



House of Lords Reform – recent developments

Standard Note: SN/PC/2973

Last updated: 21 February 2005

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This note reviews developments in the debate on the reform of the House of Lords since the publication of the Government's consultation paper, *Constitutional reform: next steps for the House of Lords*. (Details of the consultation paper and immediate reaction to it are summarised in a Library Research Paper.¹)

A bill to implement the next stage of House of Lords reform was widely expected in the 2003/04 Session of Parliament but it was never presented to Parliament. After reviewing the fate of the expected bill, this note reviews the formal responses to the consultation “*next steps for the House of Lords*”.

It reviews developments inside and outside Parliament on the question of House of Lords reform. It also highlights other developments that might impinge on further reform of the House of Lords, including a cross-party proposal for reform of the composition of the House of Lords.

Finally, some comments on the appointment of new peers, since the consultation paper was issued, are made.

¹ This note updates developments since the publication of the House of Commons Library Research Paper, 03/85, *House of Lords – Developments since January 2002*, November 2003, see: <http://www.parliament.uk/commons/lib/research/rp2003/rp03-085.pdf>

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A. Government plans for House of Lords reform stalled in 2003-04

In the Queen's Speech 2003, it was announced that:

Legislation will be brought forward to reform the House of Lords. This will remove hereditary peers and establish an independent Appointments Commission to select non-party members of the Upper House.²

On 23 February 2004, in the report of an interview with Lord Falconer, *The Guardian* said that the House of Lords Bill would be published on 27 February 2004.³ However, the bill was not published, reportedly because of the way in which the bill had been drafted:

The problem has been caused by a mistake in drafting the legislation, which forced publication of the Bill to be scrapped before its scheduled launch last Friday. It emerged yesterday that cabinet ministers were horrified to discover that officials drawing up the measure had failed to make it "fireproof" to amendments from MPs who want to see the second chamber directly elected by the voters.⁴

On 10 March 2004, it was widely reported by the newspapers, in similar terms, that the House of Lords Bill would be published "next week".⁵

However, on 19 March 2004, the BBC reported that "Tony Blair has dropped plans to get rid of the remaining hereditary peers before the next general election". Lord Falconer had told the *Today* programme that there was "no point spending more time in Parliament on the issue":

Lord Chancellor Lord Falconer said the plans were unlikely to succeed and so there was no point spending more time in Parliament on the issue.

[...]

"It became absolutely clear the bill wouldn't get through the Lords," he told BBC Radio 4's *Today* programme.

"The Lords have indicated clearly they are going to resist. The leader of the Conservative party said he would fight every part of our legislative programme.

"We have got to focus on the things that really matter when there is no more than about two years to go before an election, at the latest.

"The critical thing is to focus on what our priorities are." ⁶

² HC Deb 26 November 2003 c5

³ Clare Dyer and Patrick Wintour, "Interview: Falconer puts reformers zeal into fight with peers and judiciary", *The Guardian*, 23 February 2004

⁴ Andrew Grice, "Lords reform in disarray after officials bungle drafting of bill", *The Independent*, 4 March 2004

⁵ Paul Waugh, "Lords told to agree deal or face cut in powers", *The Independent*, 10 March 2004; Philip Webster, "Ministers in deal with Tories after Lords sabotage", *The Times*, 10 March 2004; Patrick Wintour, "Blair appeals for help over law reform bill: Government draws back from clash with Lords and tries to negotiate legislative timetable with opposition", *The Guardian*, 10 March 2004

⁶ "Blair puts Lords reform on hold", *BBC News*, see: http://news.bbc.co.uk/1/hi/uk_politics/3524834.stm

This reflected reports in the newspapers which followed the Prime Minister's official spokesman's (PMOS) comment that an announcement would be made shortly on Lords reform:

Asked if it was now more likely that we would shortly see the House of Lords Bill, the PMOS said that an announcement on the Bill would be made soon. He confirmed it would not be this week.⁷

The Guardian reported the story under the headline "Labour backs down on Lords",⁸ whilst *The Independent's* headline was "Blair shelves plans to cut hereditary peers".⁹ *The Financial Times* reported that the final decision would be taken by a Cabinet sub-committee:

Tony Blair has decided, in principle, to abandon plans to reform the House of Lords during this parliament. Following a cabinet discussion yesterday, the prime minister signalled he intended to pull the Lords reform bill but referred a final decision to a sub-committee meeting next week.¹⁰

B. Responses to the consultation paper 'next steps for the House of Lords'

On 22 April 2004, the Department for Constitutional Affairs (DCA) published an analysis of the responses to the September 2003 consultation paper on House of Lords reform.¹¹ In the foreword, Lord Falconer, the Secretary of State for Constitutional Affairs, outlined the Government's September proposals, the reasons for not proceeding with the Bill, and indicated how the process of Lords reform would continue:

... *Constitutional reform: Next steps for the House of Lords* ... set out the Government's proposals for taking forward the next incremental stage of reform to the second chamber. The consultation paper proposed to remove the remaining hereditary peers, establish a new independent statutory Appointments Commission, and bring the provisions on disqualification into line with those of the Commons. In the face of determined refusal by the opposition to support these reasonable reforms, the Government has subsequently decided not to pursue this legislation at this stage. Instead, the Government intends to reflect on the possible options for longer-term reform of the House of Lords, and to encourage wide-ranging debate on the best way forward.

⁷ 10 Downing Street, Press Briefing, 11am Thursday 18 March 2004, see: <http://www.number-10.gov.uk/output/Page5544.asp>

⁸ Michael White and Sarah Hall, "Labour backs down on Lords", *The Guardian*, 19 March 2004

⁹ Ben Russell, "Blair shelves plans to cut hereditary peers", *The Independent*, 19 March 2004

¹⁰ Jean Eaglesham, "Blair set to scrap Lords reform", *Financial Times*, 19 March 2004

¹¹ Department for Constitutional Affairs, *Constitutional Reform: next steps for the House of Lords – Summary of Responses to Consultation*, April 2004, see: <http://www.dca.gov.uk/consult/holref/holresp.htm>

The DCA received a total of 222 responses to its consultation paper. However, not all respondents commented on each of the seven issues raised in the paper and some made other points.

1. The Appointments Commission

Issues 1 to 4 of the consultation concerned the nature, operation and composition of the Appointments Commission.

There was widespread support for a statutory Appointments Commission whose accountability arrangements followed those of the Electoral Commission (i.e. accountable to Parliament rather than ministers):

41 people (41%) suggested that the Commission should be accountable to the House of Lords alone, and 58 people (59%) believed that the Commission should be accountable to both Houses of Parliament.

Most respondents addressing the question favoured an Appointments Commission which included representation from the three main parties and the cross-benchers, and independent members. The cross-benchers expressed a preference for selecting their own representative which would lead to a nine-member commission to allow the majority of the Commission to be independent members. Approximately one quarter of respondents believed that ‘members of either House of Parliament should be eligible for appointment to the Commission as an independent member’.

Whilst 73 per cent of respondents favoured the Commission appointing its own chair, others argued against, including the Constitution Unit, which said:

Given that the chair will in practice be the public face of the commission (as Lord Stevenson is of the current commission) this is an important appointment, and it thus seems appropriate to recruit this as a specific post.

Of 91 responses, 90 per cent believed that members of the Appointments Commission should be ineligible for membership of the House of Lords for a period of time.

In terms of the appointments made by the Commission, 86 per cent of 98 respondents agreed that the Commission should determine the number of appointments. A ‘significant majority’ agreed that the Government should not have an overall majority in the House of Lords.

Most respondents agreed that the share of seats in the House of Lords should ‘have regard to the previous general election’. And most of those believed this should relate only to votes cast.

There was support for a continuing independent element in the House, and for independents to account for at least 20 per cent of appointments.

The DCA reported that most respondents supported the proposal that:

the overall size of the House should not grow beyond its present size of about 675 members and should reduce over time to a House of no more than 600

Although a number of respondents called for a chamber of “around 300”, there was little support for a statutory cap on the size of the chamber.

There was support for the proposal that “the House of Lords should better reflect the make up of UK society”:

The Campaign for the English Regions said that "The most efficient and effective way to ensure regional diversity in the House of Lords would be a system of territorially-based membership. This could most easily be achieved by direct or indirect election".

The Equal Opportunities Commission called for “balanced representation” in all Appointments Commission and party nominations: “with a floor of at least 30 per cent women/men”.

The difficulty of reflecting the country’s age profile and faith representation were highlighted in a number of submissions.

2. Disqualification

Of the 108 respondents on the issue of disqualification, 91 per cent agreed that rules should be brought into line with the House of Commons. But there was criticism of making disqualification rules retrospective:

A number of respondents also dealt with the proposal that such a measure should have retrospective effect. These respondents criticised this proposal, which they said could be seen as vindictive to an individual. Some responses cautioned that retrospective legislation on this matter could set a dangerous precedent.

3. Prime Ministerial patronage

The Prime Minister currently recommends peerages for the post holders of certain offices: 54 per cent of respondents agreed that this should continue; and 58 per cent of respondents supported the appointment of former holders of high judicial office to the House of Lords. On both issues, however, there were dissenting voices. According to the Constitution Unit, Prime Ministerial appointments would make the Appointment Commission’s task of maintaining balance and size limits harder. And the Bar Council Law Reform Committee questioned “why only certain distinguished office-holders should be considered worthy of automatic entitlement to the House of Lords”.

4. Voluntary resignation

There was overwhelming support (92 per cent) to allow voluntary resignation and disclaimer of peerage, although some respondents drew a distinction between the two. The group of seven independent peers argued that:

If retirement necessarily involves renunciation there will be very few retirements.

5. Elections

Despite the consultation paper making no mention of election, of the 222 responses, 123 mentioned elections. In all 112 were “in favour of some form of election to the second chamber”.

6. Other issues

Some respondents objected to the Government’s proposal to remove hereditary peers, and suggested not replacing deceased hereditary peers. Others called for their retention to provide “a forceful incentive to complete the reform”.

There were calls for fixed term appointments: suggestions of seven, ten and fifteen years were made by different respondents.

Some respondents also suggested that there should be a retirement age for members of the House of Lords.¹²

C. House of Lords reform: progress in the House of Commons

1. Westminster Hall debate

On 25 February 2004, Graham Allen initiated a debate on the reform of the second chamber. He argued that progress would only be made on a ‘step-by-step’ basis.¹³ He welcomed the Lord Chancellor’s statement that he was committed “to seeing real progress on the Lords beyond this bill”.¹⁴ He went on to highlight the growing interest in the idea of using a ‘secondary mandate’ to determine the composition of the second chamber.¹⁵ The secondary mandate is the subject of another Standard Note – SN/PC/2916.¹⁶

Paul Tyler said that the Liberal Democrats wanted to make progress on the reform of the House of Lords but that progress could not be made until a ‘road map’ for the next stages of

¹² All quotations in this section come from the analysis of consultation responses, *ibid*

¹³ HC Deb 25 February 2004 c99WH

¹⁴ *Ibid*, c103WH

¹⁵ *Ibid*, c104WH

¹⁶ See: <http://www.parliament.uk/commons/lib/research/notes/snpc-02916.pdf>

reform was in place. He called for a draft bill which outlined the next stages to be published.¹⁷

Christopher Leslie, the Parliamentary Under-Secretary of State for Constitutional Affairs outlined the objectives of the Bill that was expected, and in doing so emphasised that it would not be the end of the process of reform of the House of Lords:

I hope that the current Bill will stabilise the second Chamber, remove hereditary peers, put the Appointments Commission on a statutory footing, introduce rules for disqualification and allow peers to resign their membership without resigning their peerage. Nothing in that Bill need block off any road towards further reform. Nothing in the package is designed to lead to the entrenchment of the current system. We want to keep the route open for further ideas and we intend to keep working on reform.¹⁸

He argued that compromise would be needed if a way forward was to be found; he cautioned against sticking to either fully-elected or fully-appointed options. In order to make progress he called on other parties to participate in the joint committee process:

We want to see further moves. A joint committee is important, and I earnestly appeal to other parties to consider taking part in it to drive forward the consensus in the long term.¹⁹

2. The Joint Committee

In the report of an interview with the Lord Chancellor, in December 2003, a further role was presaged for the Joint Committee on House of Lords Reform, which has not been re-established in the current Parliamentary session:

In a search for consensus on further Lords reform, the joint committee of both Houses, under the chairmanship of Jack Cunningham, a former Labour cabinet minister, will keep going. Mr Cunningham wasn't an enthusiast for Lords democracy - which was why Robin Cook, when he was the reformist Leader of the Commons, would have preferred Sir George Young to chair the committee. But, noted Lord Falconer, the members of the committee included several in favour of democratising the Lords. And the document launching "The Big Conversation" had specifically invited the Labour Party to consider a further stage of reform. "I am conveying the message as strongly as I can that the door is open and I'm keen for people to go through it. What that will involve depends upon having a proper discussion about it." If promotion of the Bill had left the impression that that was where the Government

¹⁷ *Ibid*, c112WH

¹⁸ *Ibid*, c118WH

¹⁹ *Ibid*, c120WH

wanted to end up, that impression was wrong. "That is the critical message I wish to convey."²⁰

However, early in 2004, nine members of the former joint committee announced that they would refuse to sit on the Committee.²¹

3. Early Day Motions

Other Members have expressed their views on the need for progress by signing early day motions.

On 15 December 2003, John Barrett tabled a motion calling for a predominantly elected second chamber:

That this House notes the House of Lords Reform Bill which will abolish the remaining 92 hereditary peers leaving a fully appointed House of Lords; notes that the Government's main argument for not progressing with a substantially or wholly elected House of Lords is because of a lack of consensus, shown by the Commons divisions of 4th February; further notes that if the House of Lords Reform Bill receives Royal Assent, it will produce a House of Lords which was rejected by the House of Commons by 323 votes to 245, but that the option of having an 80 per cent. elected / 20 per cent. appointed House of Lords was rejected by only 284 to 281; believes there is clearly a greater consensus for an 80 per cent. elected second chamber than a wholly appointed House of Lords; and therefore calls on the Government to proceed with reforming the upper House on this basis in line with its manifesto commitment.²²

Following the announcement that the House of Lords Bill would not be proceeded with, Paul Stinchcombe tabled another EDM, which called for a "more democratic and representative" House of Lords:

That this House believes that the withdrawal of proposals to reform the hereditary peerage gives Parliament the opportunity to legislate more comprehensively on Second Chamber reform; believes that the House of Lords should be further reformed so that it becomes more democratic and representative, and yet is in no position to challenge the primacy of the Commons; believes that the political parties should make commitments in their manifestos to legislate in one or more Bills, firstly, to codify and define the powers of the Second Chamber, and secondly, to abolish hereditary peers and to bring forward proposals on composition including proposals

²⁰ Donald McIntyre, "The Monday Interview: 'The right time to make changes is when there isn't a crisis, when you are doing it from a position of strength'; Lord Falconer, Secretary of State for Constitutional Affairs", *The Independent*, 15 December 2003

²¹ Sarah Hall, "Blair snubbed over Lords reform", *The Guardian*, 2 January 2004; see also: Ben Hall, "Lib Dems and Tories thwart reform plan", *Financial Times*, 26 February 2004

²² EDM 279, 2003-04; by the end of the Session the EDM had attracted 68 signatures

for indirect election by secondary mandate by the regions and nations of the United Kingdom.²³

D. House of Lords reform: the Government's view

During the Labour Party's conference in September 2004, Lord Falconer outlined the Government's plans for reform of the House of Lords. *The Times* reported:

... if re-elected the Government would bring forward a Bill to reshape the Lords in the first session of the new Parliament.

In addition to removing the remaining 92 hereditary peers, which ministers announced last year but withdrew, it will clarify the powers of the Lords and limit its ability to delay legislation. Most significantly Lord Falconer announced that it will include further changes to the composition of the Lords.²⁴

On several occasions, in response to questions requesting a statement on further reform of the House of Lords, Christopher Leslie, the Parliamentary Under-Secretary of State at the Department for Constitutional Affairs has used the same reply, namely:

There continue to be a wide range of views on the proper functions, powers and composition of the House of Lords. We have made it clear that we intend to return to the issue of House Lords reform in the context of our Manifesto.²⁵

The reply was also used in response to a question that was answered orally. On that occasion, supplementary questions allowed Christopher Leslie to add that he did not believe that it was possible to have a legitimate second chamber without some reform; that the Government wanted to achieve consensus, if that was possible; that "returning to the matter in our manifesto is one way to make certain that we can make progress early in the next Parliament"; that there was a consensus that the House of Commons should be supreme and is the ultimate elected chamber". However, he reiterated that the question that remained concerned "the powers of the revising chamber and how they should be reflected in its composition".²⁶

However, there are reports of Cabinet divisions over the direction that House of Lords reform should take. For his part, the Prime Minister accepted the need for a debate about "the future composition of the House of Lords" but made his opposition to a part-elected chamber clear:

²³ EDM 891, 2003-04; by the end of the Session the EDM had attracted 36 signatures

²⁴ Greg Hurst, "Falconer bows to pressure for a democratic Lords", *The Times*, 1 October 2004

²⁵ HC Deb 8 February 2005 c1371W; HC Deb 26 October 2004 c1186W; HC Deb 21 October 2004 c893W

²⁶ HC Deb 30 November 2004 cc490-491

My own position is that I think it is very difficult to have a hybrid part-elected, part-appointed House of Lords. That is why I do not favour it, but the debate will continue and I have made it clear that it should be a free-vote issue.²⁷

This response came soon after a *Daily Telegraph* interview with Baroness Amos, the Leader of the House of Lords. She told the newspaper that there would not be a proposal on the future composition of the House of Lords in the forthcoming Labour manifesto:

I think there is still more work to be done because if you put four different people in a room, regardless of which party they come from, there will not just be four different views but you'll probably get eight different views about composition.²⁸

She argued that “we can't look at composition until we have sorted out the powers of the second chamber”.²⁹ Although this contrasted with the government's view in its 2003 consultation paper on “next steps for the House of Lords”, when it argued that:

The Government has no plans to change the role and powers of the Lords.³⁰

Lady Amos expressed her preference for a fully-elected second chamber: “You need an elected second chamber in a truly democratic system”.³¹

The Cabinet divisions were also highlighted by *The Independent*,³² which in a leader article supported a combination of elected and appointed “lords”, with elections “conducted on principles that vary from those that apply to the House of Commons”. Alternatives included longer terms or using proportional representation.³³

The Guardian has also reported on the Cabinet divisions:

A cabinet battle over Labour's attitude to Lords reform was revealed yesterday when Peter Hain said it would be inconceivable for the party to go into the election with a less progressive policy than that of the Tories or Liberal Democrats.

The leader of the Commons also admitted: "We (Labour) seem to have arrived at a situation when the progressive middle class are really pissed off with us." Speaking

²⁷ HC Deb 26 January 2005 c301

²⁸ Toby Helm and Andrew Sparrow, “Labour back-pedals on reform of the Lords”, *Daily Telegraph*, 24 January 2005

²⁹ *Ibid*

³⁰ Department for Constitutional Affairs, *Constitutional reform: next steps for the House of Lords*, CP 14/03, September 2003, para 7

³¹ Toby Helm and Andrew Sparrow, “Labour back-pedals on reform of the Lords”, *Daily Telegraph*, 24 January 2005

³² Andrew Grice, “Blair faces revolt as ministers demand elections for Lords”, *The Independent*, 3 February 2005

³³ “The Prime minister must honour his promises and reform the House of Lords”, *The Independent*, 3 February 2005

during Labour's spring conference, he claimed that the "Guardian-reading middle class" was threatening to desert Tony Blair over his apparent lack of reforming zeal on traditional issues such as Lords reform.

Mr Hain is one of a group of ministers, including the chancellor, Gordon Brown, pressing a reluctant Mr Blair to back a second chamber with a majority of seats elected directly on the same day as the general election.

The prime minister, however, would prefer to keep a nominated house, stripped of the remaining hereditary peers, with fewer powers. Mr Blair also favours the Commons having a free vote on the issue.

Mr Hain told a fringe meeting at the Labour conference organised by the party pressure group Compass: "I think it is very important we keep faith with a progressive programme of radical programme for democratic reform in the House of Lords. I think it is inconceivable that we could go into the next election with a less progressive policy on House of Lords reform than the Tories or the Liberal Democrats."

He said there was debate between those who wanted an upper house elected, via a separate ballot paper on the same day as the voting for MPs, and those that wanted an indirectly elected house reflecting the proportion of votes cast regionally at the general election.

He preferred the former model, partly because he feared the latter would discourage tactical voting against the Tories for the Commons.³⁴

E. Other developments

1. *Constitutional Reform Bill*

The *Constitutional Reform Bill* is currently going through the House of Commons, having completed its progress through the Lords. The initial objectives of the Bill were summarized in the *explanatory Notes*:

The Constitutional Reform Bill will abolish the office of the Lord Chancellor and make changes to the way in which the functions vested in that office are handled. This Bill will also create the Supreme Court of the United Kingdom, create the Judicial Appointments Commission and remove the right of the Lord President of the Council to sit judicially.³⁵

However, during the course of its progress through the House of Lords, the Bill was amended considerably. The Bill as it arrived in the Commons is described in two Library Research Papers:

³⁴ Patrick Wintour, We must take lead on Lords, says Hain, *The Guardian*, 14 February 2005

³⁵ *Constitutional Reform Bill [HL] – Explanatory Notes*, para 3

- The Constitutional Reform Bill [HL] - a Supreme Court for the United Kingdom and judicial appointments [Bill 18 of 2004-05]³⁶
- The Constitutional Reform Bill [HL] - the office of the Lord Chancellor [Bill 18 of 2004-05]³⁷

2. Speakership of the House of Lords

One of the consequential changes of the abolition of the post of Lord Chancellor, who is *ex officio* the Speaker of the House of Lords, is that the Lord Chancellor's successor may no longer fulfil this role.

The House of Lords appointed a select committee "to consider the future arrangements for the Speakership of the House in the light of the Government's announcement that it is intended to reform the office of the Lord Chancellor". The Committee reported on 18 November 2003.³⁸ It recommended that the Speaker of the House of Lords should be known as 'Lord Speaker':

So we come back to "Lord Speaker". It is not only the existing title, but it is also in our view the natural title. The only argument against it is that it might lead to confusion with the Speaker of the House of Commons. We do not regard this as a serious risk. Both Houses of the Canadian Parliament have a Speaker. Baroness Boothroyd, who approved the title "Lord Speaker", did not foresee any confusion (Q 76). We were impressed by her evidence. Accordingly we recommend that the existing title be retained, and that the new Speaker should be known as the Lord Speaker.³⁹

The Committee noted that the title 'Lord Speaker' already existed,⁴⁰ and Standing Order No 18 – 'Speaker of the House' is dated to 9 June 1660.⁴¹ However, Standing Order No 19, which is dated to 27 March 1621, refers to the Lord Chancellor as the 'Mouth of the House':

The Lord Chancellor, when he speaks to the House, is always to speak uncovered, and is not to adjourn the House, or do anything else as Mouth of the House, without the consent of the Lords first had; and any matter on which there is a difference of opinion among the Lords is to be put to the Question; and if the Lord Chancellor will

³⁶ Library Research Paper RP 05/06, <http://hcl1.hclibrary.parliament.uk/rp2005/rp05-006.pdf>

³⁷ Library Research Paper RP 05/05, <http://hcl1.hclibrary.parliament.uk/rp2005/rp05-005.pdf>

³⁸ Select Committee on the Speakership of the House, *The Speakership of the House of Lords*, 18 November 2003, HL 199 2002-03

³⁹ *Ibid*, para 59

⁴⁰ *Ibid*, para 55

⁴¹ *The Standing Orders of the House of Lords relating to Public Business*, 6 November 2002, HL 189 2001-02,

... speak to any thing particularly, he is to go to his own place as a Peer or such other part of the House as he may find convenient.⁴²

However, there is opposition to the title Lord Speaker from the House of Commons. On 19 January 2004, Sir Michael Spicer tabled an Early Day Motion asking the House of Lords to reconsider the proposed title. The EDM had attracted 181 signatures by 12 May 2004. It read:

That this House notes the report prepared by the House of Lords' Select Committee on the Speakership of the House of Lords and its recommendation that the senior Lord presiding on the Woolsack should be known as the Lord Speaker; further notes that the Committee recognized the argument that this might lead to confusion with the Speaker of the House of Commons, but dismissed it; respectfully consider that there would be considerable scope for such confusion to occur, particularly in respect of Mr Speaker's role in representing this House at home and overseas; and calls upon the Government to facilitate consultations between both Houses about this important and sensitive issue.⁴³

According to press reports, the Speaker of the House of Commons is also unhappy about the plans.⁴⁴

However, Baroness Boothroyd, the former Speaker of the House of Commons told *Breakfast with Frost* that she felt that the House of Lords needs a Speaker:

Former Commons Speaker Baroness Boothroyd feels the House of Lords also needs a Speaker to tighten up its proceedings. "I want somebody there who is going to look after that house and do a job there," she said on Breakfast with Frost. "The House of Lords likes to think that it regulates itself. To some extent it does, to a large extent it doesn't. We've got questions asked that have no relationship to the supplementary. There's a good deal of decent work to do there, that I would like to see."

Modesty forbids her from suggesting who might be the candidate with the suitable drive and experience for the post. Let's hope she discussed this over breakfast with Lord Chancellor Lord Falconer, who acts as speaker and was on the show after her.⁴⁵

F. A cross-party proposal for reform

On 10 February 2005, Paul Tyler presented, without debate, the *Second Chamber of Parliament Bill*, "to make provision for and in connection with membership of the Second Chamber of Parliament". He was supported by Kenneth Clarke, Robin Cook, Tony Wright and Sir George Young. It is scheduled to have its second reading on 8 April 2005.⁴⁶

⁴² *Ibid*

⁴³ Early Day Motion 444, 2003-04

⁴⁴ Eben Black, "Speaker tries to shout down a rival in the Lords", *Sunday Times*, 8 February 2004

⁴⁵ "Betty for Speaker", *Evening Standard*, 31 January 2005

⁴⁶ HC Deb 10 February 2005 c1676

Plans for the Bill were announced in November 2004. *The Guardian* reported the key features of the cross-party group's proposal, at that time:

- a smaller chamber, about 400 members against the current 700, of whom 70% are elected for 12 years at general elections, with a third standing down every four years;
- a statutory appointments commission to pick most of the remainder, experts and VIPs, but not the 16 bishops;
- a right for prime ministers to appoint up to four ministers in each parliament;
- transitional arrangements to phase out current peers (who can stand for election) with retirement packages;
- largely unchanged powers, but more legitimate authority to use them;
- a voting system, possibly the single transferable vote form of proportional representation, which allows voters to pick candidates from regionally based "open" party lists.⁴⁷

The proposed bill was welcomed by the Electoral Reform Society:

The Electoral Reform Society has warmly welcomed the new cross-party initiative to create a largely elected House of Lords. The Society has called on the Government to make Lords reform a priority for the next two years.

"We strongly support the plan being put forward ...", said Ken Ritchie, Chief Executive of the Electoral Reform Society. "We believe that it is a well thought through and workable plan which could command the support of a majority in Parliament".⁴⁸

G. Appointment of life peers

1. Appointments of 1 May 2004

On 1 May 2004, 46 new life peerages were announced:

Conservative	5
Independent (nominated by the House of Lords Appointments Commission)	7
Independent (Prime Minister's appointments)	2

⁴⁷ Michael White, "Cross-party group unveils 'workable' Lords reform plan", *The Guardian*, 26 November 2004

⁴⁸ Electoral Reform Society News Release, *ERS welcomes Lords reform initiative*, 25 November 2004

Labour	23
Liberal Democrat	8
Ulster Unionist	1

Press reaction to the appointments included references to the appointment of ‘cronies’, for example:

Tony Blair was facing a fresh cronyism row last night after a Labour Party donor favoured for a multimillion pound smallpox vaccine contract was given a peerage.

In an extraordinary move, the Premier appointed Dr Paul Drayson, the controversial founder of the PowderJect company, as one of 23 new Labour working peers.⁴⁹

There were also acknowledgements that the Labour Party did not have a majority in the House of Lords and that the Conservatives would still be the largest single party in the House of Lords:

Tony Blair's appointment of 23 Labour working peers is designed to staunch the flow of debilitating defeats in the House of Lords and to restore some credibility to the tarnished practice of the political appointment of members.

But the list, published today, will go only part way to meeting his twin goals.

Even though the Tories have been given only six extra peers, they remain the largest party in the Lords - as they have been for more than a century - with 30% of the vote. Labour has 29%, the Liberal Democrats 10% and the crossbenchers 27%.⁵⁰

There was little coverage of the role of the House of Lords Appointments Commission in the appointment of this tranche of peers. However, *The Times* reported that seven peers in the list were appointed on the advice of the Appointments Commission. It contrasted this with the announcement of the first appointments recommended by the Commission:

Hidden in today's list are seven "people's peers". These are the crossbenchers appointed on the advice of the independent House of Lords Appointments Commission set up in 2000.

The seven nominees are the second group to be appointed by the commission, which is headed by Lord Stevenson of Coddanham and contains representatives of all major parties, and are the first such set since the 2001 election.

⁴⁹ Paul Eastham, Jane Merrick, “Peerage for the ‘crony’ who gave Labour £100,000”, *Daily Mail*, 1 May 2004; see also Geoff Dyer and Jean Eaglesham, “Donation led to sleaze claims against former PowderJect chief”, *Financial Times*, 1 May 2004

⁵⁰ Patrick Wintour, “Working Peers: Blair appointees on mission impossible to stop defeat: Tory majority gives Labour’s new members uphill battle”, *The Guardian*, 1 May 2004; see also Gabriel Rozenberg, “More Labour peers – but Tories still have the majority”, *The Times*, 1 May 2004

The low-key announcement contrasts with the clumsy way the first 15 people's peers were announced.

Although 3,000 people from across Britain applied for the job, the nominees were criticised for being drawn from the great and the good.

Some of those peers have caused concern by hardly being seen since. Lord Browne of Madingley, the chairman of BP, did not attend the Lords once during the entire 2002-03 session.

One senior party official said: "What we all want is people who are going to work. Nobody wants peers who are too grand to turn up." The pressure was on the Appointments Commission to prove it can choose active members of the House.

This latest batch of peerages has been expected since last December.

The new intake of peers mean the House of Lords is now larger in size, at 710 members, than the Commons, with 659 MPs. It remains the largest Upper House of any country in the world.⁵¹

In the House, Gordon Prentice tabled an Early Day Motion, which criticised the appointment of Members of Parliament:

That this House notes the appointment for life on 1st May of 46 new Members of Parliament; believes the appointment of lawmakers in this day and age to be an anachronism which cannot be justified; and further believes that the terms 'people's peer' and 'life peer' should be replaced with 'Member of Parliament by appointment' and believes House of Lords reform will get nowhere without a clear unequivocal commitment in the manifestos of each of the three main political parties that in the new Parliament reform will be a priority and that, should joint committees of both Houses be set up to consider proposals, the view of the House of Commons alone should prevail and that 'Members of Parliament by appointment' should not be given a veto.⁵²

2. Prime Ministerial appointments

Since 1 May 2004, four further appointments to the peerage have been announced:

30 October 2004: Neil Kinnock and Chris Patten (retiring European Commissioners)⁵³
25 January 2005: Most Reverend David Hope (retiring Archbishop of York)⁵⁴

⁵¹ Gabriel Rozenberg, *op cit*

⁵² Early Day Motion 1137, Session 2003-04

⁵³ 10 Downing Street press notices, *Life peerages*, 30 October 2004, <http://www.number-10.gov.uk/output/page6495.asp>

⁵⁴ 10 Downing Street press notices, *Life peerage*, 25 January 2005, <http://www.number-10.gov.uk/output/page6986.asp>

31 January 2005: Sir John Stevens (retiring Commissioner of the Metropolitan Police)⁵⁵

On the day of the announcement of David Hope's peerage, the Prime Minister made a Written Ministerial Statement about his powers to nominate peers directly:

The House of Lords Appointments Commission is responsible for recommending non-party-political appointments to the House of Lords. However, I continue to nominate direct to Her Majesty the Queen a limited number of distinguished public servants on retirement. I have decided that the number of appointments covered under this arrangement will not exceed ten in any one Parliament.⁵⁶

The House of Lords Appointments Commission was reported to be concerned about the Prime Minister's use of his powers of patronage. Before the announcement of Sir John Stevens' peerage, *The Independent* reported:

The appointments commission has contacted No 10 asking for a limit to be put on the number of peers the Prime Minister can nominate.

The decision to challenge Downing Street came after a meeting of the commission when members questioned whether the Prime Minister was abusing his powers by directly selecting independent peers, who do not belong to any political party. Particular concerns were raised about the Prime Minister's reasons for choosing a new independent peer who is expected to be appointed directly to the Lords by Mr Blair next week. Downing Street refused to back down over the appointment.

Earlier this week No 10 acknowledged the commission's concern with a formal statement saying that it would limit to 10 the number of direct nominations for non-political peerages.⁵⁷

Following the announcement of Sir John Stevens' appointments, it reported:

Tony Blair was embroiled in a new patronage row yesterday over his decision to overrule a parliamentary watchdog and directly nominate Sir John Stevens for the House of Lords.

The Prime Minister dismissed the concerns of the House of Lords Appointments Commission and personally recommended the outgoing Metropolitan Police chief to the Queen for ennoblement.

The commission said it did not object to Sir John becoming an independent peer but added that his direct nomination raised questions about the Prime Minister's use of

⁵⁵ 10 Downing Street press notices, *Life peerage*, 31 January 2005, <http://www.number-10.gov.uk/output/page7022.asp>

⁵⁶ HC Deb 25 January 2005 c10WS

⁵⁷ Marie Woolf, "Blair accused of abusing power to appoint peers", *The Independent*, 29 January 2005

powers of patronage. Sir John's predecessor at the Metropolitan Police, Paul Condon, was made a cross-bench peer after a long selection process.

Traditionally the Prime Minister has restricted direct nominations to the cross-benches to a small number of distinguished figures such as the Archbishop of Canterbury.⁵⁸

Despite these reported difficulties between the Appointments Commission and the Prime Minister, Tony Blair recently announced that he would ask it for further recommendations shortly:

The Appointments Commission continues to consider nominations and I propose to ask them for further recommendations shortly.⁵⁹

⁵⁸ Marie Woolf, "Peerage for Stevens fuels crony row", *The Independent*, 1 February 2005

⁵⁹ HC Deb 17 January 2005 c751W