



House of Lords Reform Bill 2012-13: decision not to proceed

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The *House of Lords Reform Bill 2012-13* had its second reading in the Commons on 9 and 10 July 2012. A response to manifesto commitments by each of the three main parties, the Bill had aroused controversy among Conservative backbenchers, some of whom were concerned that a mostly elected House of Lords would challenge the primacy of the Commons, some of whom felt that reform was not a priority at a time of economic difficulty. Critics in other parties and in the House of Lords also opposed the Bill. While the vote on second reading was won, over 90 Conservative Members voted against, and the Government did not move its programme motion, meaning that the Bill was not sent to committee. On 6 August 2012 Deputy Prime Minister Nick Clegg announced that the Bill would not proceed further. On 3 September 2012 he confirmed that it had been withdrawn.

This Note summarises the situation concerning the Bill, and gives an account of Lord Steel's *House of Lords (Cessation of Membership) Bill*, which some see as a more modest alternative.

The Government's Bill was discussed in detail in Research Paper12/37, [House of Lords Reform Bill 2012-13](#), 4 July 2012, which contains a bibliography of briefings produced by the Libraries of the two Houses.

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Contents

1	Second reading and decision not to move programme motion	2
2	Abandonment of Bill	4
3	Lord Steel's <i>House of Lords (Cessation of Membership) Bill [HL]</i>	7

1 Second reading and decision not to move programme motion

The Deputy Prime Minister and Leader of the Liberal Democrats, Nick Clegg, moved the second reading on 9 July 2012.¹ He gave three reasons for reform. First, there was the democratic principle: “the people who make the laws should be chosen by the people who are subject to those laws.”² Secondly, the Bill would strengthen Parliament’s ability to hold the Government to account, by creating “a more legitimate House of Lords” and by “forcing Governments to treat an elected upper Chamber with greater respect.”³ Thirdly, there was a practical reason for reform:

We have an upper Chamber that is ever expanding. That is one of the main consequences of the unfinished 1999 reforms. Very simply, after a general election, new Governments will always seek to reflect the balance of the vote in the Lords. But it is impossible to get rid of members: the only way to leave is to die. So new Administrations inevitably have to make more appointments to get the balance right.

[...]

The House of Lords is already too big, and it will continue to grow bigger still under whichever Government, unless we do something about it.⁴

Mr Clegg placed emphasis on the extent to which the three main parties agreed that reform was needed, and argued that he had tried to build consensus in drafting the Bill. In particular, he referred to the Joint Committee which had considered the draft Bill, and said that “we accepted more than half its recommendations and reshaped the Bill around its advice.”⁵ He presented the Bill as a compromise, which sought to reconcile and reassure the varying opinions within and between parties.

Mr Clegg addressed various potential criticisms. He pointed to the transitional period as a counter to the complaint that the Bill “amounts to some frantic act of constitutional violence,” since this would bring in new members in tranches over three elections.⁶

On costs, he balanced the higher running costs of a reformed House of Lords against anticipated savings from reducing the number of MPs through boundary changes:

Once all this is implemented, the real-terms cost of running Parliament is expected to be roughly the same as it is now; the only additional cost will be conducting the elections themselves.⁷

¹ See HC Deb 9 July 2012, cc24-132, and 10 July 2012, cc188-274.

² HC Deb 9 July 2012, c24

³ HC Deb 9 July 2012, c26

⁴ HC Deb 9 July 2012, c27

⁵ HC Deb 9 July 2012, c30

⁶ HC Deb 9 July 2012, c32

He challenged the “myth”

that the House of Commons should not be concerning itself with Lords reform at a time of economic difficulty. My answer is this: let's get on with it—proper scrutiny, yes; years of foot-dragging, no. I do not remember this complaint being made when we legislated to create elected police commissioners, or when we were debating local government finance or legal aid reform. It is odd to suggest that Parliament cannot do more than one thing at a time. I certainly agree that jobs and growth are the priority, so let us not tie ourselves up in knots on Lords reform. We do not need to—all the parties are signed up to it. We should vote for the Bill and the programme motion so that we can scrutinise the Bill properly while still allowing ourselves to make progress on other Government priorities.⁸

Mr Clegg acknowledged the fears of some that a largely elected House of Lords would challenge the primacy of the Commons, but said that this fear had been expressed at the time of other reforms, and yet had never been borne out. He said that “the Bill will not turn the other place into some kind of monster. It relates to size and composition only and contains no new powers for the other place.”⁹ In particular, he pointed to the Bill's affirmation that the Parliament Acts would remain effective, to the formation of a Government in the Commons not the Lords, to the responsibility of the Commons for money bills, and to the presence of an appointed element in the Lords, meaning that it could not claim greater legitimacy than the Commons.

He also rejected the suggestion that the Lords would become a chamber of career politicians, thus losing the expertise which some members currently bring. He argued that the present House of Lords “is hardly entirely dispassionate, an institution somehow untouched by party politics. More than 70% of its Members receive their peerage from party leaders – that is, more than two thirds of Members take a party Whip, and very few rebel.”¹⁰ The new chamber would have members who would be encouraged to pursue interests outside Parliament.

For Labour, Sadiq Khan said that he supported Lords reform, but that the Bill needed further work, and therefore more time in committee than was envisaged in the programme motion:

I am pleased to be here because, frankly, the Deputy Prime Minister's Bill is a bit of a mess, and I am afraid that his speech did not help matters much either. As a supporter of House of Lords reform, I want to do what I can to ensure that reform comes about, but that it is the right reform and is supported by the people. The Bill has huge implications for how Parliament and our Government operate, so we need to get it right. The reforms will form the basis of a lasting settlement between Parliament and the British people, so we need time to get it right.¹¹

This position led the Labour party to vote for second reading, such that the Bill passed by 462 to 124. However, the size of the Conservative rebellion on second reading, coupled with the prospect of Labour voting against the programme motion, led the Government to

⁷ HC Deb 9 July 2012, c32

⁸ HC Deb 9 July 2012, c33

⁹ HC Deb 9 July 2012, c34

¹⁰ HC Deb 9 July 2012, c35

¹¹ HC Deb 9 July 2012, c38

withdraw its programme motion rather than put it to the vote. 91 Conservative Members voted against the second reading.¹²

Sir George Young, the Leader of the House of Commons, announced the decision not to move the programme motion at the start of the second day of the second reading debate:

We have listened carefully to the debate so far, confident that we will get a significant majority on Second Reading tonight. But for Lords reform to progress, it needs those who support reform to vote for reform and to vote for that reform to make progress through this House. It is clear that the Opposition are not prepared to do that, so we will not move the programme motion tonight. We remain committed to making progress on Lords reform, and with Second Reading behind us we will then consider how best to take this agenda forward and how best to secure progress through the House for reforms that have the backing of this House. The Government will move a timetable motion before we make progress in the autumn, in accordance with the rules of the House.¹³

2 Abandonment of Bill

On 6 August 2012 Mr Clegg announced that the Government would not proceed with the *House of Lords (Reform) Bill*. He accused the Conservatives of breaking the coalition “contract”, and said that, as a result, he would ask Liberal Democrat Members to oppose boundary changes for the 2015 election.

I support an elected House of Lords because I believe that those who make the laws of the land should be elected by those who have to obey the laws of the land. That is democracy - and it is what people rightly expect from their politics in the 21st Century.

When the Liberal Democrats came into Government, I knew that creating a democratic Lords would not be straightforward. This cause has long been blocked by an establishment resistant to change and by the vested interests who benefit from maintaining the power of political patronage, while keeping the power of people out.

However, Lords reform was in each party's manifesto. It was written into the Coalition Agreement - without argument or controversy. And I had hoped that, with enough compromise and cross-party involvement we could build a consensus delivering it once and for all.

After the election I convened cross-party talks. The Government then published a draft bill and white paper with a clear commitment from myself and the Prime Minister to hold the first elections to the Lords in 2015.

We then established a joint committee, of both Houses, to scrutinise our proposals. We amended the Bill once the Joint Committee reported - taking on the majority of their changes. And, last month, in a historic vote an overwhelming majority of MPs backed an elected House of Lords during the Bill's second reading.

However, despite these painstaking efforts the Labour party and Conservative backbenchers united to block any further progress, preventing government from securing a timetable motion without which the Bill effectively becomes impossible to deliver.

¹² There is statistical analysis of the rebellion in “Four records down, a fifth avoided,” *Ballots & Bullets*, 11 July 2012

¹³ HC Deb 10 July 2012, c188

At that point, the Prime Minister said he needed more time, over the summer, to persuade his MPs and I, of course, agreed to that reasonable request. Unfortunately, the PM has confirmed to me, since then, that an insufficient number of his MPs have been persuaded to support the Bill.

In my discussions with the Labour Party leadership, they have made it clear that: while they continue to back Lords reform in principle. They are set on blocking it in practice.

Supporting the ends, but - when push comes to shove - obstructing the means.

I invited Ed Miliband to propose the number of days that Labour believe is necessary for consideration of the Bill. He declined to do so. Instead he confirmed Labour would only support individual closure motions - which could bog down parliament for months.

Regrettably Labour is allowing short-term political opportunism to thwart long-term democratic change.

So, after a long process - almost two and a half years - we do not have the Commons majority needed to ensure this Bill progresses through Parliament. It is obvious that the Bill's opponents would now seek to inflict on it a slow death: ensuring Lords reform consumes an unacceptable amount of parliamentary time.

Clearly, it would be wrong for me to allow Parliament to be manipulated in this way not least at a time when there is so much else for us to concentrate on.

So I can confirm today that we do not intend to proceed with the Bill in this parliament. The government will make a full statement on this - to parliament - as soon as it returns in September.

To modernisers and campaigners, let me say this: I am as disappointed as you that we have not delivered an elected Lords this time around. But Lords Reform has always been a case of two steps forward, one step back.

And my hope is that we will return to it, in the next Parliament emboldened by the overwhelming vote in favour of our Bill at second reading.

An unelected House of Lords flies in the face of democratic principles and public opinion. It makes a mockery of our claim to be the mother of all democracies. And - even if you put all of that to one side - the ever increasing size of the Lords makes it an unsustainable chamber. It cannot keep growing; reform cannot be forever ducked.

As you know, an elected House of Lords was part of the Coalition Agreement: a fundamental part of the contract that keeps the coalition parties working together in the national interest.

A contract not just to each other, but a set of commitments we have made, collectively, to the British people.

My party has held to that contract even when it meant voting for things that we found difficult. The Liberal Democrats are proving ourselves to be a mature and competent party of Government and I am proud that we have met our obligations.

But the Conservative party is not honouring the commitment to Lords reform and, as a result, part of our contract has now been broken.

Clearly I cannot permit a situation where Conservative rebels can pick and choose the parts of the contract they like, while Liberal Democrat MPs are bound to the entire agreement.

Coalition works on mutual respect; it is a reciprocal arrangement, a two-way street. So I have told the Prime Minister that when, in due course, parliament votes on boundary changes for the 2015 election I will be instructing my party to oppose them.

When part of a contract is broken, it is normal to amend that contract in order then to move on.

Lords reform and boundaries are two, separate parliamentary bills but they are both part of a package of overall political reform. Delivering one but not the other would create an imbalance - not just in the Coalition Agreement, but also in our political system.

Lords reform leads to a smaller, more legitimate House of Lords. Boundary changes lead to a smaller House of Commons, by cutting the number of MPs. If you cut the number of MPs without enhancing the legitimacy and effectiveness of the Lords all you have done is weaken parliament as a whole, strengthen the executive and its over-mighty government that wins.

So, for these reasons, I have decided, reluctantly to push the pause button on these controversial parliamentary reforms.

Throughout this process my aim has always been to honour the Coalition Agreement in full - no more, no less. I stood ready - and stand ready - to deliver reforms that are controversial for my party because that is part of a wider, reciprocal arrangement.

That is why, for instance, in a last ditch attempt to keep both sides of the bargain intact, I suggested a solution that would have allowed us to progress with both reforms: a referendum on Lords Reform on election day in 2015, with first elections to the Lords taking place in 2020, while deferring boundary changes to 2020 too.

That would have been in keeping with the Coalition Agreement - in which neither policy had a set timetable. But this offer was not accepted.

So we must now restore balance to the Coalition Agreement, allowing us to draw a line under these events and get on with the rest of our Programme for Government.

My Liberal Democrat colleagues and I remain focused on the urgent task that brought the Coalition together: rescuing, repairing and rebalancing our economy.

And, just as we are determined that this Government delivers economic reform, we are determined to deliver social renewal too.

There are many things that brought me into politics. Many things which animate my party: political reform is one. A fairer tax system is another. Internationalism. The environment. Civil liberties.

But the thing I care about most - the central purpose of the Liberal Democrats in this government - is to build a fairer society. A more socially mobile society, where a person's opportunities do not depend on the circumstances of their birth, where every individual has the chance to flourish.

We will continue with that critical work. We will continue to anchor this government firmly in the centre ground.¹⁴

¹⁴ [Statement](#) by Deputy Prime Minister Nick Clegg, reproduced on BBC News website, 6 August 2012

On 3 September 2012 Mr Clegg made a statement in the Commons, in which he confirmed that the Bill had been withdrawn that day.¹⁵ He made it clear that new legislation would not be introduced before the next general election:

[...] shaping our proposals was a painstaking process, in which the Government courted compromise at every turn, and in July of this year this House voted—overwhelmingly—in favour of the Bill on Second Reading, with 462 in favour and 124 against. However, in spite of all that, it is now clear that we will not be able to secure the Commons majority needed to pass the programme motion that accompanies the Bill. Without that motion, the Bill effectively becomes impossible to deliver, because it cannot be kept on track; the Bill's opponents will be able to block reform by unreasonably dragging out parliamentary debates. That is a situation I clearly cannot allow, not least with Parliament facing so many other pressing issues, particularly in terms of jobs and growth.

So, regrettably, the coalition will not be able to deliver Lords reform during this Parliament. The hard work of many Members of this House, and the other place, to shape this Bill has, I believe, inched us forward, and my hope is that we will return to this matter in the next Parliament, emboldened by the historic Second Reading vote.¹⁶

3 Lord Steel's *House of Lords (Cessation of Membership) Bill [HL]*

Lord Steel of Aikwood sponsored a Private Member's Bill, the [House of Lords \(Cessation of Membership\) Bill \[HL\] 2012-13](#), which completed its Lords stages on 24 July 2012.¹⁷

The Bill takes a simple approach to reducing the size of the House of Lords, and to creating the possibility of retirement or expulsion.

Clause 1 allows members of the House of Lords to retire.

Clause 2 provides that a peer who does not attend the House for a whole session ceases to be a member at the end of that session, except if s/he has leave of absence. This does not apply to sessions lasting less than six months. "Attendance" includes participation in a committee.

Clause 3 provides that a peer who is convicted of a serious offence ceases to be a member of the House of Lords. This is defined to mean that the peer has been convicted of a criminal offence (in any country) and has been sentenced to more than one year in prison. Clause 3(5) empowers the House of Lords to disapply this disqualification by resolution in respect of a conviction outside the UK.

The non-attendance and serious offence conditions are subject to certification by the Lord Speaker. Under **Clause 5** this certification is conclusive and may not be questioned in court.

The effect of disqualification is set out in **Clause 4**. The peer would not be allowed to attend the House of Lords (including sitting, voting and attending proceedings in committees), and would not receive a writ of summons. However, the peer could vote in general elections and become a Member of the House of Commons.

¹⁵ HC Deb 3 September 2012, c35

¹⁶ HC Deb 3 September 2012, cc35-6

¹⁷ Information on Lord Steel's previous Lords reform bills is available in Lords Library Note 2012/017, [Lord Steel of Aikwood's Private Member's Bills on House of Lords Reform](#), 11 May 2012

Lord Hunt of Kings Heath asked Lord Steel on third reading if “his Bill just might be part of the answer to the Government’s problem on Lords reform?” Lord Steel replied that “it is above my pay grade to answer that. I hope that it might be but we shall wait and see.”¹⁸

Lord Steel wrote about his Bill in *The Times*:

The advantage of the Bill is that if the Government took it over it could add at least two major provisions: first, an age cut-off at the end of each Parliament that would permit incoming governments to adjust membership in the light of the election result. If that were set at 80, nearly 200 would go in 2015; and if at 75, more than 350, which would bring the size of the Lords down to below that of the Commons – one of the Government’s aims. A further amendment could end the by-elections among hereditary peers that replenish their ranks to keep their numbers at 92.

Messrs Cameron and Clegg could add one other important reform without legislation: namely to abandon their unfettered patronage in nominations and beef up the role of the existing appointments commission.¹⁹

Mr Clegg said during the second reading debate on the Government’s *House of Lords (Reform) Bill* that removing convicted criminals, as under Lord Steel’s Bill in its current form, would “bring the total [of members] down by a handful, potentially”, while allowing resignation would perhaps not bring the total down at all.²⁰

¹⁸ HL Deb 24 July 2012, c610

¹⁹ *Times*, 8 August 2012. There is further information on the composition of the Lords in Standard Note 3900, [House of Lords Statistics](#), 4 July 2012. The Appointments Commission is covered in Standard Note 2855, [The House of Lords Appointments Commission](#), 28 February 2011, and peerages in general in Standard Note 5867, [Peerage Creations since 1997](#), 13 June 2012.

²⁰ HC Deb 9 July 2012, c27