



House of Lords Reform: 2007 White Paper

Standard Note: SN/PC/04255
Last updated: 19 March 2007
Author: Richard Kelly
Parliament and Constitution Centre

This note provides a brief summary of the White Paper on House of Lords reform which was published on 7 February 2007. It notes some of the initial reaction to the content of the White Paper from political parties and groups, and pressure groups.

It also considers the initial proposals for reaching decisions on the options outlined in the White Paper, and the decision not to use the alternative vote system. It distinguishes between the procedures suggested for the House of Commons and the House of Lords.

It briefly summarises the outcomes of the votes on the options following the debates in the two Houses. It then notes the Government's plans for progress on the question of Lords reform.

Contents

A.	Introduction	3
B.	The White Paper	3
1.	A bicameral Parliament	4
2.	A Reformed Chamber: principles of composition	5
a.	No Overall Majority for Any Party	5
b.	Non Party-Political Element	5
c.	A More Representative House	5
d.	Continuity of Membership	6
3.	Elected, Appointed or Hybrid?	6
4.	Elections	7
a.	Indirect or Direct?	7
b.	Electoral method, constituencies and timing	7
5.	Statutory Appointments Commission	9
6.	Membership	11
7.	Transition	12
a.	A long transition	12
b.	Removing the hereditary peers	12
C.	Reaction to the White Paper	13
1.	In Parliament	13
a.	To the statement	13

Standard Notes are compiled for the benefit of Members of Parliament and their personal staff. Authors are available to discuss the contents of these papers with Members and their staff but cannot advise others.

b.	Early Day Motions	14
2.	Outside Parliament	14
a.	Press reaction to the White Paper: leading articles	14
b.	Press reaction to the White Paper: commentators	17
c.	Other reaction	20
D.	Reaching a decision	22
1.	Alternative Vote system proposed	22
2.	Opposition to the plans	24
3.	Reverting to the Division Lobbies	26
E.	Decisions on the White Paper	28
1.	House of Commons	28
2.	House of Lords	29
3.	Summary of the results of the divisions in both Houses	29
F.	What next?	30

A. Introduction

The White Paper, *The House of Lords: Reform*, was published on Wednesday 7 February 2007.¹ On publication, Jack Straw, the Leader of the House and member of the Cabinet with responsibility for Lords reform, made a statement in the House of Commons.² The statement was repeated in the House of Lords by Lord Falconer, the Lord Chancellor and Secretary of State for Constitutional Affairs.³

Jack Straw outlined the recent background to the White Paper:

... The White Paper has been informed by the excellent report of the Joint Committee on Conventions, which the other place and this House debated and approved on 16 and 17 January respectively.

The White Paper's publication follows nine months of intensive discussion within Government and with the other parties. I have chaired cross-party talks—the first such Government-led talks to be held, I am told, for nearly 40 years. The cross-party group has met eight times since June. I am very grateful to those on the group for their work and constructive approach to this complex issue.

The starting point for the cross-party talks was that each of the three main parties was committed by its 2005 manifesto to seeking reform of the Lords.⁴

He noted that opinion on the question of reform was “divided in all three parties”. Therefore the White Paper was “self-evidently and unapologetically a compromise, both in terms of destination and of transition”. He said that the Government had “used the White Paper to illustrate how a hybrid House might work, using a model in which 50 per cent of the House is elected and 50 per cent is appointed: 30 per cent from the political parties and 20 per cent from those with no party affiliation”.⁵

B. The White Paper

Both the White Paper and statement began with a review of the work of the cross-party group, chaired by Jack Straw, which discussed proposals for reform. The group met eight times and achieved “a significant degree of consensus” without “unanimous agreement on all the issues”. The White Paper therefore reflected arguments for and against specific proposals. The White Paper's introduction provided the following summary of the group's views:

2.7 All members of the cross-party group were agreed on the fundamental principle of the primacy of the Commons, and that the House of Lords should be a complement to the Commons, and not a rival to it.

¹ HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, www.official-documents.gov.uk/document/cm70/7027/7027.pdf

² HC Deb 7 February 2007 cc843-859

³ HL Deb 7 February 2007 cc710-725

⁴ HC Deb 7 February 2007 c843

⁵ HC Deb 7 February 2007 cc843-844

2.8 There was agreement that a reformed House should consist of at least 20% non party-political members, and that it was essential that no political party should be able to hold a majority of the whole House or the party-political members of it. There was agreement that effort should be made to ensure that the membership of the reformed House reflects the gender and racial diversity of the United Kingdom, and that the range of religious opinion in the country should also be reflected in the membership of the Lords. All agreed that the special arrangements for membership of the House by a limited number of hereditary peers should come to an end.

2.9 The group identified that essential to the success of any reform would be a long transition period, with new members phased in over a period of time. The group agreed that members of a reformed House should serve for a long, single term of office, with no prospect of re-election or re-appointment.

2.10 There was also agreement on many of the issues discussed in this paper in the section titled 'Membership of the Lords', issues such as breaking the link between the peerage and a seat in Parliament, disqualification provisions, allowing members of the Lords to vote, and restrictions on former Lords standing as MPs.

2.11 Although all three political parties agreed that a reformed House should be a hybrid House, agreement was not reached on the future proportion of elected and appointed members. It is the Government's intention that the free vote should provide a clear answer to this question.

2.12 All parties agreed that the elected element of the House should be elected through a form of direct election, but there was no further agreement on the form of direct election, or timing, to be used.⁶

After reviewing the background to the Lords reform since the *Parliament Act* of 1911 and the developments since the 2005 General Election, and presenting some international comparisons, the White Paper presented both principles and options for the next stage of reform.

1. A bicameral Parliament

The White Paper acknowledged the arguments for a unicameral system:

There is a widely, though not universally, held view that in a country of the United Kingdom's size and complexity, our Parliament should be bicameral.

It seemed to conclude that the United Kingdom needs a bicameral Parliament:

But it remains the case that the demands laid upon the Parliament of a country the size and diversity of the United Kingdom would be a significant burden for a single Parliamentary chamber to carry on its own.⁷

⁶ HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, paras 2.7-2.12

⁷ HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, paras 5.18-5.21

2. A Reformed Chamber: principles of composition

The Government believed that the following principles should “underpin a reformed House of Lords, whatever its composition”:

- Primacy of the House of Commons
- Complementarity of the House of Lords
- A More Legitimate House of Lords
- No Overall Majority for Any Party
- A Non Party-Political Element
- A More Representative House of Lords
- Continuity of Membership.⁸

It considered that the first three points in the list above were fundamental, and that the remaining key principles should help to ensure that these fundamental principles could be delivered.

a. *No Overall Majority for Any Party*

The White Paper argued that, since the 1999 reforms, “no single party has been able to command a majority of the party-political members of the House of Lords” and that “This essential principle should remain in a reformed House”. The White Paper argued that this principle was likely to be sustained. Furthermore:

... if at least 20% of the House is non party-political, public support for a party would have to be extraordinarily high for a long period of time to give a party a majority of the whole House.⁹

b. *Non Party-Political Element*

Although the White Paper followed the Wakeham Commission in indicating that at least 20 per cent of the House should be non party-political,¹⁰ it did not suggest any mechanism or desire to increase this proportion above 20 per cent.

c. *A More Representative House*

The White Paper stressed the importance of a diverse membership. It argued that it was “important that faith communities are represented in the House of Lords”. It considered that whilst there was “little steam” behind the arguments for disestablishment Church of England bishops should continue to sit in the House. However, their number should be reduced and the Church of England should decide which Bishops sat in the House. The Government also wanted to see the reformed House reflect the “wide religious make-up of the United Kingdom, though formal nominated representation of particular faith groups may not be possible”. It said that it would “look carefully at how the views of those of faith and those of none can be represented in a reformed House of Lords”.

⁸ HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, para 6.1

⁹ HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, paras 6.16-6.17

¹⁰ HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, para 6.20

A recent report from Theos, the public theology think tank established in 2006, has addressed the subject of the bishops. It recorded that the bishops' attendance has been higher under the Labour Government than it was between May 1979 and May 1987; and that bishops' participation in divisions has increased.¹¹

Regional representation was also considered to be an important way of ensuring the House was more representative:

A reformed House of Lords should be set up to ensure that representation of the nations and regions is inbuilt, serving the interests of the whole of the United Kingdom, no matter what method of composition is chosen.

The Government would also look at how, however the membership is chosen, the method of selection would best take account of the diverse population of the United Kingdom.¹²

d. Continuity of Membership

Although members of the reformed House would not be eligible for re-election or re-appointment, the White Paper considered ways of retaining the continuity of membership, which it described as “one of the strengths of the current House”.¹³

3. Elected, Appointed or Hybrid?

The White Paper stated that “an all appointed House fails to meet a crucial principle in a reformed second chamber – that of legitimacy”. It also expressed concerns that a fully-elected second chamber would challenge some of the principles for a reformed House set out in the White Paper: it could challenge the primacy of the House of Commons; it would be difficult to ensure representation of non party-political members; without strict rules it could be difficult to ensure diversity; and some models “could pose a risk to the principle of continuity”.¹⁴

The White Paper concluded that “the obvious alternative would seem to be a hybrid of the two”. In support of that conclusion it cited “all major cross-party proposals ... over the last 10 years”: the Wakeham Commission; the Public Administration Select Committee and *Reforming the House of Lords – Breaking the Deadlock*.¹⁵

Having decided that a hybrid chamber was appropriate, the question of the mix between appointed and elected then arose:

¹¹ Andrew Partington and Paul Bickley, *coming off the bench: The past, present and future of religious representation in the House of Lords*, Theos, 2007,

http://campaigndirector.moodia.com/Client/Theos/Files/Theos_theBench.pdf

¹² HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, paras 6.22-6.26

¹³ HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, para 6.27-6.30

¹⁴ HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, paras 7.2-7.12

¹⁵ HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, paras 7.13-7.23. The earlier reports were: Royal Commission on the Reform of the House of Lords, *A House for the Future*, January 2000, Cm 4534, <http://www.archive.official-documents.co.uk/document/cm45/4534/4534.htm>; Public Administration Select Committee, *the Second Chamber: Continuing the Reform*, 14 February 2002, HC 494 2001-02; and Kenneth Clarke, robin Cook, Paul Tyler, Tony Wright and George Young, *Reforming the House of Lords – Breaking the Deadlock*, January 2005, UCL Constitution Unit

7.24 As to the correct proportion of elected and appointed members, the final decision rests, of course, with Parliament. However, the model for a reformed House set out here follows the PASC report's suggestion that there should be a rough balance between elected and appointed members. Rather than the 60/40 framework proposed by PASC however, it envisages a 50/50 split. As mentioned in the Wakeham Report, systems of direct election sometimes tend not to provide a gender-balanced representation, or adequate representation for ethnic, religious and other minorities. That being the case, the White Paper illustrates a model of a hybrid House which, as well as non party-political appointments, allows for some party appointment within a framework which encourages greater diversity, to help ensure that the membership of the political parties within Parliament as a whole is more diverse than it might be under a system where the only party members of Parliament were elected.

7.25 A hybrid House of 50% elected, 50% appointed (20% non party-political and 30% party-political appointments) would allow for legitimacy through direct election, greater diversity within the political parties in Parliament, and a significant element of non party-political membership within the House of Lords. Models composed of a greater proportion of elected members would obviously include fewer party politically nominated members. A House with an 80/20 split, for example, would not contain any party politically appointed members at all.¹⁶

4. Elections

a. *Indirect or Direct?*

Although the White Paper identified a range of options to indirectly elect the membership of the second chamber, it argued that "Direct election of individuals plainly would confer more legitimacy than an indirect system". It also noted that direct elections are used to select the membership of many second chambers around the world.¹⁷

b. *Electoral method, constituencies and timing*

Direct elections to the Lords could either be (a) first past the post, or (b) by one of the more proportional methods of election. There are two basic forms of the latter – list systems, or transferable or alternative vote systems.¹⁸

After a review of electoral methods, covering first past the post, regional lists and the single transferable vote, the White Paper raised the question of constituencies. It considered European Parliamentary constituencies, cities and counties, and ad hoc groupings of Westminster constituencies. It then considered the timing of elections. It examined the case for elections at the same time as (a) the General Election; (b) European Parliamentary elections; and (c) elections to the devolved assemblies. Finally it considered the question of the need for by-elections.

The White Paper set out the Government's proposals for elections:

¹⁶ HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, paras 7.24-7.25

¹⁷ HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, paras 7.27-7.35

¹⁸ HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, para 7.37

7.93 The Government's overall judgement is that the most appropriate system of election for a reformed House of Lords is a partially open regional list system – which is the most consistent with the principles set out in Chapter 6. We will consider further the precise details of the list system to be used.

7.94 Under this kind of system, parties will wish to consider how they ensure that their lists are representative of the diversity of the United Kingdom. The Government will consult on and consider whether there is a case for making diversity a formal requirement for party lists in respect of gender and/ or ethnicity, and/ or other factors.

7.95 In terms of constituency, the simplest approach is to use the regions used for elections to the European Parliament. Constituencies which are smaller and encourage a more direct constituency role could undermine both the position of MPs, and the role of the member of the House of Lords in a reformed chamber.

7.96 Overall, the advantages of holding elections to the Lords at the same time as elections to the European Parliament seem to outweigh the disadvantages. It is proposed therefore that elections should take place at the same time as elections to the European Parliament, giving a 15-year term for members of a reformed House. This approach also produces the simplest procedure for the electorate, who would vote at the same time, in the same area, for both their European representatives and the Lords. It is likely that parties would need to reach a minimum threshold of votes before they could gain entry to the Lords. The Government will consult further on this point.

7.97 Both appointed and elected members would sit for 15 years, and there would be no prospect of re-election or re-appointment. One-third of the elected members and one-third of the appointed members of a reformed House would be replaced at each election. Members who had been elected could not subsequently be appointed, nor could former appointees be elected.¹⁹

In response to a question following the repetition of the statement on the White Paper in the House of Lords, Lord Falconer explained how a partially open regional list would work:

A partially open list means that one can either vote for the party list or vote for someone on the party list. If the votes that the person one votes for individually are high enough—sorry, if the party list gets to a point where someone is elected from that list, if the votes for the individual are that high, he or she gets on rather than the person at the top of the list.²⁰

The International Institute for Democracy and Electoral Assistance's description of the range of electoral list systems is abridged in Box 1.

¹⁹ HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, paras 7.93-7.97

²⁰ HL Deb 7 February 2007 c723

Box 1: Open, closed and free lists

While list systems are based on the principle that parties present candidates, it is possible to give voters a degree of choice between the candidates nominated as well as between the parties.

The majority of list systems in the world are closed, meaning that the order of candidates elected by that list is fixed by the party itself, and voters are not able to express a preference for a particular candidate. The individual candidates elected as a result are predetermined by the parties themselves.

Many list systems in Western Europe use open lists, in which voters can indicate not just their favoured party but their favoured candidate within that party. In most of these systems the vote for a candidate as well as a party is optional and, because most voters plump for parties only rather than candidates, the candidate-choice option of the ballot paper often has limited effect.

In some cases voters must vote for candidates: the number of seats received by each party is determined by the total number of votes gained by its candidates, and the order in which the party's candidates are elected to these seats is determined by the number of individual votes they receive.

Other devices are used to add additional flexibility to open-list systems. In some instances electors have as many votes as there are seats to be filled and can distribute them to candidates either within a single party list or across several party lists as they see fit. The capacity to vote for more than one candidate across different party lists (known as "panachage") or to cast more than one vote for a single highly favoured candidate (known as "cumulation") both provide an additional measure of control to the voter and are categorized here as free list systems.

Source: International Institute for Democracy and Electoral Assistance, *Electoral System Design*, 2005, p84 and p90

5. Statutory Appointments Commission

There seems to be general agreement that under any system with appointed members, party and non party-political appointments would be overseen and made by an independent Statutory Appointments Commission.²¹

The White Paper noted that the current non-statutory appointments commission was "a temporary measure to assist with the transitional phase in reforming the House of Lords". Its proposals broadly follow those of the Wakeham Commission.

The White Paper envisaged the Statutory Appointments Commission having "power over both non-party and party-political appointments". Therefore its powers would need to be laid down in statute. The Commission would be "independent of Government and should be accountable to Parliament, rather than Ministers". It proposed it should have nine members, three to represent the political parties and six members independent of Government and the political parties.²²

The White Paper set out the role of the Statutory Appointments Commission:

²¹ HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, para 8.1

²² HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, paras 8.11-8.16

8.17 The Statutory Appointments Commission would recommend people for appointment in two different classes:

- Political-party appointments (where nominations would be invited from the parties) and;
- Non party-political appointments (where individuals would be selected by the Statutory Appointments Commission).

8.18 It is envisaged that the principal functions of the Statutory Appointments Commission would be:

- To establish the characteristics as to suitability which members of the House of Lords should possess (and publish these criteria).
- To ensure that these characteristics deliver high calibre appointees who make a significant contribution to the work of the House of Lords.
- To select all non party-political members using an open and transparent selection procedure.

Bishops and elected members would not have to be approved by the Statutory Appointments Commission before they could take their place in the reformed House of Lords:

... It appears eccentric that those who have been elected to seats in the House should have to go through the Statutory Appointments Commission, even as a formality.

The Statutory Appointments Commission would select and recommend for appointment the non party-political members of the reformed House, who would comprise 20 per cent of the membership. Nominations would be considered “on the basis of merit and would follow strict criteria”. The Commission would be required to seek nominations from a broad range of applicants.²³

The White Paper suggested that the Appointments Commission should take into account the balance of the parties at the most recent General Election when determining how many party-political nominations each party could make. It also proposed that the Commission would assess the suitability of party nominations as well as the propriety of the nomination: “The Statutory Appointments Commission would therefore have the power to refuse to recommend a person for appointment on more than simply grounds of propriety”.

The White Paper noted the arguments that the Prime Minister should no longer directly nominate anyone for membership of the reformed second chamber.²⁴ In his statement, Jack Straw said:

Should Parliament opt for a system in which appointments to the second Chamber continue, all appointments would be made by a new statutory appointments commission, assessing both suitability as well as propriety. The commission would be

²³ HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, paras 8.17-8.25

²⁴ HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, paras 8.26-8.36

independent and report directly to Parliament. The right of the Prime Minister of the day to make appointments would end.²⁵

6. Membership

The Government believes that a House of 540 members, near Wakeham's suggestion [of in the region of 550 members], is a realistic target and an appropriate size. Given the lengthy transitional arrangements we are proposing (see Chapter 10) it is likely to be the middle of the century before the House reduces to the desired size. A House of 540 members on a 50/50 model would see 90 elected members being replaced at each election, and 84 appointed members being replaced in each round of appointments (36 non party-political, and 54 party-political appointments). Lords Spiritual would count towards the appointed total (which is why the number of appointed members at each election is lower than the number of elected members), but would be appointed on different terms to the remainder of the House.²⁶

The minimum age to enter the House of Lords should be eighteen, the same as the House of Commons.

The White Paper examined the remuneration of members of the reformed second chamber. It called for a new form of remuneration "to be considered", and suggested that the Senior Salaries Review Body should make recommendations once the shape of the reformed second chamber had been determined. The White Paper also said that the arrangements should be "flexible enough to allow members to attend the House on a full or part time basis".²⁷

The White Paper reported that the Government proposed to maintain the current place of ministers in the House of Lords.

Whilst the creation of a Supreme Court means that Law Lords will no longer need to sit in the House of Lords, the White Paper considered the question of whether retiring Justices of the Supreme Court should be appointed to the reformed chamber. No conclusions were drawn.

The Government will discuss the reduction in the number of Bishops who sit in the Lords with the Church of England (see 2c, above).

Members of the House of Lords should be able to resign, and the current rules on leave of absence should be abolished.

The Government did not want to see individuals using their membership of the House of Lords to build a base for a career in the House of Commons. It was therefore "minded to agree" that there should be a period of five years between the end of an individual's term of office in the House of Lords and their membership of the House of Commons.

²⁵ HC Deb 7 February 2007 c844

²⁶ HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, para 9.5

²⁷ HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, paras 9.7-9.15

Members of the House of Lords would no longer be given a peerage. The peerage would continue as an honour.

All members of the second chamber would be able to vote in general elections.

The rules on disqualification from the second chamber would be brought into line with those of the House of Commons.²⁸

The Government intends to consult on the name of the second chamber before legislation is brought forward.²⁹ The BBC News website has asked for suggestions. Those it has already received include: Senate, Upper House, House of Peers, the House that Jack built, and House of Straw, but “it is clear that by far the biggest response was to keep the old name intact”.³⁰

7. Transition

a. A long transition

The Government believes that “a long transitional period, where new members are introduced but none of the current members of the Lords are forced to leave, is the best way forward”. This would allow the expectation to be there for life of current members can be met; it will also ensure continuity; and it will allow Parliament to adapt.

The White Paper argued that critics of a long transition should take into account that if the reform is the right one, the reformed chamber is likely to exist for a considerable time. The transition, until the House comprises only members who have entered under the new arrangements is necessarily long because of the pattern of European Parliamentary elections. The White Paper includes some projections on the transition.³¹

b. Removing the hereditary peers

If Parliament indicates support for the further reform of the composition of the House of Lords (see Chapter 11 on Next Steps), then the Government intends formally to end the right of the hereditary peers to sit in the House of Lords, whatever the precise outcome of the Free Vote on the composition. This is an explicit commitment of its 2005 manifesto.³²

The Government is committed to removing the hereditary peers, and it considers the process to be “technically straightforward”. It suggested two options, either removing them from membership of the House of Lords immediately or giving them life peerages. However, it cautioned against the first option because the Conservative Party “relies disproportionately

²⁸ HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, paras 9.16-9.41

²⁹ HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, para 9.42

³⁰ BBC News, *Your views on a new Lords name*, 8 February 2007, http://news.bbc.co.uk/1/hi/uk_politics/6341599.stm

³¹ HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, paras 10.1-10.10

³² HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, para 10.12

on sitting hereditary peers". It also raised questions about the non party-political peers. The Government "will discuss further the best way to proceed".³³

Other than its comment that "none of the current members of the Lords are forced to leave", the White Paper made no comment on the future for life peers. However, there have been press reports suggesting that they "will be offered 'voluntary redundancy' payments which could amount to tens of thousands of pounds".³⁴

C. Reaction to the White Paper

1. In Parliament

a. To the statement

Following the statement and its repetition in the House of Lords, both Theresa May and Lord Strathclyde, for the Conservatives, were quite critical of the proposals. Theresa May concluded that:

This proposal does not strengthen Parliament. We want a House of Lords elected by the many. The House as proposed would be selected by the few. Far from making the Lords more independent, the proposal puts it in the gift of political parties. Far from strengthening Parliament, it risks losing the present benefits of the Lords. Far from removing cronyism, it perpetuates it. It is a lowest common denominator solution that will satisfy no one.³⁵

Lord Strathclyde began his reply to the statement with:

My Lords, your Lordships might be forgiven for thinking that they had come to the House this afternoon at last to see the light at the end of the tunnel. Instead, we have been offered a House of 57 varieties. The Government promised consensus but, instead, are giving us a mudge of compromise, which has itself been compromised once again by the Cabinet, no less.

They offer choices but cannot even decide the name of the reformed House, and, when they make a decision, they make the wrong choice. So, while I thank the noble and learned Lord for repeating the Statement, I sympathise with him, for he has a difficult task today. On the one hand, he comes here with unpopular proposals, thought by many to be unnecessary, and, on the other, he offers an undertaking that the present House can stay for life. My response will not surprise the noble and learned Lord. This is a proud House. It does not deserve, and will not brook, another botched attempt at reform.³⁶

³³ HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, paras 10.13-10.25

³⁴ Andrew Grice and Ben Russell, "Lords reform: MPs attack plan to give life peers 'redundancy payments'", *Independent*, 7 February 2007

³⁵ HC Deb 7 February 2007 c847

³⁶ HL Deb 7 February 2007 c714

Simon Hughes and Lords McNally for the Liberal Democrats both welcomed the White Paper, although Simon Hughes expressed some concern about the proposal that 30 per cent of members of the second chamber would be nominated by political parties.³⁷

Kenneth Clarke, one of the authors of *Reforming the House of Lords – Breaking the Deadlock* said the White Paper gave the House the opportunity to resolve the matter at last; he hoped in the current Parliament. He also questioned the high number of political appointments.³⁸

b. Early Day Motions

A couple of days before the statement was made, George Howarth tabled an Early Day Motion (EDM) in support of a unicameral system of Parliament. By the February recess, it had secured the support of 17 Members. It also prompted an amendment calling for reform to make the scrutiny of the executive by the legislature more effective.³⁹

At the end of January, David Chaytor tabled an (EDM) supporting a free vote on Lords reform and calling for a “wholly or predominantly elected” second chamber. By the February recess, it had secured the support of 42 Members. It prompted an amendment cautioning further reform.⁴⁰

2. Outside Parliament

a. Press reaction to the White Paper: leading articles

All five broadsheet newspapers included editorials on the White Paper on House of Lords reform, on Thursday 8 February 2007. In addition, some commentators expressed their opinions.

Of the five broadsheets, the *Daily Telegraph* was opposed to the package. The *Times*, *Guardian*, *Independent*, and the *Financial Times* considered that reform was necessary but had different views on the White Paper’s proposals.

The *Daily Telegraph* reviewed the White Paper in the context of the Government’s other constitutional reforms. It concluded that the proposal was little different from the previous proposals that failed in 2003. It also abhorred the alternative vote system that was proposed to allow the House of Commons to identify a preferred split between appointed and elected members in the second chamber:

Whenever this Government has tinkered with the constitution, it has ended in tears. ... in its treatment of the House of Lords that New Labour has proved most maladroit. The 1999 House of Lords Act was sheer spite, sweeping away all but 92 of the hereditary peerage in an act of pure class warfare.

³⁷ HC Deb 7 February 2007 cc849-850; HL Deb 7 February 2007 c716

³⁸ HC Deb 7 February 2007 cc853-854

³⁹ Early Day Motion 827, 2006-07

⁴⁰ Early Day Motion 789, 2006-07

In the subsequent eight years it has become clear that Tony Blair had no Plan B for the Upper House. He had shaken it apart but had not a clue how to put it back together again. The late Robin Cook tried to complete the reform in 2003 with a bewildering series of options for a hybrid, part-elected, part-nominated chamber - every one of which the Commons rejected. The Leader of the Commons, Jack Straw, has now concocted a not dissimilar package after a cursory series of just eight consultative meetings with a cross-party advisory group.

[...]

But search through the 60 pages of yesterday's White Paper and, while there is machinery and process aplenty, there is little about the remit of a reformed House of Lords. The proposals would be more convincing if they first defined that and then sought to shape a chamber that could efficiently meet it. It is also the case that the strength of our parliamentary institutions is rooted in the fact that they have evolved over the centuries. A grand blueprint, even one drawn up by Mr Straw, is doomed, we fear, to fail.

And there is one reason more than any other why it should. Mr Straw proposes that seven different options for the composition of a reformed House are put before MPs, who will then use a PR voting system to indicate their preferences. The least unpopular option will float to the top - and a result is guaranteed. Such methods are unparliamentary.⁴¹

The Times concluded that the White Paper was "a decent effort" and that it was the "rational way to move forward on this question":

The quest for Lords reform is akin to looking for the Goldilocks option. The Upper House has to have enough (electoral) legitimacy to be able to challenge a government but not so much that it leads regularly to gridlock. Mr Straw has produced a decent effort at getting the balance about right. This is an evolutionary rather than revolutionary package and that is by far the more rational way to move forward on this question. It should surely not take another 98 years before a permanent settlement is secured.

While it applauded some of the individual proposals, such as fifteen year terms, it did not approve of the proposed partially open lists for elections to the reformed chamber. It also called for the Statutory Appointments Commission to be given more authority.⁴²

The Guardian expressed concern about the timidity of the reform and feared that "this attempt at reform may run out of energy like all the others". Although it liked aspects of the White Paper and wanted to see reform, it was concerned about the price of compromise:

... The detail of how the Lords is reformed matters very much, but that should not obscure the broad purpose, which is to create a chamber that is more democratic and representative than the current one, but which retains its most effective aspects. One of the oddities of the situation is that most people (including Mr Straw) agree that the House of Lords as it stands does its job well. Its great weakness lies in the way

⁴¹ "A House of Straw that is doomed to fail", *Daily Telegraph*, 8 February 2007

⁴² "The Goldilocks Option; The fresh attempt to reform the House of Lords deserves a sympathetic hearing" [leading article], *Times*, 8 February 2007

members are chosen, partly by birth, partly by religious belief and partly by discredited appointment. The test of the proposals is whether they rectify this.

The white paper certainly tries. Best of all, it removes the prime minister's right of political patronage, breaking the link between peerage and parliament. ... Mr Straw backed a compromise which heads for a middle way between an elected house and an appointed one, and which might therefore be acceptable to all sides. He also resisted the temptation to debate the powers of the upper house, which would surely scupper any chance of reform, and might end up diminishing the chamber rather than improving it.

But this search for compromise comes at a price, which is that few people will be enthusiastic about his favoured option. The new house, if it happens, will be designed along lines that are everyone's second choice.⁴³

The *Independent* was more enthusiastic. Its editorial encouraged Members to keep the second chamber but to reform it. It wanted to see a fully elected second chamber, and certainly one with more than 50 per cent of its members elected. It argued that the White Paper's proposals had much to commend them:

... Jack Straw's proposals yesterday will allow MPs to pick a path through that quagmire, providing they make the right choices. But he is right to insist that MPs must rank their reform preferences in order to ensure that a solution is found. Complaints that preferential voting is a "dangerous precedent" are part of the problem of British parliament antiquarianism. The deadlock of 2003 must be avoided.

[...]

the details of Mr Straw's proposals have much to commend them. We will see the first elections to Parliament's second chamber, but in a way that will avoid a clash of authorities. Because senators will be elected for non-renewable terms, they will not be beholden to the party whips. Because they are elected for longer periods, they will provide stability, and yet because the composition of the whole house will change by only one third at each election, its claim to represent the electorate will always be weaker than that of the Commons. A minority of appointed members will maintain a distinction between the chambers in representational authority. Senators appointed by an independent commission will serve another function. They will constitute a group outside the reach of the prime minister of the day, who will no longer be allowed to offer peerages to gnarled backbenchers whose seats he wants for some new Westminster wonder boy or girl. Appointed members will inject a maverick dimension to the house, and take account of all the arguments about excluding judges, bishops and others with special expertise or perspectives.

One thing is clear. If the aim is to increase the effectiveness and legitimacy of the Lords, and make it better reflect the diversity of the UK, then all the options before MPs are better than the status quo. The default position is the worst possible on offer.⁴⁴

⁴³ "Lords reform: Britain's new senate" [leading article], *Guardian*, 8 February 2007

⁴⁴ "Almost any reform would improve the status quo", *Independent*, 8 February 2007

The *Financial Times* argued that “The debate that will follow yesterday’s government proposals for a reformed Lords should focus first on what a second chamber should do”. It stressed the importance of “independence from the executive” in looking at Government proposals differently from the first chamber. It highlighted the problems of all options for composition: a fully appointed House has no legitimacy of voter support; in a fully elected system, party machines could be too powerful; and a hybrid system “would be intellectually untidy”. It concluded:

It is to the House of Lords’ credit that over years in the shadow of extinction it has continued to improve legislation, particularly in safeguarding civil liberties and in testing government proposals that attract little interest in the Commons. But the changes in 1999 were not built to last. They created an uneasy position where the only elected members of the House to offset the predominance of appointees were the 92 remaining hereditary peers. Like the changes to the law on freedom of information, an initiative that promised to enhance the governance of the UK has been a big disappointment. The last set of proposals ran into the sand. Parliament must not duck reform now.⁴⁵

b. Press reaction to the White Paper: commentators

Mary Dejevsky (in her *Independent’s* column) agreed with Theresa May that Jack Straw’s proposal “would perpetuate cronyism and give political parties even more control”. She argued that while:

Calls for more elected representation sound attractive; they are also the last resort of establishments under pressure. ...

The more Lords and Ladies who are not beholden to a party, a constituency or a commercial interest, the more effectively our liberties will be guarded. Any reform of the Lords should play to its strengths, not to its party political weaknesses.⁴⁶

Also in the *Independent*, Steve Richards opined that:

The Government makes another attempt to reform the House of Lords at the wrong time, and for the wrong reasons, as far as it offers any reasons at all.

He noted that House of Lords was not one of Tony Blair’s “post-election ambitions ... Yet this was what the Government proposed yesterday in its White Paper”. He then suggested why the Prime Minister felt “compelled to make a reform for which he has no great enthusiasm”:

... he feels a need to respond in some way to the so-called “cash-for-honours” investigation by making the second chamber more theoretically democratic. Perhaps he feels obliged to honour Labour’s last manifesto, but the wording then was deliberately vague: “Labour believes that a reformed upper chamber must be effective, legitimate and more representative without challenging the primacy of the

⁴⁵ “What to do when the Lords have left: Independence is the key for a reformed second chamber”, *Financial Times*, 8 February 2007

⁴⁶ Mary Dejevsky, “Let’s keep the Lords unelected”, *Independent*, 8 February 2007

House of Commons". In other words, in 2005 Mr Blair was keeping all options open, including the one of doing virtually nothing.

He then discussed Jack Straw's role in the politics and the process of Lords reform:

Mr Straw entered the fray, therefore facing prime ministerial scepticism, a divided cabinet, a split parliamentary Labour Party and opposition to change from many Labour peers. He was doing so at a time when familiar allegations about cash for honours were moving from an area of legitimate political controversy to one in which assertions of criminality were being made.

In such a bleakly shapeless context, Mr Straw has done the best he could do, but it will not get him very far. He seeks resolution of the eternal debate about the composition of the Lords by compelling MPs to decide one way or another on the proportion of elected and appointed peers. When Mr Cook had an attempt at reform in 2003, all the options were voted down in the Commons. This will not be possible if Mr Straw gets his way. He has also sought consensus by consulting widely.

In addition, he has ensured that the disciplines of a party system would function to some extent in a partially elected Lords by proposing that candidates were selected through party lists. In the current anti-politics culture, where political parties are regarded in some quarters as sinister, this will be unpopular. But there has to be a degree of party discipline if governments are to govern and opposition parties are to oppose with coherence, although I am beginning to wonder whether some voters and newspapers would prefer no democratic government at all.

In spite of these efforts Mr Straw's attempts to navigate around his own previous wariness and the conflicting aspirations of others are rightly doomed. The phrase 'dog's breakfast' came up several times during his statement in the Commons yesterday, and that was just from Labour MPs. I cannot recall a set of proposals over which there is so much contention.

Take a deep breath as I list the areas of disagreement. There is raging controversy over the method in which MPs will decide on the composition of the upper house, the actual composition of a reformed Lords, the appropriate voting system if part of the second chamber is elected, the timing of elections to a second chamber, the powers of patronage in relation to those who are still appointed, the role of Bishops and the precise remit of a reformed Lords. Apart from that, Mr Straw got the thumbs up.

His White Paper, published yesterday, provides a useful outline of previous attempts at reform, international comparisons and a compelling narrative over the latest search for a consensus. But it lacks an analysis of what impact an elected element would have on the Lords and the Commons, and the degree to which this would make for better government, rather than for a more confused form of accountability.

The Lords have been plucked out of a much wider context and treated as if it can be dealt with alone. Complex constitutional reform cannot, and should not, be done in this way. Mr Straw can hope in these reforms to abolish finally the hereditary peers, introduce a retirement age for peers and establish more formalised scrutiny when

new ones are appointed. That would be progress. The rest marks another confused leap in the dark.⁴⁷

James Blitz, of the *Financial Times*, also considered the role Jack Straw will play and the problems he will face:

Jack Straw is under no illusions about how hard it will be to get his plans for Lords reform on to the statute book. He likes to describe the moment when Tony Blair gave him the job of overhauling the Lords as a "hospital pass". It is a reference to that familiar moment in rugby when a player is given the ball, knowing he is about to be mashed up by his opponents as he begins his run across the field.

Even so, Mr Straw is determined to give reform a go. His starting point is that maintaining the status quo is not an option. He argues that the upper chamber is unrepresentative of the population, with most peers coming from the south-east of England and Scotland. It is unreasonable in a modern democracy, he feels, for a national parliament to have a second chamber without some elected element.

Above all, though the Commons leader would not say this himself, the cash-for-honours affair has exposed the need to tidy up the way in which people are appointed to the upper house.

James Blitz noted that there was no clear consensus and listed the areas of dispute, but suggested that some progress could be made, even if the composition of the chamber was not decided:

All is not lost for Mr Straw. Whichever way the MPs and peers vote, he still hopes to get some of his proposals, such as plans for a more powerful independent Lords appointments commission, on to the statute book. But the big prize - comprehensive Lords reform - will be harder to achieve.⁴⁸

Philip Stephens, also in the *Financial Times*, described the proposals as a "half-baked scheme for a half-elected, half-appointed House of Lords". He considered there to be "not the faintest prospect of implementation": he argued that Tony Blair has decided that a reformed House of Lords "can be someone else's legacy" and that Gordon Brown "will throw his weight behind ... an elected second chamber".

Philip Stephens also questioned the starting point of the White Paper. He argued that the question of reform of the second chamber needed to start with determining how Britain's bicameral parliament should work, then the proper role for a second chamber within that, then composition. He wrote:

The government has turned this upside down. The white paper promotes form over function by blithely assuming that the powers of the Lords will remain as they are. Yet, whatever the intention, changing the membership of the second chamber will inevitably alter its relationship with the Commons.

⁴⁷ Steve Richards, "Another botched attempt at Lords reform by the Prime Minister and his henchman", *Independent*, 8 February 2007

⁴⁸ James Blitz, "Commons leader steels himself in attempt to change upper house Jack Straw is of the belief that the status quo is not an option", *Financial Times*, 8 February 2007

Most obviously, an elected component would increase the relative legitimacy, and therefore authority, of the Lords. I happen to believe this is entirely desirable. But it should be an explicit objective of reform rather than an unacknowledged by-product. In any event, the future relationship between the two chambers demands serious debate.⁴⁹

c. Other reaction

The Elect the Lords campaign, which was set up and is administered by the New Politics Network and Charter88 to call for a predominantly elected second chamber to replace the existing House of Lords at the earliest opportunity,⁵⁰ published the following poster⁵¹:



The campaign group has also urged Jack Straw to “stand firm against critics who are calling him to drop plans to allow the House of Commons to vote on the composition of the House of Lords by use of a preferential voting system”. Peter Facey, the director of Unlock Democracy, said:

It is ironic that a preferential voting system would actually empower Parliament, yet so many MPs seem determined to make sure that it is never used. Although it may set a minor precedent, such a system is unlikely to be used in all but the most exceptional of cases as most decisions require a simple yes/no answer. Even when this is not the case, governments are unlikely to embrace a system that weakens the control of the whips.⁵²

The Electoral Reform Society saw “no justification for 30% of second chamber members being nominated by parties rather than elected by voters”. The ERS also opposed the partially open list system that the Government has proposed to use to elect the elected element of the reformed second chamber. It also quoted Jack Straw’s reservations about the system:

⁴⁹ Philip Stephens, “A half-baked scheme for the Lords”, *Financial Times*, 13 February 2007

⁵⁰ The Elect the Lords Campaign Network, <http://www.electthelords.org.uk/pages/organisations.html>

⁵¹ see: <http://www.electthelords.org.uk/>

⁵² Elect the Lords news release, *Jack Straw must prevail in "War for Robin Cook's Pencil"*, 9 February 2007, <http://www.electthelords.org.uk/news/000070.html>

The Society has also reiterated its opposition to an electoral system that allows party hierarchies undue influence on who is elected and who is not. “Jack Straw talks of using a ‘partially open list system’”, said Ritchie. “As he will know from work he commissioned in 1998 when Home Secretary, in the European countries that use this type of system, voter choice is largely an illusion – what party managers want they generally get.”

As recently as October 2006 a paper by Jack Straw admitted that “partially open lists gives (sic) little genuine voter choice over the identity of successful candidates.”⁵³

On 5 February 2007, the Hansard Society issued the results of a survey conducted by YouGov that showed public support for a second chamber with at least some elected members:

The survey reveals that 82 per cent want at least some members of the Lords to be elected.

- 42 per cent say yes to a fully elected House
- 40 per cent say yes to a mixture of elected and appointed members
- 6 per cent say yes to a fully appointed House

The survey also reveals that a clear majority (67 per cent) supports the existence of a second chamber.

A clear majority think that future members of the Lords should be more independent of party politics than the House of Commons (57 per cent), and bring expertise and experience from science, business, law etc (54 per cent) while only 5 per cent think that future members of the Lords should represent a single constituency.

The public’s view is that the key functions of the House should be holding the government to account for its policies and expenditure (65 per cent) and revising legislation (44 per cent). There is, however, very little support for the ceremonial role of the Lords (3 per cent).⁵⁴

The Hansard Society/YouGov survey results on House of Lords Reform are available in full, on the Society’s website.⁵⁵

Writing in the *Sunday Telegraph* on 11 February 2007, Vernon Bogdanor, Professor of Government at Oxford University, argued against Lords reform. He said that there was little criticism of the way in which the House of Lords performed its task:

⁵³ Electoral Reform Society News, *Straw’s memory lapse means little real choice*, 7 February 2007, <http://www.electoral-reform.org.uk/news.php?ex=0&nid=57>

⁵⁴ Hansard Society news, *Just six per cent of public support all-appointed Lords*, 5 February 2007, <http://www.hansardsociety.org.uk/node/view/704>

⁵⁵ Hansard Society, *YouGov Survey for the Hansard Society: Results*, http://www.hansardsociety.org.uk/assets/YouGov_Survey_for_the_Hansard_Society_on_House_of_Lords_Reform.pdf

For whatever the theoretical imperfections of the Lords, few criticise it for what it does or the way it carries out its tasks. Indeed, although the Labour Party used to favour abolition, the latest White Paper - *The House of Lords: Reform* - proposes no alteration in its role or reduction in its powers.

Professor Bogdanor criticised the decision to elect its members from regions which were “ghosts, administrative constructs rather than constituencies”. He agreed that the Government should maintain the primacy of the House of Commons but then questioned: “Why should any person of substance or ambition wish to stand for election to such a house?” He argued that “An upper house elected on a low turnout and peopled with anonymous nonentities whose only qualification is long party service is likely to devalue democracy rather than improve it”. He also expressed concern that it was “not easy to discover any alternative principle of representation to that of the representation of individuals” and that the current House of Lords avoided this dilemma. The current House also made effective contributions to society because of individual Member’s expertise.

Professor Bogdanor did acknowledge that there were problems with the way in which peers were appointed at present but considered that the White Paper went some way to addressing this.⁵⁶

In an interview on Sky News’ *Sunday Live*, Baroness Boothroyd, the former Speaker of the House of Commons, criticised the plans to get rid of the hereditary peers and proposals for a hybrid House:

Mr Straw proposed a second chamber, no longer called the House of Lords, with 50 per cent of the members elected and 50 per cent appointed.

The 92 places for hereditary peers would be scrapped, but Mr Straw left open the question of whether those currently sitting in the Lords should be removed immediately and, if so, whether they should be offered any compensation.

Lady Boothroyd said: “I’ve always held the view that these are working people in the House of Lords.

“I would be happy to see them stay there until they just fell off the perch, to put it crudely. But one thing I am adamantly opposed to is a hybrid house, a house that is partly elected and partly appointed.

“That is simply not going to work, it’s a mis-match and the worst of all worlds.”⁵⁷

D. Reaching a decision

1. Alternative Vote system proposed

The White Paper, and Jack Straw in his statement, set out the way in which the Government proposed proceeding on the issue.

⁵⁶ Vernon Bogdanor, “Why the Lords doesn’t need more politicians”, *Sunday Telegraph*, 11 February 2007

⁵⁷ “Boothroyd attacks ‘disrespectful’ Blair”, *Daily Telegraph*, 12 February 2007

The White Paper was designed to inform the free votes on composition in both Houses. To enable a clear outcome, the Government proposed that an alternative vote (AV) process be used (see Box 2 for a brief description of the AV system). The Government proposed that a two-stage process should be followed in both Houses of Parliament: first, a decision on the procedure to be followed when the debate on composition takes place and, secondly, the debate on composition. At the second stage, in the House of Commons, it is also proposed to vote on the White Paper, to retain a bicameral system, to approve further reform, and to proceed to the AV ballot. There are some differences between the plans for the Houses, as shown in the table below:

House of Commons	House of Lords
<p><i>Stage 1</i></p> <p>A motion will be tabled outlining the subject of and the order of votes for Stage 2 and it would make provision for the use of the AV system.</p> <p>This motion would be amendable.</p>	<p><i>Stage 1</i></p> <p>The House will consider whether it wishes to adopt an AV procedure.</p> <p>A recommendation to do so would be considered by the Procedure Committee.</p> <p>The House would consider the Procedure Committee's report.</p>
<p><i>Stage 2</i></p> <p>A debate would be followed by the motions provided for in the paving motion. The White Paper proposed these should be:</p> <ol style="list-style-type: none"> 1. a 'take note' motion on the White Paper; 2. motion for the retention of a bicameral Parliament; 3. motion to approve further reform of the Lords; 4. motion to proceed to voting on composition, using the AV system*; 5. ballot on composition using AV system. 	<p><i>Stage 2</i></p> <p>A full debate on a 'take note' motion on the White Paper, then a free vote on composition (using the process agreed by the House).</p>

* if this motion was negatived, the voting on composition could take place using normal procedure for divisions in the House of Commons.

Jack Straw confirmed that the debate on Stage 2 would last for two days.⁵⁸

⁵⁸ HC Deb 7 February 2007 c845; c857

Box 2: Alternative Vote system

The Alternative Vote (AV) is very much like First-Past-the-Post (FPTP). Like FPTP, it is used to elect representatives for single-member constituencies, except that rather than simply marking one solitary 'X' on the ballot paper, the voter has the chance to rank the candidates on offer.

The voter thus puts a '1' by their first-preference candidate, and can continue, if they wish, to put a '2' by their second-preference, and so on, until they don't care anymore or they run out of names. In some AV elections, such as most Australian elections, electors are required to rank all candidates.

If a candidate receives a majority of first-preference votes (more people put them as number one than all the rest combined), then they are elected.

If no candidate gains a majority on first preferences, then the second-preference votes of the candidate who finished last on the first count are redistributed. This process is repeated until someone gets over 50 per cent.

AV is thus not a proportional system, and can in fact be more disproportional than FPTP.

Source: Electoral Reform Society, <http://www.electoral-reform.org.uk/ers/intro.htm>

Note: If second (and subsequent) preferences are not used the number of valid votes in later rounds will be less and so will the absolute number required to gain 50 per cent.

The White Paper also included an example of the proposed format of ballot papers:

Table 12: Proposed Format of Ballot Papers BALLOT ON COMPOSITION OF A FUTURE HOUSE OF LORDS	
Option:	Order of preference:
<i>Fully appointed</i>	
<i>80% appointed and 20% elected</i>	
<i>60% appointed and 40% elected</i>	
<i>50% appointed and 50% elected</i>	
<i>40% appointed and 60% elected</i>	
<i>20% appointed and 80% elected</i>	
<i>Fully elected</i>	
Members may indicate on the ballot paper their preferred option or options in order of preference, marking their leading preference with a 1 and so on down to their lowest preference; Members need not allot a preference to all options.	

Source: HM Government, *The House of Lords: Reform*, 7 February 2007, Cm 7027, p58

2. Opposition to the plans

During questions to Jack Straw, following his statement on the White Paper, a number of Members expressed concerns about or opposition to the adoption of a different voting system in the House of Commons.

Theresa May asked why the proposal had not been referred to the Procedure Committee. She also commented:

In his statement he said that a broadly similar approach had nevertheless been agreed for choosing the Speakers of both Houses. It has not. In the House the next Speaker will be elected by exhaustive ballots.⁵⁹

Sir Gerald Kaufman expressed concern that Members would be forced “to accept an option that they do not wish to accept”. He and Alan Williams argued that any change to the House’s voting system should be endorsed by a free vote. Sir Patrick Cormack described the vote as a “monstrous proposal for a football coupon ballot”, which was “a constitutional outrage”. Sir Nicholas Winterton suggested that the proposal should be considered by the Procedure Committee or the Modernisation Committee.⁶⁰

In his response to Theresa May, Jack Straw conceded that:

... if the House wants exhaustive ballots where over time—it will probably take three or four hours—we reduce the number of preferences from seven or eight to two before having a final vote, it is fine by me, but hon. Members must be willing to sit in their places for three or four hours while the process is conducted.⁶¹

In the House of Lords, Lord McNally suggested that the paving debate in the House of Commons would take place on 27 February 2007.⁶² However, when Jack Straw announced the forthcoming business on 8 February, he did not confirm this; he said that “it is for the usual channels to decide the timing of a debate on Lords reform”.⁶³

The subject of the voting system seems to have generated as much interest as the proposals and arguments about composition and other aspects of Lords reform. Some opponents of the voting proposal have tabled an Early Day Motion:

House of Commons Votes

That this House believes that it would be inappropriate to introduce a new voting system in the House without such a procedure being first considered by a committee of the House.⁶⁴

The EDM had attracted 19 signatures by the beginning of the February recess. It and further questions on the voting system at Business Questions on 8 February 2007⁶⁵ prompted *The Independent* to report that “the proposed voting system could be defeated ... Some Labour

⁵⁹ HC Deb 7 February 2007 c847

⁶⁰ HC Deb 7 February 2007 cc851-853; c855

⁶¹ HC Deb 7 February 2007 c848

⁶² HL Deb 7 February 2007 c717

⁶³ HC Deb 8 February 2007 c990

⁶⁴ Early Day Motion 863, 2006-07

⁶⁵ HC Deb 8 February 2007 cc989-990; c994 – George Howarth asked “Is he aware that many of us want not only the opportunity to vote for what we want to happen, but the opportunity to vote against what we do not want to happen?”

backbenchers warned that if the voting system remained they would defy a three-line whip even though they backed reform”.⁶⁶

On 13 February 2007, in an article in the *Daily Telegraph*, Denis MacShane explained why he would vote against the proposals to use an alternative vote system to ensure the House of Commons arrived at a single outcome on the question of composition of House of Lords reform:

So why, then, will I go into the opposition lobby next week? It is over the proposal to tear up more than seven centuries of history and require MPs to sit rather than stand to vote. The Government wants MPs to take a multiple-choice exam on its proposals to reform the House of Lords. Instead of MPs voting in lobbies for or against different proposals, scratch cards will be handed out, which we can take away to list in order of preference what the composition of the Lords might be.

He reinforced the point later in his article:

So, in the most grotesque proposal to emerge from a government in decades, Labour MPs are told they are on a three-line whip to destroy the way the Commons has always done business, but they are on a free vote on the question that will then follow which, because of the single transferable vote, will have to finish in a definite proposal.

He argued for a fully-elected second chamber and cited the Government’s lack of leadership, on the question of composition, in justifying his decision to vote against the proposed voting system:

I do not doubt Jack Straw's sincerity in wanting a decision, any decision, to show that Lords reform is possible. The only one that makes sense to me is an elected chamber. I wish the Government had confidence in this plain, radical and democratic concept. But if the Cabinet will not show leadership, it cannot expect to demand loyalty on how the vote is taken.

It is wrong to remove from the Commons its right to vote in the way it has always done. Parliament should vote to keep voting as usual. And then the Cabinet should offer leadership in favour of an elected House of Lords.⁶⁷

3. Reverting to the Division Lobbies

On 19 February 2007, Jack Straw announced that he would not ask the House to endorse the use of the alternative vote system to enable it to choose between the options for the composition of the reformed second chamber: “Instead, we shall revert for all votes to the traditional Division system”.

His decision was welcomed by Theresa May (Conservative), who said:

⁶⁶ Andrew Grice, “Straw faces backbench rebellion over voting plan for Lords reform”, *Independent*, 9 February 2007

⁶⁷ Denis MacShane, “Why I will vote against my party and for democracy”, *Daily Telegraph*, 13 February 2007

He has indeed listened to the concerns of the whole House and scrapped his proposal for a preferential ballot. That would have been a dangerous constitutional precedent...⁶⁸

Jack Straw's statement was also welcomed by those on the Labour and Conservative benches who had expressed concern on 7 February.⁶⁹

However, David Heath regretted the statement and argued that Jack Straw had been "absolutely right in proposing, on 7 February, a way of discerning the clear will of the House".

Jack Straw confirmed that there would no longer need to be a debate on the way in which the House would reach its decision, that he would publish the motions to be debated "at least a week before they are the subject of debate" and that Members could "table amendments once the motions appear on the Order Paper".⁷⁰

Lord Falconer repeated the statement in the House of Lords. He added that:

... The House will appreciate that this Statement was delivered by my right honourable friend the Leader of another place about the voting procedure for the other place. It has implications for voting in your Lordships' House about which, with the leave of the House, I will say a few words.

We intended that your Lordships' House should have the opportunity to decide whether to use any new voting method adopted by the other place. I refer to paragraph 11.7 of the White Paper. As the alternative vote proposal is not now being pursued in the other place, we do not intend to propose it for your Lordships' House. The usual channels will discuss how to conduct the votes on the options, using the normal Division Lobby method of voting.⁷¹

Lord Strathclyde (Conservative) said that the statement was welcome. But Lord McNally (Lib Dem) was disappointed. In response to a question from Lord McNally, Lord Falconer confirmed that "the debate in the Commons will take place before the debate in the Lords".⁷²

Following the statement, the *Guardian* and *Daily Telegraph* both anticipated a repeat of the deadlock – no option securing support – of 2003. In the *Guardian*, Tania Branigan wrote:

The government faces another potential "trainwreck" in its attempts to reform the House of Lords, after Jack Straw abruptly abandoned plans yesterday to use a new voting system to determine the upper chamber's composition.⁷³

And in the *Daily Telegraph*, George Jones opined that:

⁶⁸ HC Deb 19 February 2007 c21

⁶⁹ For example, Sir Gerald Kaufman, George Howarth, Sir Nicholas Winterton

⁷⁰ HC Deb 19 February 2007 cc25-26

⁷¹ HL Deb 19 February c901

⁷² HL Deb 19 February cc901-903

⁷³ Tania Branigan, "Straw U-turn exposes Lords reform to division bell gamesmanship", *Guardian*, 20 February 2007

Reform of the House of Lords appears destined to end in deadlock after the Government yesterday abandoned a controversial attempt to force MPs to reach a decision on how it should be changed.⁷⁴

However, in the *Financial Times*, James Blitz and Ben Hall considered that the “same outcome is far from certain this time”. They pointed to Jack Straw’s exhortation to the proponents of Lords reform to “be “better organised” than they were four years ago”.⁷⁵

On 20 February 2007, the Hansard Society hosted a debate on Lords reform. Jack Straw, Theresa May, David Heath and Peter Kellner (of YouGov) debated prospects for Lords Reform and the recent Hansard Society survey on public attitudes to Lords Reform.⁷⁶

Peter Riddell reported on the debate for *The Times*. Despite the abandonment of the alternative vote system and the possibility of a further stalemate, he reported that Jack Straw argued that there was “strong pressure ... to ensure that the free votes next month lead to a positive outcome”.

Peter Riddell then outlined a number of alternative approaches that could be followed to make progress on Lords reform. He noted Jack Straw’s commitment to a long consultation process, including a draft bill; and the possibility of putting the appointments commission on a statutory basis ahead of other changes. He also highlighted some potential problems.

- The differences between the Commons and Lords may require the use of the *Parliament Acts*; and
- The question of the existing hereditary peers.

He also recorded that “There is talk among Gordon Brown’s advisers about not pushing a big Bill now but making an explicit commitment on a predominantly elected chamber in the next manifesto, which the Lords would then have to accept”.⁷⁷

E. Decisions on the White Paper

1. House of Commons

The House of Commons debated the White Paper on 6 and 7 March 2007.⁷⁸

It supported the principle of having a bicameral legislature. It rejected Jack Straw’s proposal that the second chamber should be 50% elected, 50% appointed.

It supported two options:

- 1) 80% elected, 20% appointed by 305 votes to 267 – a majority of 38; and
- 2) 100% elected by 337 votes to 224 – a majority of 113

⁷⁴ George Jones, “Straw gives in over Lords reform vote”, *Daily Telegraph*, 20 February 2007

⁷⁵ James Blitz and Ben Hall, “Straw U-turn over voting on Lords Ballot for Reform”, *Financial Times*, 20 February 2007

⁷⁶ Hansard Society, *In MPs’ hands to avoid ‘train wreck’ on Lords reform, says Jack Straw*, <http://www.hansardsociety.org.uk/node/view/717>

⁷⁷ Peter Riddell, “Straw’s tactical retreat could still mean stalemate”, *The Times*, 21 February 2007

⁷⁸ HC Deb 6 March 2007 cc 1390-1488; 7 March cc1524-1635

In addition the House of Commons rejected a Conservative - Liberal Democrat amendment that the hereditary peers should retain their seats until the elected members had taken their places.

A summary of the results of the divisions in both the House of Commons and the House of Lords is presented in section E3.

An analysis of the results of the divisions, by party and by Member, is presented in the Library Standard Note *Commons divisions on House of Lords Reform: March 2007*.⁷⁹

2. House of Lords

In the House of Lords, following a two-day debate on the White Paper on a “take note” motion on 12 and 13 March, the House voted on the options for composition on 14 March.⁸⁰

The House of Lords voted in favour of a fully appointed second chamber and rejected every other option. The Constitution Unit, University College London, has produced some analysis on the results of the divisions in the House of Lords.⁸¹

3. Summary of the results of the divisions in both Houses

Option	House of Commons		House of Lords	
	Aye	No	Content	Not Content
Bicameral Parliament	416	163	No Motion	
Option 1: fully appointed	196	375	361	121
Option 2: 20 per cent elected	Negatived*		Negatived*	
Option 3: 40 per cent elected	Negatived*		Negatived*	
Option 4: 50 per cent elected	155	418	46	409
Option 5: 60 per cent elected	178	392	45	392**
Option 6: 80 per cent elected	305	267	114	336
Option 7: 100 per cent elected	337	224	122	326
Amendment: Principle to remove hereditary peers	241	329	No Motion	
Principle to remove hereditary peers	391	111	No Motion	
No change to the current composition	No Motion		Motion not moved	

Notes:

The votes on the principle to remove the hereditary peers were:

That this House is of the opinion that the remaining retained places for peers whose membership is based on the hereditary principle should be removed.

Amendment proposed: at end add:

once elected members have taken their places in a reformed House of Lords.

* no division

** the Tellers reported 392 votes; the Clerks recorded 393 names.

⁷⁹ House of Commons Library Standard Note SN/SG/4279, *Commons divisions on House of Lords Reform: March 2007*,

<http://www.parliament.uk/commons/lib/research/notes/snsg-04279.pdf>

⁸⁰ HL Deb 12 March 2007 cc451-570; 13 March 2007 cc517-609 and cc620-730; 14 March 2007 cc741-759

⁸¹ Constitution Unit, *Lords Reform Votes – Motions on House of Lords reform, 14 March 2007*,

<http://www.ucl.ac.uk/constitution-unit/research/parliament/reform-votes.htm>

F. What next?

During the course of his winding up speech, at the end of the debate, Jack Straw indicated that the Government was likely to bring forward a draft bill for consultation that reflected the results of the debates in the two Houses:

The Government intend to bring forward, after consultation, what I think will be a draft Bill—that may take time—that reflects the will of the House and of the other place, as far as we can accommodate them. We will listen with care to what the House of Lords says next week. We have no intention of bringing forward a Bill that simply removes the hereditaries, if the House decides on one of the other alternatives—on one of options 1 to 8 on the Order Paper. It would be mad of us to do so, because the House would quickly amend it.⁸²

Following the votes in the House of Commons, Jack Straw announced that he would reconvene the cross-party working group and in due course he would make a statement to the House:

... Meanwhile, I shall make arrangements to recall the cross-party working group, and at an appropriate moment after discussions in that group I shall of course make a statement to this House.⁸³

At Business Questions, the following day, Nigel Griffiths, then the Deputy Leader of the House, reiterated this.⁸⁴

Jack Straw expanded on his comments on the next steps at the lobby Briefing following Business Questions:

Mr Straw said that there would now be a meeting fairly soon of the Cabinet's constitutional affairs committee, which he chaired, once the result of the votes in next week's debate in the House of Lords was known. There would then be a meeting of the cross-party group. After that, a decision would be taken on the next step. The Leader said that, as he had commented earlier today, neither of the results for an elected element could be ignored - and nor would they be. Self-evidently, Ministers would take account of the fact that the biggest vote - and majority - was on the fully-elected option.

Asked if that meant that the 100pc elected option was now the Government's preferred course, the Leader said that it was plain it had been a free vote, and the Government did not have a formal preferred option. The 50pc option had been his own preference - not that of the Government. Mr Straw said the important point was that the fully-elected option was the preference of the House of Commons by a large majority, and that had to be the starting point. In response to a suggestion that it would appear extraordinary to the public that such a big vote for 100pc was not taken as read, the Leader agreed.

⁸² HC Deb 7 March 2007 c1598

⁸³ HC Deb 7 March 2007 c1636

⁸⁴ HC Deb 8 March 2007 c1673

Mr Straw said that, while the House of Commons had primacy, it was a bicameral Parliament, and Ministers were bound to take account of the views of the House of Lords - and would do. Asked about the issue of tactical voting last night, Mr Straw said he had heard such reports. However, votes meant what they meant. He had spelt out to MPs twice that they would be voting for the words on the Order Paper and he had to assume that every single MP, who voted for a fully-elected House, meant what they did. There could be no other interpretation, he added. From experience of over 40 years in active politics, he knew that "fancy tactics" never worked. Asked if there would be a draft Bill, Mr Straw said that it was on the Government's agenda to publish one. Whether it was possible before the end of the current session, he said that remained to be seen. He was not going to announce the content of a Queen's Speech in advance.

Pressed to say if such a Bill would set out how members of a reformed Second Chamber would be elected, whether a "big bang" solution would be presented and whether it would be a manifesto commitment at the next election, the Leader said the responsibility now was to produce a draft Bill of the kind which, once it was enacted, would give full effect to Parliament's full decisions. A decision on composition had been taken in principle and account would be taken of the opinion of peers. The Leader said he thought it would be unacceptable to produce a Bill which was merely "loose framework". He said that a major issue for those who supported the options of a fully or partially elected Second Chamber was how the electoral system should operate. There had been a lot of criticism during the debate of the semi-open list system suggested in the White Paper, and the Government would have to heed that. He did not wish to speculate about the contents of a manifesto.

Mr Straw then commented on the views of Lord Strathclyde on the issue. Asked about the prospect of further deadlock and the suggestion that, if there was, there would be little point in proceeding, the Leader said the issue would not be shelved. What he could not indicate was the speed at which it would proceed. There had been a very clear commitment by the Commons, by a very clear majority. He said that embarking on such constitutional change took time. Reform of the Lords was now on the track and moving.

The other point was that he favoured strong Government, and the perception was that it had grown stronger. Mr Straw said that required a strong Parliament. He did not have a problem with a reformed House of Lords which was strong, and said it could be achieved without challenging the primacy of the House of Commons or undermining good governance. He believed it was in the hands of the Commons to preserve its primacy through the Parliament Act, which gave it the final say in all legislation apart from the length of a Parliament. Asked if the votes last night had ended the prospect of a "minimalist" Bill in the interim to remove the remaining hereditary peers, Mr Straw agreed. Pressed to say if he believed that the appointment of new peers should be suspended, the Leader said no.

Asked about the "value for money" cost of a reformed Upper House, the Leader said it was very odd to argue that, in a modern-day democracy, elections cost money. He described a report by a peer this week on the likely costs as "a total confection" and "nonsense". He pointed out that the Government was proposing to reduce the total number of peers in the Upper House, but there was no proposal to pay elected members a salary. Remuneration would be on a per diem basis. The White Paper had made it clear that the advice of the Senior Salaries Review Body would be sought on the level of remuneration. Mr Straw rejected the suggestion that election to the Upper House would be open only to wealthier individuals. Since a reformed Chamber would not be a rival to or a replica of the Commons, it should enable

individuals to combine the role of membership with other functions. Asked what name of the new Chamber would be, he said that was a consequential issue.⁸⁵

During the course of the debate on Women, Justice and Gender Equality, on International Women's Day, Julie Kirkbride asked Vera Baird whether the Government would ensure that 50 per cent of those elected to a reformed House of Lords should be women:

Miss Julie Kirkbride (Bromsgrove) (Con): The hon. and learned Lady will be aware that, last night, the Commons voted for an elected House of Lords. Would she like her Government to ensure that 50 per cent of those elected are women?

Vera Baird: In terms of advancing women, we have a lot to tell the Tories, and they have not got a lot to tell us. We are going to think these proposals through carefully and I know that they are going to be helpful.⁸⁶

Following the votes in the House of Lords, Jack Straw made a further brief comment on the way he would progress on the question of House of Lords reform at the Lobby Briefing on 15 March 2007:

The Leader was asked if he was tempted to abandon any hope of compromise between both Houses after last night's votes, and whether the Parliament Act could be used to force the will of the Commons to prevail. Mr Straw said it was "one step at a time", in the words of the hymn. The Government would take account of the votes in the House of Lords, pointing out that the total in support of an elected element was more than he had thought they would be. He had indicated a desire to reconvene cross-party talks. The Leader said that the Parliament Act existed and, if the Commons had the will, it operated automatically, but they were not at that position yet.⁸⁷

⁸⁵ Leader of the House of Commons, *Press Briefing, 8 March, 3.45pm*, <http://www.commonleader.gov.uk/output/page1888.asp>

⁸⁶ HC Deb 8 March 2007 c1688

⁸⁷ Leader of the House of Commons, *Press Briefing, 8 March, 3.45pm*, <http://www.commonleader.gov.uk/output/page1910.asp>