 see also HL Deb 15 June 1999 vol 602 c 134

<sup>7</sup> HL Deb 26 October 1999 vol 606 c 276

<sup>8</sup> HL Deb 27 April 1999 vol 600 c 153-172 see also HL Deb 15 June 1999 vol 602 c 217

<sup>9</sup> HL Deb 27 April 1999 vol 600 c 167

<sup>10</sup> HL Deb 11 May 1999 vol 600 c 1170

<sup>11</sup> HL Deb 11 May 1999 vol 600 c 1173

<sup>12</sup> HL Deb 27 July 1999 vol 604 c 1399-1418

<sup>13</sup> HL Deb 29 July 1999 vol 604 c 1679

<sup>14</sup> HL 106 1998-9. Reasons will be given later

<sup>15</sup> HL Deb 27 July 1999 vol 604 c 1422-1433

## 6. Size of the House

There were some debates about the eventual size of the Lords once the hereditaries were excluded and unsuccessful attempts to limit the number of life peers to be created by the Government to maintain broad parity with the main Opposition party.<sup>17</sup>

# III Amendments to the Bill

## A. Appointments Commission

The background to the Government's proposals for an Appointments Commission is covered in Research Paper 99/5. The nature of the Appointments Commission was addressed at some length at Committee stage. Baroness Jay stated that the Bill, which was designed as a self contained measure to end hereditary peerages, did not seek to prescribe the future shape of the House, so amendments on the Commission would be inappropriate.<sup>18</sup>

On report, an amendment was passed to insert a new clause making the Appointments Commission a statutory body.<sup>19</sup> The amendment was passed by 231 votes to 189. Clause 3 now reads as follows:

3. - (1) There shall be an Appointments Commission ("the Commission") which shall make proposals to the Prime Minister for recommendations to Her Majesty for the conferment of life peerages in accordance with the Life Peerages Act 1958.
- (2) The Commission shall be an advisory non-departmental public body and shall –
  - (a) be appointed in accordance with the rules of the Commissioner for Public Appointments and may seek his advice about best practice in attracting and assessing potential nominees;
  - (b) operate an open and transparent nominations system for peers not belonging to, or recommended by, any political party ("the Cross Bench peers");
  - (c) actively invite nominations by the general public and encourage nominations from professional associations, charities and other public bodies that it judges appropriate;

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<sup>16</sup> HL 108 1998-9. Reasons are to be given later

<sup>17</sup> HL Deb 11 May 1999 vol 600 c 1179 see also HL Deb 30 June 1999 vol 603 c 335 and HL Deb 26 October vol 506 c 184

<sup>18</sup> HL Deb 13 May 1999 vol 600 c 1308

<sup>19</sup> HL Deb 22 June 1999 vol 602 c 823

- (d) publish criteria under which it will determine a candidate's suitability for nomination;
  - (e) reinforce the present function of the Political Honours Scrutiny Committee in vetting the suitability of all nominations to life peerages by the political parties; and
  - (f) scrutinise all candidates for life peerages on the grounds of propriety in relation to political donations, as proposed in the 5th Report of the Committee on Standards in Public Life.
- (3) The Commission shall appoint its own Chairman.
- (4) It shall, at most, every 6 months, and at least every year, make proposals to the Prime Minister for nomination as Cross Bench peers, sufficient at least to fill any vacancies among Cross Bench peers that may occur through death, disqualification or a decision to join a political party represented in the House of Lords.
- (5) The Prime Minister may not refuse to submit to Her Majesty the names of those recommended as Cross Bench peers by the Commission, and shall not seek to influence such nominations, save in exceptional circumstances, such as those endangering the security of the realm.
- (6) The Commission, in considering nominations as Cross Bench peers, shall not give any additional weight to recommendations from the Prime Minister or the Leaders of other political parties.
- (7) Following the passing of this Act the Commission shall make a report annually to Parliament on the recommendations made to Her Majesty by the Prime Minister for the conferment of life peerages, in which it will declare if the following criteria are being observed, namely that –
- (a) no one political party commands a majority in the House of Lords;
  - (b) the Government has broad parity of numbers with the main opposition party; and
  - (c) the proportion of the Cross Bench peers to the total number of peers in the House remains the same as the proportion of Cross Bench life peers to the total number of life peers in the House on the day before the passing of this Act.
- (8) The Commission shall consist of eight members of the Privy Council, of whom four shall be appointed by a special Commission of the Prime Minister, the Speaker of the House of Commons, and the Lord Chairman of Committees of the House of Lords.

- (9) One Commissioner shall be appointed from each of the three largest parties in the House of Commons on the nomination of the Leader of each such party, and one shall be appointed from the Cross Bench peers on the nomination of the Convenor of the Cross Bench Peers.

Baroness Jay said that they had no quarrel with the underlying purpose of the amendment, but that it would unnecessary and damaging to smooth progress.<sup>20</sup> She explained that the Commission should be in place in time for the New Year's Honours List in 2000 (c 848). On third reading some drafting amendments were made to Clause 3<sup>21</sup> and Lord Carter, for the Government, complained that the insertion of Clause 3 and its defective drafting had delayed the setting up of the Commission. He repeated that the Government would attempt to remove the clause when the Commons considered Lords amendments and that the Commission would be set up as soon as possible after the passing of the Bill.<sup>22</sup>

## **B. Maximum duration of Parliament**

There were a number of debates on the possibility of bolstering the 1911 *Parliament Act* provision which gives the Lords power to veto attempts by the Commons to lengthen the life of a Parliament beyond a five year maximum.<sup>23</sup> There were reassurances from the Government that the Bill would have no effect on this aspect of the 1911 Act (s2 (1)).<sup>24</sup> Finally at report stage an Opposition amendment disqualified life peers who had been appointed in one Parliament from voting on any bill to extend the maximum duration of that Parliament beyond five years. In response Lord Williams, for the Government said that the amendment would not prevent legislation amending the 1911 Act, and would not prevent a newly elected government who had 'packed the House' before the elections from extending the life of Parliament. The amendment was therefore meaningless and cosmetic.<sup>25</sup> Nevertheless, the amendment was carried by 293 to 177.

## **IV The Weatherill Amendment**

### **A. Initial Proposals**

Background to the Weatherill amendment is given in Research Paper 99/5.<sup>26</sup> The amendment was moved by Lord Weatherill at committee stage on 11 May, and disappplied s1 (removal of hereditary peers) to anyone excepted from it or in accordance with Standing Orders of the House. The text of the amendment, now Clause 2, is as follows:

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<sup>20</sup> HL Deb 22 June 1999 vol 602 c 845

<sup>21</sup> HL Deb 26 October 1999 vol 606 c 196-9

<sup>22</sup> HL Deb 26 October 1999 vol 606 c 200

<sup>23</sup> HL Deb 29 April 1999 vol 600 c 453

<sup>24</sup> HL Deb 29 April 1999 vol 600 c 478

<sup>25</sup> HL Deb 20 June 1999 vol 603 c 303

<sup>26</sup> The original Weatherill proposal was for 14 office holders. See Research Paper 99/5 p 37

2. - (1) Section 1 shall not apply in relation to anyone excepted from it by or in accordance with Standing Orders of the House.
- (2) At any one time no more than 90 people shall be excepted from section 1; but anyone excepted as holder of the office of Earl Marshal, or as performing the office of Lord Great Chamberlain, shall not count towards that limit.
- (3) Once excepted from section 1, a person shall continue to be so throughout his life (until an Act of Parliament provides to the contrary).
- (4) A person may be excepted from section 1 by or in accordance with Standing Orders made in anticipation of the enactment or commencement of this section.
- (5) Any question whether a person is excepted from section 1 shall be decided by the Clerk of the Parliaments, whose certificate shall be conclusive.

This amendment excepted a total of 92 peers and was passed by a majority of 351 to 32.<sup>27</sup> The composition of the excepted peers is set out in Standing Order no.9, which provides for:

- 75 peers to be elected by electorates consisting of hereditary peers of the three parties and of the Cross Benchers. 75 represented ten per cent of the total hereditary peers as follows:
  - 2 Labour
  - 3 Liberal Democrat
  - 28 Cross Benchers
  - 42 Conservatives
- 15 hereditary peers to serve as Deputy Speakers or Committee Chairmen, to be elected by the whole House, including life peers.

In the debate on the amendment the Lord Chancellor stated that 'what the Government seek from this compromise is that the progress of the Bill...will not be unreasonably impeded and that the rest of their legislative programme will not be unreasonably impeded'.<sup>28</sup> The amendment was supported by the Opposition, with the Liberal Democrats expressing dislike of the compromise and subsequently abstaining.

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<sup>27</sup> HL Deb 11 May 1999 vol 600 c 1137

<sup>28</sup> HL Deb 11 May 1999 vol 600 c 1093

## B. By Elections

The question of a by election procedure to deal with vacancies was met by an amendment at report stage. The Opposition were anxious to ensure that if Stage II were delayed that the number of hereditary peers would be maintained; instituting by elections would also appear to pressurise the Government to implement further reforms. The Lord Chancellor said at committee stage that an elaborate by-election scheme before Stage II would be 'needlessly cumbersome'.<sup>29</sup> On recommitment in committee of the Bill the Opposition introduced an amendment to provide for a system of by elections for the second session following the next general election after the passage of the Bill. This would mean by elections from 2003 at the latest.<sup>30</sup> The amendment was supported by the former Opposition leader, Lord Cranborne. At this stage, the Lord Chancellor argued against putting any by election procedure on the face of the bill.<sup>31</sup>

On report, an amendment was introduced by the Opposition to allow for such a by election procedure. The Lord Chancellor indicated that the Government would accept an amendment provided it was coupled with standing orders providing that hereditaries outside the House could not vote in by elections, although they could stand as candidates.<sup>32</sup>

- Voters for a vacancy in the 75 would be the excepted peers in the relevant party grouping.
- Voters for a vacancy in the 15 would be all members of the House, both life and excepted peers.

The Lord Chancellor promised an amendment on these principles at third reading. This was duly passed on 26 October, when the Lord Chancellor reminded peers that the details of the constituency for the by elections would be set out in amendments to standing orders.<sup>33</sup> Another Government amendment made clear that there would be a fixed number of 90 excepted peers, rather than a maximum of 90 (c 169).

## C. Deputy Speakers and Deputy Chairmen

The Lord Chancellor stated at committee stage that the limit of 90 was 'both a ceiling and a floor' and that peers who ceased to be Deputy Speakers or Committee would keep their seats in the transitional House. The House would elect replacements from within its own existing membership and excluded hereditaries would not participate in that process.<sup>34</sup>

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<sup>29</sup> HL Deb 17 May 1999 vol 601 c 27

<sup>30</sup> HL Deb 25 May 1999 vol 601 c 897

<sup>31</sup> HL Deb 25 May 1999 vol 601 c 904

<sup>32</sup> HL Deb 22 June 1999 vol 602 c 797

<sup>33</sup> HL Deb 26 October 1999 vol 606 c 169

<sup>34</sup> HL Deb 17 May 1999 vol 601 c 25

On recommitment, the Liberal Democrats raised concerns about the role of the excepted 15, who could choose not to sit as a Deputy, and queried why they could not have been chosen from the other 75 hereditary peers.<sup>35</sup> In response, the Lord Chancellor referred to the Weatherill amendment as an overall compromise, but there would be no intention to force hereditary peers to stay in office for life.<sup>36</sup>

## **D. The Electorate**

The Liberal Democrats proposed to allow all peers to vote for the 75 hereditaries and expressed doubts about electoral colleges by party allegiances.<sup>37</sup> The Lord Chancellor noted that the Weatherill agreement had been conducted on the basis that all three parties would use a uniform system of selection and that they proceeded 'on the assumption that it would be first past the post and fastest losers'.<sup>38</sup> However, details would have to be examined by the Procedure Committee.

## **V The Procedure Committee Report**

The Procedure Committee met on 6 July 1999 to decide on the final details and their recommendations were published later that month.<sup>39</sup> The report set out the text of the proposed new standing orders as follows:

### *New standing orders*

#### *“Hereditary Peers*

- (1) In implementation of section 2 of the House of Lords Act 1999, this Standing Order makes provision for hereditary peers who are excepted from section 1.
- (2) The excepted hereditary peers shall consist of the following categories:
  - (i)
    - 2 peers elected by the Labour hereditary peers;
    - 42 peers elected by the Conservative hereditary peers;
    - 3 peers elected by the Liberal Democrat hereditary peers;
    - 28 peers elected by the Cross-bench hereditary peers;

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<sup>35</sup> HL Deb 25 May 1999 vol 601 c 78

<sup>36</sup> HL Deb 25 May 1999 vol 601 c 791

<sup>37</sup> The Liberal Democrats proposed an amendment on report to allow each party grouping to determine their own method of election. HL Deb 22 June 1999 vol 602 c 803

<sup>38</sup> HL Deb 25 May 1999 vol 601 c 823. The term “fastest losers” is a reference to the preferential votes system chosen for the Weatherill elections

<sup>39</sup> HL Paper 81 1998-9

- (ii) 15 peers, elected by the whole House, from among those ready to serve as Deputy Speakers or in any other office as the House may require; and
  - (iii) any peer holding the office of Earl Marshal or performing the office of Lord Great Chamberlain.
- (3) Elections shall be conducted in accordance with arrangements made by the Clerk of the Parliaments.
  - (4) In order to stand for election or qualify as an elector under paragraph (2)(i), a peer must register with the Clerk of the Parliaments, identifying the party or Cross-bench group to which he belongs. In order to stand for election under paragraph (2)(ii), a peer must register separately with the Clerk of the Parliaments. A peer may not stand for election nor vote if he has not taken the Oath or is on Leave of Absence.
  - (5) In the event of a tie between two or more candidates standing in any of the elections held in accordance with paragraph (2), the matter (if not resolved by the electoral arrangements adopted by the House) shall be decided by the drawing of lots.
  - (6) The Clerk of the Parliaments may refer any question concerning the propriety of the electoral process to the Committee for Privileges.
  - (7) In the event of a vacancy occurring at any time up to the end of the initial period through death among the peers elected in category (2)(i) or (2)(ii), the vacancy shall be filled by the nearest runner-up in the relevant election under paragraph (2) who both wishes to fill the vacancy and is otherwise available. The provisions of paragraph (5) are applicable for this purpose. If no such runner-up is available, the House shall decide how the vacancy shall be filled.
  - (8) In this Standing Order and in Standing Order (Hereditary Peers: By-elections) the end of the "initial period" is the end of the first session of the next Parliament after that in which the House of Lords Act 1999 is passed."

*"Hereditary Peers: By-elections*

- (1) In implementation of subsection (4) of section 2 of the House of Lords Act 1999, this Standing Order makes provision for by-elections to fill vacancies occurring by death among excepted hereditary peers after the end of the initial period.
- (2) In the event of the death of a hereditary peer excepted under Standing Order (Hereditary Peers)(2)(i) only the excepted hereditary peers in the group in which the vacancy has occurred shall be entitled to vote.
- (3) In the event of the death of a hereditary peer excepted under Standing Order (Hereditary Peers)(2)(ii) the whole House shall be entitled to vote.



- (4) The provisions of paragraphs (2) and (3) shall apply also in the case of any subsequent by-elections.
- (5) The Clerk of the Parliaments shall maintain, and publish annually, a register of hereditary peers (other than peers of Ireland) who wish to stand in any by-election.
- (6) By-elections shall be conducted in accordance with arrangements made by the Clerk of the Parliaments and shall take place within three months of a vacancy occurring.
- (7) Paragraphs (5) and (6) of Standing Order (Hereditary Peers) shall apply to by-elections under this Standing Order."

The report also made recommendations on arrangements for the elections. Each hereditary peer would be required to register by post or fax with the relevant party group if they wished to stand or to vote, and the registers would be updated in case of subsequent by elections. Peers wishing to stand for the Deputy Speaker would also have to register separately. Peers on Leave of Absence or who had not taken the Oath would not be able to stand in the initial election, but this restriction would not apply for by elections where candidates would be hereditary peers no longer eligible to take their seats in the Lords.

The first election would be for the Deputy Speakers and office holders, but both elections would take place in the 'spillover period'. Two days would be allowed for this election, and a list of candidates for the party elections would be prepared, eliminating those successful in the first election.

No form of election address would be permitted on the ballot paper itself, but the Clerk of the Parliaments would facilitate a separate paper giving electors information about each candidate. The report did not specify further details, or propose expense limits on election literature, canvassing etc. However, a code of conduct for candidates and voters would be issued by the Clerk of the Parliaments.

The electoral arrangements would work on the principle that each voter had the same number of votes as there were candidates. The voter would go through the ballot paper numbering each candidate in order of preference (from 1 to 42 in case of the Conservative grouping). The number of votes would then be counted for each candidate, regardless of whether these are first or second or third preference votes, or so on. The voter would have to vote for exactly the number of vacancies otherwise the ballot paper would be considered spoilt. Only if there were a tie between candidates would the votes received be examined, and the candidate with most first preference votes would win. The full details were set out as follows:

- (1) The electoral system will be as follows. The ballot papers for the party elections will be printed with the names of all the candidates for the relevant party/group, and voters will be required to vote for the total

number of vacancies for that party/group in order of preference, marking against each name the figure 1, 2, 3, 4 etc. The figure 1 will indicate a first preference, the figure 2 a second preference and so on. It must be stressed that a voter will be required to vote for exactly the number of vacancies in the relevant party or group; failure to do so will result in the ballot paper being spoilt and not taken into account when the votes are totalled. So if there are 28 vacancies, voters must place the figures 1, 2, 3 up to 28 against 28 names and not more or less than 28 names.

In the initial count, every vote will have equal weight and the candidates who receive the largest number of votes will be elected to the relevant vacancies. In the event of a tie, the number of first preferences received by a candidate will be taken into account, so that the candidate with the higher number of first preferences would be elected. If this does not resolve the tie, second preferences will be taken into account, and, if necessary, third preferences and so on. In the unlikely event that this did not resolve the tie, lots could be drawn.

This system of election might be considered vulnerable by electoral experts to organised 'slates' where a minority of peers voting as a block might have a disproportionate effect on the outcome. The system of election for the 15 peers was similar, although the electorate was to be the whole House.

The count would be undertaken by staff of the Parliament Office, with supervision from party nominees. The number of votes cast for each candidate would be recorded in a report by the Clerk of the Parliaments, but the voting papers themselves would not be made public. However the ballot papers would be retained by the Clerk of the Parliaments to decide how subsequent vacancies are filled, until the by election system came into play. The Clerk of the Parliaments would have power to refer matters to the Committee for Privileges, should he suspect 'on reasonable grounds' that a 'material irregularity or improper conduct may have occurred in the electoral process'.<sup>40</sup>

## **A. Proceedings of the Committee**

The proceedings of the Procedure Committee were also published and it was evident that Cross Benchers and Liberal Democrats had concerns about the procedures for the election of the 75 party peers and for by elections. Lords Chalfont and Bledisloe argued that life peers should be able to participate in the election of the 75. There were discussions within the Committee as to the extent to which the 75 could be said to *represent* the hereditary peerage within the House. Lord Weatherill noted that his understanding of the original negotiations had been that hereditaries would elect hereditaries (p 10). The committee decided not to amend the standing order by 18 votes to 4. There was further discussion on the potential problems of by elections where only hereditary peers already

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<sup>40</sup> para q

selected to be in the House would be eligible to vote. This might lead to a situation where, after the death of one Labour party peer, the only remaining Labour hereditary peer would have the right to cast the single vote for the vacancy.

The report was debated in the Lords on 22 July.<sup>41</sup> Viscount Bledisloe, a Cross Bencher, brought forward amendments to allow each party group to include life peers within its own electorate for the 75. These were defeated by 229 to 146 votes. Lord Weatherill argued that there should be a genuinely free vote on the amendments, given that independent peers should not be ‘pressurised into voting one way or another by any deal that may have been arrived at through the usual channels’ (c 1155). He noted that all ‘the Bledisloe amendment seeks to achieve is the freedom of the independent Cross Benchers to exercise their judgement as they think best. If the amendment is carried, it will not bind any other party to follow suit’(c 1156).

There was further criticism of the proposed by election procedure but the report was agreed without amendment.

The new standing orders were adopted in a formal motion passed by the Lords on 26 July.<sup>42</sup> They now form standing orders 9 and 10.<sup>43</sup>

## **B. Dual mandates**

On report, the issue of the rights of excepted peers to vote in and stand for Commons elections was raised.<sup>44</sup> A government amendment provided that excepted peers will not have the right to sit, stand or vote in Commons elections.<sup>45</sup> Excepted peers will therefore be in the same position as life peers. A further government amendment ensured that an excepted peer would not need a new writ of summons, provided that he becomes an excepted peer before the end of the current session (c 902). New writs of summons will be necessary for peers who become excepted after the end of the session.

On report there were amendments to exclude members of the Scottish Parliament, Welsh Assembly and Northern Ireland Assembly from membership of the House of Lords. These amendments were not passed, but the position of the three presiding officers of these assemblies – all life peers- was raised as potentially anomalous.<sup>46</sup>

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<sup>41</sup> HL Deb 22 July 1999 vol 604 c 1137-1175

<sup>42</sup> HL Deb vol 602 c 1292-4

<sup>43</sup> HL Paper 99 1998-9 sets out the texts of the new standing orders which are also online at [www.parliament.uk](http://www.parliament.uk)

<sup>44</sup> HL Deb 22 June 1999 vol 602 c 898

<sup>45</sup> HL Deb 22 June 1999 vol 602 c 902

<sup>46</sup> HL Deb 30 June 1999 vol 603 c 309-11

### C. Text of Standing Orders in the Bill

Amendments to put the text of the proposed standing orders on the face of the Bill were resisted by the Government. The Lord Chancellor noted that one advantage of specifying the scheme in standing orders rather than in the Bill was that the Commons would not have the opportunity to assert different views.<sup>47</sup> Amendments at report to set out the numbers of excepted peers by party grouping were considered by clerks to make the Bill hybrid if passed.<sup>48</sup>

### D Retirement Provisions

On recommitment concerns were expressed about the absence of provision to allow resignations from the position of excepted peers (in other words, provision to allow the elected hereditary peers to disclaim). In response, the Lord Chancellor said that the same position should apply to hereditary peers as life peers, that they should be peers for life.<sup>49</sup> Government amendments were passed on report to the *Peerage Act 1963* so that excepted peers will not be able to disclaim their peerages.<sup>50</sup> There were also amendments to the *Recess Elections Act 1975* so that becoming an excepted peer will be a ground for a by election in the Commons, rather than succession to a peerage (c 903). Finally, there were amendments to the *Peerage Act 1963* to ensure that Scottish and female hereditary peers could qualify as excepted peers (c 903).

## VI Final Arrangements for the Weatherill Elections

A House of Lords Special Notice was circulated on 27 July entitled *Hereditary Peers' Elections* which set out the timetable for the elections, which took place on 27-28 October for the Deputy Speakers and other office holders, and 3-4 November for the Party elections. A Code of Conduct for the elections was also appended, which warned candidates against offering hospitality for votes, discrediting other candidates and soliciting for votes near the room where an election was taking place. Each candidate was to submit to the Clerk of the Parliaments up to 75 words in support of the candidacy and each entry was placed in the Lords Library for inspection by registered electors. The registration period for candidates and electors extended from 11-21 October. Candidates were not allowed to circulate election material themselves. Copies of the individual Electoral Statements are in the Lords Library and in the Record Office. They have not been published as a Lords Paper. The Electoral Statements were grouped by party, including Cross Bencher, and a separate Statement was issued for the office holders'

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<sup>47</sup> HL Deb 25 May 1999 vol 601 c 818

<sup>48</sup> HL Deb 22 June 1999 vol 602 c 816

<sup>49</sup> HL Deb 25 May 1999 vol 601 c 895

<sup>50</sup> HL Deb 22 June 1999 vol 602 c 902

elections. A special Lords Notice was issued on 22 October listing the candidates for the office holders' election.

227 hereditary peers submitted nomination forms for the two sets of elections. A full list is available in the House of Lords Library and the Record Office. 31 of the 33 who stood in the first election for office holders also put their names forward for the second election—Lord Elton and Lord Methuen were the only exceptions. 125 Conservatives, including Viscount Cranborne and Lord Strathclyde, 12 Liberal Democrats and 9 Labour peers put forward their names. The Association of Conservative Peers organised primaries for its own slate of candidates.<sup>51</sup> According to press reports, the Conservatives reached agreement on the election of the 15 office holders; although the Conservatives have a substantial majority in the Lords and could in theory have won all 15 of the posts, in practice 'senior Conservatives agreed that they should get only about eight of the peers, with the crossbenchers getting three and Labour and the Liberal Democrats getting two each'.<sup>52</sup>

The results of the elections are set out in Appendix 1. Appendix 2 contains a breakdown of membership of the House of Lords by party before and after the Queen's Speech.

## VII The Royal Commission

### A. Introduction

The Government's intention to establish a Royal Commission on the Reform of the House of Lords was announced in The Queen's Speech on 24 November 1998 and described more fully in the White Paper *Modernising Parliament: Reforming the House of Lords*.<sup>53</sup> The members of the Royal Commission were formally appointed by Royal Warrant dated 18 February 1999 and the Commission met for the first time on 1 March.

The membership of the Commission is as follows:

Lord Wakeham  
 Ann Beynon  
 Lord Butler  
 Baroness Dean  
 The Rt Reverend Richard Harries, Bishop of Oxford  
 Lord Hurd  
 Gerald Kaufman

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<sup>51</sup> *Daily Telegraph*, 23 October 1999 'Hereditary peers make their case for survival'

<sup>52</sup> *Times*, 22 October 1999 'Lords rig their first attempt at democracy'

<sup>53</sup> Cm 4183, January 1999

Anthony King  
Bill Morris  
Kenneth Munro  
Dawn Oliver  
Sir Michael Wheeler-Booth

The terms of reference of the Royal Commission on the Reform of the House of Lords are:

Having regard to the need to maintain the position of the House of Commons as the pre-eminent chamber of Parliament and taking particular account of the present nature of the constitutional settlement, including the newly devolved institutions, the impact of the Human Rights Act and developing relations with the European Union:

- to consider and make recommendations on the role and functions of a second chamber;
- to make recommendations on the method or combination of methods of composition required to constitute a second chamber fit for that role and those functions;
- to report by 31 December 1999.

The Royal Commission requested written evidence from interested parties and relevant experts as well as from members of the general public. The Commission produced a consultation document in March 1999 identifying the main issues on which it expected to concentrate and suggesting a number of questions which contributors might choose to address.<sup>54</sup> It subsequently organised a series of public hearings intended to enable it to probe and test the written evidence it had received and to hear the views of members of the general public.<sup>55</sup>

The documents submitted to the Commission by the three main parties are summarised below, with particular reference to arguments on the composition of the reformed House of Lords.

## **B. The Labour Party Submission**

Labour's submission to the Royal Commission, *Reforming the House of Lords for the New Millennium* (May 1999) was prepared on behalf of the party by Professor Keith Ewing.

In her foreword to the submission, the Labour Party General Secretary, Margaret McDonagh, suggested that reform of the second chamber should

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<sup>54</sup> [www.lords-reform.org.uk/index/consul.htm](http://www.lords-reform.org.uk/index/consul.htm)

<sup>55</sup> Transcripts are available at <http://www.lords-reform.org.uk/1999/pubhear.htm>

respect the pre-eminence of the House of Commons and the integrity of general election results. We need to avoid the confusion of two chambers with conflicting mandates for office.<sup>56</sup>

The chapter on the composition of the reformed House of Lords sets out three constitutional principles with which any reform should be consistent: the Commons should be the pre-eminent chamber, the government is formed from the majority party in the Commons, and

There is an expectation that a government which has the confidence of the House of Commons will implement the manifesto commitments by which it was elected.<sup>57</sup>

This third principle is, perhaps, couched in stronger terms than the familiar “Salisbury convention”, according to which the Lords should not reject at Second Reading any government legislation which has been passed by the House of Commons and which carries out a manifesto commitment.

Three more specific principles to guide the composition of the House of Lords following reform are also set out: legitimacy, constitutional stability and appropriateness as to role and functions. Legitimacy relates not only to public confidence, but also to the need for members to have equal standing:

there should be no opportunity for some to assert that they have a greater legitimacy than others.<sup>58</sup>

Constitutional stability is said to require that

the method of composition must not be such as to lead to conflict between the two Houses of Parliament on a regular basis. This is not to say that the valuable role of the House of Lords should be undermined or that its existing powers as exercised should be diminished.<sup>59</sup>

Finally, the Labour Party’s submission states that the reformed House should have members with the appropriate skills and expertise to equip it for its primary role of revision and scrutiny.

Hence, the composition of the reformed House should be designed to ensure that the House of Lords is a "distinctive, representative and independent chamber":

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<sup>56</sup> p 3

<sup>57</sup> pp 22-3

<sup>58</sup> p 23

<sup>59</sup> p 23

**A distinctive chamber:** the reformed House of Lords must be composed in a manner which is different from that of the House of Commons. Otherwise there is a danger of it being simply the mirror image of the House of Commons. It would be difficult for the House of Lords in these circumstances to provide effective scrutiny of government. This could lead some to question the very purpose and continued existence of the House of Lords.

**A representative chamber:** the reformed House of Lords must be fully representative - it should fairly represent political opinion in the country, it should be representative of the different interests in the country (such as business, labour, education, science and the arts), and it should be representative of the people as a whole. It is particularly important that the reform of the House of Lords should address questions such as the age, gender and ethnic composition of its membership, and how fairer representation can best be secured.

**An independent chamber:** the reformed House of Lords must contain a strong independent element, if it is to operate as an effective check on government, and be able to engage properly in the process of revision and scrutiny. The Labour Party believes that it is important also that space is found in the political process for those who fall outside the professional political classes. The reformed House of Lords must accommodate the wide spread of skills, knowledge and expertise which are to be found in this country.

Other points covered in the Labour Party submission include:

- Consideration should be given to the principle of representation of the devolved bodies and the English regions in the House of Lords.<sup>60</sup>
- There should be fair representation for the political parties. No one party should have an overall majority. A government majority would preclude independent scrutiny, while an opposition majority would be a “recipe for constitutional conflict and political instability”.<sup>61</sup>
- The procedures for ensuring party representation should be “clear and transparent”.<sup>62</sup> The Labour Party notes the Government’s plans to establish an independent Appointments Commission for the transitional chamber.

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<sup>60</sup> p 26

<sup>61</sup> p 26

<sup>62</sup> p 27



- If the Royal Commission considers that the judicial function of the House of Lords should be severed, it should also consider whether and in what circumstances senior judges could continue to be eligible for membership of the Lords.<sup>63</sup>
- The Church of England should continue to be represented in the House of Lords, but the Commission should explore the options and opportunities for extending representation of the other religions and faiths in British society.<sup>64</sup>

The Labour Party submission argues for a “significantly higher” membership of the reformed House of Lords than either the 1918 Bryce Commission (around 327 + the law lords) or the Wilson Government’s 1968 White Paper (around 200-250 working peers). The “dangers of reducing the size of the House by too much” should be avoided. The House of Lords should not be a small full-time body: “This would threaten the role of independents and experts who might find it difficult to comply with such an obligation”.<sup>65</sup>

It is proposed that “as a matter of principle steps should be taken to ensure that the government’s mandate, as implemented by the House of Commons, is not frustrated by the House of Lords”.<sup>66</sup> However, Labour states that “the current *de facto* powers of the House of Lords as exercised in practice should be neither significantly extended nor reduced, and should remain largely as they are”. The principal current mechanisms for regulating disagreements between the two Houses are identified as the Salisbury Convention and the Parliament Acts 1911-1949. Labour believes that the Salisbury Convention should be formalised in some way, and invites the Commission to consider how this could be done.<sup>67</sup> The three main mechanisms set out in the Parliament Acts should be retained, but the Lords’ power to delay Commons bills should be used with “great restraint”.<sup>68</sup> In addition, the Parliament Acts should be extended to cover the Lords’ power to veto secondary legislation and Commons amendments to House of Lords bills.<sup>69</sup>

### C. The Conservative Party Submission

The foreword to the Conservatives’ submission, *A Stronger Parliament* (May 1999), regrets the fact that the Royal Commission’s remit does not allow it to look into “the broad question of the reform and improvement of Parliament as a whole”.<sup>70</sup> The introduction alleges that the Government has not thought through in detail its constitutional changes, which have “complicated government and weakened our national

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<sup>63</sup> pp 20, 27

<sup>64</sup> p 28

<sup>65</sup> p 30

<sup>66</sup> p 34

<sup>67</sup> p 34

<sup>68</sup> p 35

<sup>69</sup> p 36

<sup>70</sup> p 4

Parliament”.<sup>71</sup> The constitution has been “thrown into shock and instability”.<sup>72</sup> Against this background, it is necessary to try to rebuild a cross-party consensus for reform.

Reform of the House of Lords should be informed by six principles which were originally set out by the Conservative Party in 1998. There should be:<sup>73</sup>

1. No increase in the Prime Minister’s powers of patronage, direct or indirect
2. A composition different from the Commons to assure the primacy of the Commons in disputes
3. An independent element, *not* owing place to patronage, direct or indirect
4. Members from the whole UK – at a time of devolution and institutional change
5. A view taken of the effects of reform on *both* Houses of Parliament, not proceeding by looking at the Lords in isolation
6. Clear evidence that the new house would operate better than the present one in scrutinising the executive independently and improving law.

The present Bill fails against principles 1, 5 and 6 and would undermine 3 and 4. The Royal Commission is particularly urged to give due weight to the importance of maintaining a strong independent element in the Lords, since the present bill would remove over 55% of the Cross benchers.<sup>74</sup>

The Conservative Party opposes the proposal in Chapter 7.26 of the White Paper<sup>75</sup> to reduce the powers of the Second Chamber.<sup>76</sup> Specifically, the Conservatives would oppose:

- a) reducing the period for which legislation can be delayed under the Parliament Acts;
- b) ossifying all the existing conventions on the use of the powers of the House of Lords;
- c) reducing the ability of the house of Lords to invite the Commons to think again; or
- d) removing the power to block secondary legislation.

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<sup>71</sup> p 5

<sup>72</sup> p 6

<sup>73</sup> p 7

<sup>74</sup> p 7

<sup>75</sup> *Modernising Parliament: Reforming the House of Lords*, Cm 4183, January 1999

<sup>76</sup> p 10

On (c), the Conservatives' submission observes that many of the current conventions on the use of the powers of the House of Lords stem from the perception of its comparative lack of legitimacy. To alter the composition of the House would be to remove, or at least alter, the justification for certain of these customs. Regarding the role of a reformed second chamber in constitutional matters, the Conservatives suggest that<sup>77</sup>

**Constitutional safeguards are required, including the effective entrenchment of the vitally important existing power to prevent the extension of the life of a Parliament. [...] We would consider it indefensible for a nominated House of Lords to be able to approve legislation to extend the life of a Parliament, or to remove the power of the Crown to veto legislation to dissolve Parliament, by a simple majority of those present and voting.**

A variety of suggestions for improved scrutiny of legislation and the executive are put forward, including

- More detailed scrutiny of secondary legislation, including a power to require the executive to seek the renewal of excessively onerous regulations after not less than five years (known as a “sunset clause”)
- New scrutiny procedures for powers taken in legislation contrary to the recommendation of the Deregulation and Delegated Powers Select Committee
- Pre-legislative scrutiny
- Further development of the Committee structure
- Question time with the Leader of the House, to act as a parallel to Prime Minister's Questions.

In view of the need to build a cross-party consensus, and the need to consult with party members on the Mackay commission's proposals,<sup>78</sup> the Conservative Party submission does not set out a unilateral model for reform.<sup>79</sup> Mackay had put forward two models for the reformed second chamber: a chamber of mixed composition, including appointed, directly elected and indirectly elected members; and a wholly directly elected chamber. After consultation within the party, further models might emerge for discussion. However, the submission states that<sup>80</sup>

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<sup>77</sup> p 11

<sup>78</sup> Report of the Constitutional Commission on options for a new Second Chamber, chaired by Lord Mackay of Clashfern, April 1999. The Commission was established by the Leader of the Opposition, William Hague, in July 1998

<sup>79</sup> p 9

<sup>80</sup> p 13

**The Conservative Party is totally opposed to the creation of an entirely nominated House of Lords.** It also opposes “quotas” for specific sections or groups of persons, brought in as part of a broader social agenda.

The Conservative Party submission does not reach a firm conclusion on the presence of the Law Lords and the Bishops in a reformed House of Lords, but notes the past benefits of the former arrangement and the way that the latter “has worked over many centuries” in the context of the Established relationship between the Church of England, Crown and Parliament. The submission suggests that “there is a case for considering whether other denominations and faiths could be more systematically represented in the second chamber”.<sup>81</sup>

The Conservatives state that whatever process for determining the membership of the reformed second chamber is decided on, it should ensure that members from throughout the UK are chosen. They do not propose that the second chamber should have any distinct statutory role in liaising with the devolved institutions, or the new Greater London Authority. The party specifically opposes the indirect election of members of the new institutions to the House of Lords.<sup>82</sup>

Whilst [the party] does not exclude the possibility of individuals being members of the Second Chamber and a devolved parliament or assembly, no such person should *represent* one parliamentary body in another. We can see difficulties in serving two masters.

Similarly the Conservative Party opposes the indirect election of MEPs to the second chamber.<sup>83</sup>

An initial ceiling of 659 is proposed for the interim House of Lords, the same number as in the House of Commons. The ceiling should be lowered with the eventual adoption of the “second stage” reforms.<sup>84</sup>

#### **D. The Liberal Democrat Submission**

The executive summary of the Liberal Democrat Evidence to the Royal Commission [June 1999] is as follows:

Our intention is to strengthen the authority and legitimacy of the second chamber and to enhance its role as a check on executive power. Our recommendations on structure are directed to that end. Our preference is that

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<sup>81</sup> p 13

<sup>82</sup> p 14

<sup>83</sup> p 14

<sup>84</sup> p 16

the ultimate structure of the second chamber should be a wholly elected Senate with 261 Senators. Senators would be elected for six year periods, with one third facing re-election every two years. Senators would be expected to be full-time members and would be paid accordingly. The House of lords sitting in its judicial capacity should be separate from the Senate and renamed the Supreme Court. Law lords and bishops should no longer have a place in the second chamber. The functions and powers of the Senate should be defined in law and in some areas, such as the constitution, should be greater than the functions and powers of the present House of Lords.

## **E. The Sunday Telegraph ‘Leak’**

On 31 October 1999 the *Sunday Telegraph* carried a story claiming that it had obtained a draft of the Royal Commission report. The main aspects can be summarised as follows:

### **Composition**

- No party would secure a majority, but the Government party would ‘generally be the largest’
- Elected members should form no more than one quarter of the reformed House. One suggestion was 100 in a House of 500 to 600. These would be elected at the same time as the European Parliament elections, and in subsequent elections would be elected one third at a time. An alternative proposal was for indirect elections, with an electoral college of local councillors
- Direct representation of the devolved assemblies in the new House was rejected
- The bulk of the members would be appointed by an independent Appointments Commission which would be expected to secure appropriate representation for vocational/interest groups. Political honours would not lead to a seat in the Lords
- The number of Church of England bishops would be reduced from 26 to 16, but leaders of other faiths would not be granted automatic seats in the Lords
- Existing life peers could hold their seats until death, but with suggestions of a right to speak but not vote
- Retention of the law lords within the new House

### **Powers**

- An ‘enhanced’ role in scrutinising the executive
- Increased powers to hold European Union institutions to account
- A role as ‘constitutional watchdog’, providing a check on new legislation such as devolution to English regions and with new constitutional and human rights committees
- Retention of the power to delay Government bills for up to one year, following current *Parliament Acts* procedure
- New conciliation machinery for dealing with disputes between Lords and Commons, involving a joint committee to resolve lengthy disputes

- No role in confirming/rejecting major public appointments
- Entitlement to ‘play a more rigorous role’ in keeping the Government in check
- Restatement of the ‘Salisbury Doctrine’<sup>85</sup>, but without a statutory basis

The Royal Commission has not made any public comment on the alleged leak. It is due to report by 31 December 1999. The *Sunday Telegraph*<sup>86</sup> article suggests that if the Commission proposals are acceptable to the Government, the next stage of the process, consideration by a joint committee of both Houses, might be abandoned in favour of immediate implementation. The suggestion was that this would allow reform to be completed before the next election

The commitment in the 1997 Labour manifesto was :

A committee of both Houses of Parliament will be appointed to undertake a wide-ranging review of possible further change and then to bring forward proposals for reform

The White Paper stated that the ‘Joint Committee would be asked to examine in more detail the Parliamentary aspects of any proposed reform’.<sup>87</sup>

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<sup>85</sup> see Research Paper 98/103 *Lords Reform: The Legislative Role of the Lords* for further details

<sup>86</sup> 31 October 1999 ‘Exclusive: Blueprint for a House of Lords’

<sup>87</sup> Cm 4183, Executive Summary

## Appendix 1

### Election Results

#### 1. Office Holders

The results of the office holders' elections held on 27th and 28th October were announced on 29 October by the Clerk of the Parliaments.<sup>88</sup> Six hundred and thirty-one Peers completed valid ballot papers. The following candidates were elected:

Candidate	Votes
C. Mar	570
L. Strabolgi	558
L. Elton	558
L. Lyell	547
L. Skelmersdale	544
L. Aberdare	530
L. Brougham and Vaux	525
V. Falkland	519
L. Colwyn	488
V. Oxfuird	482
L. Reay	471
L. Geddes	461
V. Simon	453
L. Methuen	421
L. Ampthill	418

The tie between Lord Strabolgi and Lord Elton was resolved by taking into account voters' preferences, which put Lord Strabolgi ahead of Lord Elton on that basis.<sup>89</sup>

Nine Conservative peers were elected, with the Liberal Democrats, Labour and Cross Benchers receiving two seats each. These successful candidates were removed from the list of candidates for the party elections.

#### 2. Party Elections

The results of the party elections held on 3 and 4 November were announced on 5 November.<sup>90</sup>

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<sup>88</sup> A Lords Special Notice was published on 29 October *Hereditary Peers' Elections* with details of the results

<sup>89</sup> HL Deb 29 October 1999 c 510

<sup>90</sup> HL Deb 5 November 1999 c 1135

### **Labour Party**

17 Peers completed valid ballot papers. The following were successful:

L. Milner of Leeds	8
L. Rea	7

### **Liberal Democrat Party**

20 Peers completed valid ballot papers. The following were successful:

E. Russell	17
L. Avebury	13
L. Addington	10

### **Cross Bench Peers**

105 Peers completed valid ballot papers. The following were successful:

B. Darcy de Knayth	85
L. Freyberg	82
L. St. John of Bletso	81
L. Northbourne	78
E. Sandwich	78
V. Allenby of Megiddo	75
V. Tenby	74
L. Palmer	72
V. Slim	72
V. Bledisloe	70
L. Monson	70
V. Brookeborough	68
L. Bridges	68
Ly. Saltoun of Abernethy	64
L. Hylton	64
E. Baldwin of Bewdley	63
E. Carnarvon	58
E. Listowel	58
L. Moran	57
B. Strange	53
E. Erroll	52
L. Walpole	52
V. Craigavon	51
B. Wharton	48
V. Colville of Culross	47
V. Waverley	47
L. Greenway	47
E. Rosslyn	45



**Conservative Party**

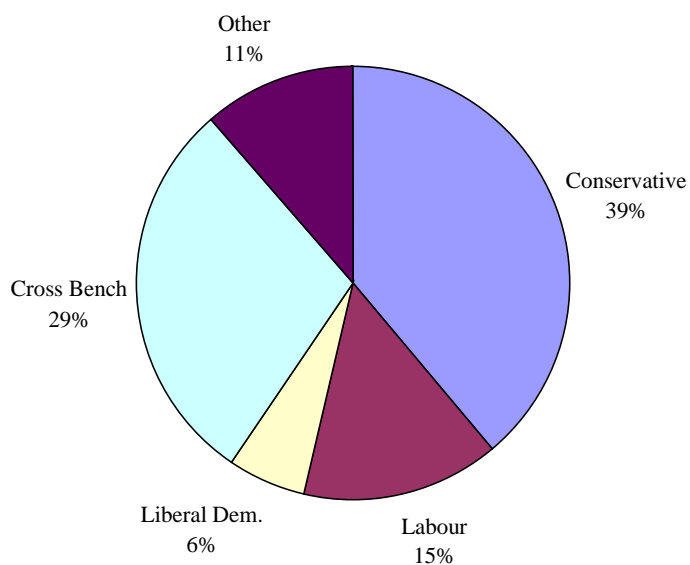
204 Peers completed ballot papers. The following were successful:

E. Ferrers	190
L. Strathclyde	174
L. Trefgarne	173
L. Denham	169
L. Mancroft	168
E. Howe	165
L. Brabazon of Tara	165
E. Caithness	161
L. Henley	160
L. Glenarthur	157
L. Astor of Hever	151
V. Astor	146
E. Courtown	143
E. Peel	142
L. Moynihan	137
E. Attlee	135
V. Goschen	132
D. Montrose	127
L. Burnham	127
L. Vivian	126
E. Northesk	126
E. Selborne	125
V. Bridgeman	125
L. Luke	124
E. Lindsay	116
L. Lucas (of Crudwell and Dingwall)	115
L. Montagu of Beaulieu	113
E. Home	113
L. Glentoran	104
E. Onslow	99
L. Crathorne	97
L. Willoughby de Broke	96
L. Inglewood	95
L. Northbrook	95
L. Swinfen	95
E. Shrewsbury	95
L. Selsdon	94
E. Liverpool	93
E. Arran	90
E. Dundee	90
L. Mowbray and Stourton	88
L. Rotherwick	88

## Appendix 2

### House of Lords Membership by party Composition at 13 October 1999<sup>91</sup>

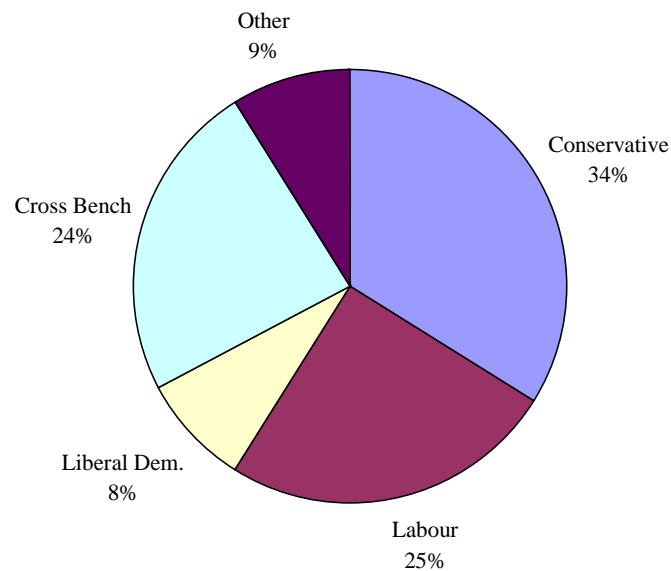
Party	Life Peers	Hereditary Peers		Lords Spiritual	Total	
		Of First Creation	By Succession			
Conservative	172	2	297		471	39%
Labour	160	1	18		179	15%
Liberal Dem.	49	0	23		72	6%
Cross Bench	128	5	220		353	29%
Other	32	0	80	26	138	11%
All	541	8	638	26	1,213	100%



<sup>91</sup> The figures in the above table are based on those peers who are currently eligible to attend the House of Lords (ie. Peers without Writs of Summons (65) or on leave of absence (52) are excluded.) - Source: House of Lords Information Office

**House of Lords Membership by party**Composition of transitional House<sup>92</sup>

Party	Life Peers	Hereditary Peers		Lords Spiritual	Total	
		Dep Speakers and other office holders	Others			
Conservative	179	9	42		230	34%
Labour	162	2	2		166	25%
Liberal Dem.	49	2	3		54	8%
Cross Bench	129	2	28		159	24%
Other	32			26	58	9%
All	551	15	75	26	667	100%



<sup>92</sup> Based on composition at 13 October plus the current parties of former created hereditary peers and Leaders of the House of Lords who are to become life peers plus hereditary peers elected to the transitional House in October and November 1999