

## **REFORMING THE HOUSE OF LORDS:**

### **A VIEW FROM THE PARAPETS**

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The House of Lords – the second chamber in Britain’s bicameral legislature – is not and never has been elected. It developed as a body representing the aristocracy and the church. Lords sat by reason of inheriting their titles and archbishops and bishops by reason of their seniority in the church. Calls for reform of this distinctive chamber have variously been made, especially since the expansion of the franchise in the nineteenth century, producing a first chamber able to claim legitimacy through popular election. In 1884, after the Lords refused to pass the Franchise Bill, John Morley declared that the Lords should be ‘mended or ended’. Lord Bryce declared that ‘the House cannot go on as it is’ (see Norton 1981, pp. 20-22, Smith 1992, pp. 169-74). In the event, reform came in the twentieth century but demands for further change have continued.

The first half of the twentieth century saw a change in the powers of the House. The 1911 and 1949 Parliaments Acts limited the power of the House to veto bills introduced in the Commons. The second half of the century saw a change in the composition of the House. The 1958 Life Peerages Act made provision for peerages that became extinct on the death of the holder. Life peers soon became a significant presence in the second chamber. The 1963 Peerages Act enabled hereditary peers to renounce their titles. The 1999 House of Lords Act removed from membership of the House all but 92 of the peers who sat by reason of inheriting their titles. (The phrasing is deliberate as a number of other hereditary peers also remained, or returned, having had life peerages conferred on them.) The combination of the 1958 and 1999 Acts transformed the membership of the House. Before 1999, the bulk of the members were hereditary peers. After 1999, the bulk of the members were life peers.

The 1999 Act also constituted the first stage of reform promised by the Labour Government returned in 1997. However, following votes in both Houses in February 2003, the first stage may also constitute the final stage, at least for the time being, in terms of changing fundamentally the basis of membership.

### *Stage one*

The Labour manifesto in 1997 declared that the House of Lords must be reformed.

As an initial, self-contained reform, not dependent on further reform in the future, the rights of the hereditary peers to sit and vote in the House of Lords will be ended by statute. This will be the first step in a process of reform to make the House of Lords more democratic and representative.

[New Labour, 1997, p. 32]

It went on to say that the system of appointment of life peers would be reviewed, to reflect more the votes cast at general elections, but nonetheless maintaining an independent cross-bench presence of life peers. No one party, it said, should have a majority in the House. A committee of both Houses would be set up to undertake a review and bring forward proposals for reform.

The Government's intention to remove hereditary peers was attacked by the Conservative leader in the Lords, Viscount Cranborne, on the grounds that the Government was intending to replace hereditary peers without saying what it planned to put in their place. There was stage one but no stage two. The criticism had an effect. The Government announced in October 1998 that it would establish a Royal Commission to make recommendations for stage two. At the same time, Lord Cranborne held discussions with the Lord Chancellor, Lord

Irvine, about the transitional arrangements between the two stages. A deal was agreed by which the Government would accept the retention of a number of hereditary peers. The deal was done privately and, after it became public, the Conservative leader, William Hague – annoyed at negotiations taking place without his knowledge and approval – dismissed Cranborne as Conservative leader in the Lords.

In January 1999 the Government published a White Paper – *Modernising Parliament: Reforming the House of Lords* (Cm. 4183) – outlining its proposals, doing so on the same day as the House of Lords Bill was published. The Bill provided that ‘no-one shall be a member of the House of Lords by virtue of a hereditary peerage’. The White Paper indicated that, when the Bill reached the Lords, the Government would be minded to accept an amendment to allow some hereditary peers to remain on a transitional basis. In introducing the White Paper, the Leader of the Lords, Baroness Jay, stressed that Government support for such an amendment ‘depends a great deal on the extent to which the normal conventions of this House about the Government’s programme are being observed’ (*HL Deb.* Vol. 596, c. 583).<sup>1</sup> In other words, the amendment was in return for the passage of the Bill and no disruption to the rest of the Government’s programme. At the same time, Lady Jay announced the appointment of the Royal Commission, to be chaired by a former Conservative Cabinet minister, Lord Wakeham, and to report by 31 December 1999.

The House of Lords Bill was subjected to extensive debate in the Lords but the House followed the Salisbury Convention in agreeing the Bill on Second Reading.<sup>2</sup> An amendment, moved by former Commons Speaker Lord Weatherill, to retain 92 hereditary peers, was accepted.<sup>3</sup> The House passed the Bill – it received Royal Assent on 11 November, the final day of the session – and there was no disruption of Government business during the session. The deal struck by Cranborne held. The new session saw a House reduced in size (from just over 1200 members to 666)<sup>4</sup> and populated primarily by life peers. In terms of the history of the institution of parliament, it was a momentous event. Stage one had been completed.

## *Stage two*

The Wakeham Commission spent 1999 touring the United Kingdom, taking evidence at different venues, and considering a mass of written evidence. It kept to its timetable and presented the Queen with its report at the end of the year. It was published in January 2000. The report, *A House for the Future* (Cm. 4534), was a substantial one. It addressed the functions and powers of the House as well as the composition.

The Commission envisaged a House of 550 members, a minority elected on a regional basis, the rest appointed on the recommendation of a powerful appointments commission, which would not only nominate the independent members but also those appointed on a party basis. The Commission could not reach agreement on the proportion of the members to be elected. It offered three options. Under option A, 65 members (12% of the membership) would be elected, based on votes cast at the general election. Under option B, 87 members (16% of the membership) would be elected at the same time as members of the European Parliament (one-third of the regions/nations electing members every five years). Under option C, 195 members (35% of the membership) would be elected, one third being elected in each region once every five years, again coinciding with the election of members of the EP. The Commission inclined towards option B. Among its other recommendations, the Commission proposed that existing life peers would remain, that possession of a peerage should no longer be necessary for serving in the House, and that new appointees should serve for a fixed 15-year term.

The Commission's report attracted a fairly hostile press. Most critics felt that it had not been radical enough. Some supporters of the existing House felt that it went too far. The Government indicated that it broadly supported the recommendations. It attempted to reach agreement on the appointment of a joint committee, as envisaged in its 1997 manifesto, to

make recommendations as to how to implement the report. However, agreement could not be reached with the Opposition as to the terms of reference. The Government wanted the committee to focus on the details of implementation, whereas the Opposition wanted it to look at the broader question of composition. As a result of the deadlock, no action was taken.

The 2001 general election intervened. The commitment on Lords reform in the Labour Party's election manifesto, subsequently quoted on a highly selective basis, is worth quoting in full.

We are committed to completing House of Lords reform, including removal of the remaining hereditary peers, to make it more representative and democratic, while maintaining the House of Commons' traditional primacy. We have given our support to the report and conclusions of the Wakeham Commission, and will seek to implement them in the most effective way possible. Labour supports modernisation of the House of Lords' procedures to improve its effectiveness. We will put the independent Appointments Commission on a statutory footing.

[New Labour 2001, p. 35]

In November 2001, the Government published a White Paper, *The House of Lords – Completing the Reform* (Cm. 5291), outlining its proposals for implementing the Royal Commission's proposals 'in the most effective way possible'. The White Paper envisaged the removal of the remaining hereditary peers, the separation of the peerage from membership of the House, a 600-member House with 120 non-political members, and with 120 members (20% of the House) elected. It departed from Wakeham in proposing that the non-political members only would be chosen by an appointments commission, with the party members being nominated by the parties.

The White Paper invited responses. The response was uniformly critical. It was attacked for not going far enough or for going too far. Many critics were agreed that a part-elected, part-

appointed chamber was inherently flawed, offering the prospect of a two-tier membership with no commensurate benefits. Most of those who responded felt that the balance was tipped too far against an elected element. 89% of those who responded wanted a chamber in which 50% or more of the members were elected. The White Paper attracted criticism from MPs and peers when it was debated in January 2002. Indeed, it appeared friendless in both chambers. In February, the Public Administration Committee of the House of Commons published a report (*The Second Chamber – Continuing the Reform*, HC 494) based on evidence it had taken and the results of a survey of MPs. It concluded that there was a centre of gravity in the House of Commons favouring a second chamber with 60% of its membership elected.

The response to the Government's White Paper was so negative that the Government decided to abandon its proposals. Instead, it moved to appoint a joint committee of both Houses to come up with recommendations. The 24-member Joint Committee – with twelve members drawn from each House – was appointed in July 2002 'to consider issues relating to House of Lords reform', including composition, powers, role and relationship to the Commons. The Committee issued a special report before the summer recess, explaining how it intended to proceed, and then issued a substantive report (*House of Lords Reform*, HL Paper 17, HC 171) in the December. The Committee advanced what it saw as the functions of the second chamber – essentially endorsing the existing functions – before outlining seven options on composition:

Wholly appointed

Wholly elected

80% appointed/20% elected

80% elected/20% appointed

60% appointed/40% elected

60% elected/40% appointed

50% appointed/50% elected

The Joint Committee invited both Houses to debate these options and then to vote on them. In the light of the decision of both Houses, it would then seek to identify areas of agreement. Both Houses debated the Committee's report in January 2003. MPs had a one-day debate (21 January) and peers a two-day debate (21/22 January). MPs were divided in their views. In the Lords, roughly two-thirds of the speeches were in favour of a wholly appointed chamber. Both Houses voted on the options on 4 February with members allowed a free vote.

In the Lords, each option was voted on and the results were consistent. Peers voted by a margin of 3-to-1 in favour of a wholly appointed chamber and, by a similar margin, against all the remaining options (see Table 1). In the Commons, proceedings were somewhat more chaotic. There was a vote on an amendment proposing abolition. That was lost by 218 votes. MPs then turned to the seven options. Three were negatived by a voice vote. None of the remaining options mustered a majority. MPs voted against a wholly appointed chamber (245 to 323) but then failed to vote for any of the options for election. The 80% elected option failed by three votes. The 60% elected option – identified by the Commons Public Administration Committee as the 'centre of gravity' – went down to defeat by an even larger margin (Table 1). Thus, the outcome of the voting in the two chambers was that none of the options for election was passed. The only option attracting a majority, albeit only in one chamber, was that of an all-appointed chamber.

TABLE 1: VOTING ON HOUSE OF LORDS REFORM

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Results of the votes on House of Lords reform in both Houses, 4 Feb. 2003

*Voting figures*

<i>Option</i>	<i>House of Commons</i>	<i>House of Lords</i>
	<i>for/against</i>	<i>for/against</i>
Wholly appointed	245-323	335-110
Wholly elected	272-289	106-329
80% appointed/20% elected	negatived	39-375
80% elected/20% appointed	281-284	93-338
60% appointed/40% elected	negatived	60-358
60% elected/40% appointed	253-316	91-317
50% appointed/50% elected	negatived	84-322
Abolition	172-390	

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*Source: Hansard*

The results of the voting came as a surprise to many observers. There was a widespread assumption that, as a result of the votes, Lords reform – certainly an elected second chamber – was no longer on the political agenda. The outcome of the votes prompts two questions. First, why? Many observers confidently expected MPs to vote for one or more of the election options. Their expectations were confounded. Second, what next? Is reform off the agenda, or is some change possible in the near future?

### ***Why?***

Following the return of a government committed to reform of the second chamber, various tracts were published in favour of a largely elected second chamber (Kent 1998, Osmond 1998, Richard and Welfare 1999, Sinclair 1998, Tyrie 1998). The reform movement Charter 88 pressed for an elected second chamber. A Conservative Commission, chaired by former

Lord Chancellor Lord Mackay of Clashfern, advocated a predominantly elected chamber (Constitutional Commission, 1999). The Campaign for a Democratic Upper House was formed in the Labour Party in 2000 to make the case for a largely or wholly elected House. It was active in arguing the case within the party, not least at the party conference. The report of the Wakeham Commission prompted many parliamentarians to press for a greater element of election than that proposed in the report. In 2001, Conservative leader Iain Duncan Smith came out in support of a House with 80% of its members elected (see also Conservative Party 2002). Just over 300 MPs – 46% of all MPs – signed an early day motion declaring that any revised second chamber ‘should be wholly or substantially elected’ (EDM 226, Session 2001-02). Of 286 MPs who responded to the survey conducted in January 2002 by the Commons Public Administration Committee, 66% (190) wanted a wholly or mainly elected House. Only 14% (41) favoured a wholly or mainly appointed House. Opinion polls showed that most respondents favoured an elected second chamber.

In the new Parliament elected in 2001, the assumption on the part of parliamentarians was that the outcome would be a second chamber with a proportion of the membership elected. The question was not whether there would be elected members but rather how many. The momentum in favour of an elected or part-elected chamber appeared unstoppable. On the basis of available evidence, not least that accumulated by the Public Administration Committee, it is likely that had the Commons voted on the issue early in 2002, there would have been a majority in favour of a predominantly elected second chamber.

However, a counter-movement developed in 2002. Both parties were divided on the issue. The Government favoured a predominantly appointed chamber and so did some back-bench members of both parties. However, opponents of a predominantly or wholly elected chamber were not organised and it was not clear how many they were; lack of a clear voice appeared to be equated with limited numbers. Shortly before the summer recess, they did begin to organise. A campaign to argue the case against a largely or wholly elected chamber was

formed. The campaign was organised by an MP and a peer. The MP was Sir Patrick Cormack, Conservative MP for Staffordshire South. The peer was this writer. The campaign was based on short a paper circulated to all MPs and peers.

The campaign attracted support from members of both chambers and on an all-party basis. Meetings were held on a regular basis following the summer recess and attracted a growing number of parliamentarians. Support came from members of all three parties, from some of the minor parties, and from cross-bench peers. Though peers outnumbered MPs, the most notable feature was the growing number of Labour MPs who attended, especially early in 2003. They seemed increasingly concerned at the potential for clashes at both the collective level (one House versus the other) and the individual level (MPs competing locally with elected members of the second chamber). Labour MPs representing Scottish seats were especially conscious of the problem given their experiences with elected members of the Scottish parliament. Labour MPs were canvassed effectively by some of their colleagues, led by David Clelland, a former Labour whip. One Liberal Democrat peer canvassed his fellow Liberal Democratic peers and found that they were far from united in supporting the party's pro-election policy: approximately a third were opposed to an elected chamber. One other distinctive feature was the number of former MPs sitting in the Lords who were strongly committed to the campaign. Several admitted that when they were in the Commons they were largely ignorant of the work of the Lords and only came to appreciate its value once they were themselves made members. These peers were especially important in lobbying their former colleagues in the Commons.

There was evidence of MPs changing their minds as the session progressed. Early in 2003, Government whips in the Commons were reported to have detected a significant shift against election. Conservative whips apparently detected a similar switch among Conservative MPs. Most members of the Cabinet were assumed to be against an elected second chamber; opposition to any element of election was reported to be hardening. When in the debate in

January 2003, the Lord Chancellor, Lord Irvine, announced that he would vote for the all-appointed option (in effect, having given up on his previous policy of 20% elected), he was going with the tide rather than creating it. The same point can be made about the announcement made by the Prime Minister, Tony Blair, in Prime Minister's Question Time on 29 January that he too opposed election. He had been expected to make such an announcement after the vote in both chambers, and not prior to it. His announcement caught a wave but also added significantly to it. It gave a spur to wavering back-benchers, with Government whips taking the Prime Minister's signal to encourage them to vote against an elected chamber.<sup>5</sup> Given the outcomes of the votes in February, their action was almost certainly decisive in ensuring a majority against any of the options favouring election. As MacLean, Spirling and Russell (2003) have observed, the Lord Chancellor's and the Prime Minister's discovery that a hybrid House was not tolerable 'may prove to have been a great agenda-setting moment'.

The votes in February 2003 revealed some of the shifts of opinion that had taken place. Of the 303 MPs who had signed the early day motion (EDM) the previous session favouring election, 50 voted for a wholly appointed chamber (*The Times*, 5 Feb. 2003). The composition of the 'switchers' is somewhat counter-intuitive. Given that the Prime Minister had come out in favour of an appointed chamber, and the Leader of the Opposition in favour of a predominantly elected chamber, one would anticipate that the biggest switch would be among Labour MPs. In fact, 32 Conservative and 18 Labour signatories of the EDM switched to vote in favour of appointment. Other data suggest that the switch on both sides was, in fact, sizeable, with little party difference. Of the 165 Labour MPs who responded to the Public Administration Committee survey, only 14 (8%) expressed a preference for a wholly appointed chamber. In the vote, the Parliamentary Labour Party split down the middle: 49% of Labour MPs voted for the wholly appointed option, 51% against (Table 2). Only 6% of Conservative MPs in the survey favoured a wholly appointed chamber. In the division on 4 February, 41% voted for it. Among MPs and peers changing their minds were a

number who had previously been vocal and not simply passive supporters of an elected second chamber. Among those switching was at least one member of the Joint Committee.

TABLE 2: VOTING ON THE OPTIONS

<i>Party</i>	<i>Vote in the House of Commons, 4 Feb. 2003</i>									
	<i>Abolition</i>		<i>All-appointed</i>		<i>All-elected</i>		<i>80% elected</i>		<i>60% elected</i>	
	<i>For</i>	<i>Against</i>	<i>For</i>	<i>Against</i>	<i>For</i>	<i>Against</i>	<i>For</i>	<i>Against</i>	<i>For</i>	<i>Against</i>
Labour	158*	185*	173*	181*	157*	197*	151*	195*	151*	199*
Conservative	2	146	60	87	59	80	73	76	50	98
Liberal Democrat	3	48	3	45	41	7	47	3	43	6
Democratic Unionist (DUP)	0	5	5	0	5	0	0	5	0	5
Ulster Unionist	0	5	4	0	0	5	0	5	1	4
Scottish National	5	0	0	5	5	0	5	0	5	0
Plaid Cymru	4	0	0	4	4	0	4	0	0	4
Independent	0	1	0	1	1	0	1	0	1	0
<b><i>Total</i></b>	<b><i>172</i></b>	<b><i>390</i></b>	<b><i>245</i></b>	<b><i>323</i></b>	<b><i>272</i></b>	<b><i>289</i></b>	<b><i>281</i></b>	<b><i>284</i></b>	<b><i>251**</i></b>	<b><i>316</i></b>

\* Plus two tellers

\*\* Tellers announced 253, but only 251 names listed

*Source:* Author's analysis of the division lists.

What is notable also about the voting figures is that there was not a majority among either Labour or Conservative MPs for any of the options. The largest vote among Labour MPs was for an all-appointed chamber. Though the closest vote in the House as a whole was on the 80% elected option, the closest vote among Labour MPs was on the all-appointed option. Analysed solely in terms of voting by the two main parties, the narrowest margin was on the all-appointed option. What made the difference in terms of the size of the majority against that option was the vote of the Liberal Democrats. However, as Table 2 reveals, the Liberal Democrats were not united. Three Liberal Democrat MPs voted for appointment and against the other options. Ironically, the 80% option was lost by a majority of only three. As one of the three Liberal Democrat supporters of an appointed chamber noted, their action did not make them enormously popular with their colleagues.

Opposition among Labour MPs to a largely or wholly elected House is also shown by the fact that marginally more voted for abolition than the elected options. The abolition lobby contained MPs who were supporters of the Campaign for an Effective Second Chamber: they were not so much expressing unicameralist views as their opposition to a second chamber that contained mainly elected members. Of those who voted for abolition, most subsequently voted against the options for a predominantly elected House.

On the Conservative benches, the largest vote was in favour of the 80% elected option – official party policy – but even those voting for the option were in a minority. Once the 80% elected option had been voted down, Iain Duncan Smith was persuaded that now that the party-supported option had been lost, he could vote against the remaining option. He therefore switched, along with 29 other – mainly front-bench – Tory MPs, to vote against the 60% elected option.

*Election.* Supporters of an elected chamber advanced two principal arguments. The first was that of democracy. Democracy required that those who determined the laws of the country should be elected and thus accountable to their fellow citizens. The second was that of constraint. The House of Commons was no longer able to constrain an over-mighty executive. Shadow Leader of the Commons, Eric Forth, declared in the January debate that he had ‘given up’ trying to hold the Government to account. The only way to constrain Government was through election to the second chamber. The second chamber could then limit government in a way that the present House could not do because it lacked the legitimacy to do so.

*Appointment.* The case made for an appointed chamber was that it was actually central to a representative democracy (Norton 2003). The present arrangements ensured accountability. There is one body – the party-in-government – responsible for public policy. It is elected on a particular platform and if it fails to meet its promises then electors know who to hold to account. They can sweep it out at the next election. The second chamber does not challenge this core accountability. Instead it adds value to the political process, accepting the primacy of the elected chamber and fulfilling valuable tasks that the Commons does not have the time, expertise or political will to carry out. An elected second chamber, it is argued, would serve to replicate the first and would not obviously add value; if anything, it would be value detracting. If the House of Commons is not able to constrain the Government, then that is an argument for reforming the House of Commons, not the House of Lords.

Some advocates of an elected chamber, notably Charter 88, argued that election was necessary to produce a more socially representative House. Opponents argued that appointment could deliver a quicker and more effective means of ensuring greater gender balance and a wider spread of members. Supporters of election also argued that election would help revitalise democracy in Britain. Opponents pointed out that citizens were not rushing out to vote for members of the House of Commons and the European Parliament: it

was unlikely that they would rush out to vote for members of a second chamber, especially if they were not clear what they were voting *for*.

The debate also appeared to bear out anecdotal evidence, variously advanced by supporters of the existing second chamber, that the more the subject was discussed, the more people switched from supporting election to supporting an appointed House of Lords. This was consistent with the (unpublished) finding of the Wakeham Commission that those who knew most about the work the House of Lords were the ones most likely to advocate its retention.<sup>6</sup>

### ***What next?***

The Joint Committee on House of Lords Reform met in March 2003 to decide what to do next, given the unexpected outcome of the votes in the House of Commons. Some members, primarily those who supported an elected second chamber, wanted it wound up. They did not favour pursuing reforms that might prop up or lengthen the life of the existing appointed House. Members agreed to meet again to consider a final report, leaving open whether or not they should continue in existence. The Chairman drew up a draft report effectively saying that the Committee was handing the issue over to the Government. However, perhaps influenced by an intimation that ministers did not wish the issue to be handed back to them, the Committee decided in April to continue in existence and to consider issues which it had previously said could be addressed, unrelated to the question of election: such issues as the appointment process, the position of hereditary peers, and the role of law lords and bishops in the House. It issued its report (*House of Lords Reform: Second Report*, HL 97) in May, intimating its intention to engage in such work. In its response, published on 17 July (HL Paper 155, HC 1027), the Government welcomed the Committee's intention to proceed in the way it proposed.

In the wake of the votes in February, it was assumed that the issue of an elected second chamber was dead for the foreseeable future. There was little chance of the Government introducing legislation, especially given that the Prime Minister and the Lord Chancellor, who headed the relevant Cabinet committee, were opposed to election. In its response to the Joint Committee in July 2003, the Government had reiterated its commitment to removing the remaining hereditary peers from the House. That appeared to mark the limit of how far ministers were prepared to go. Confirmation of this position came in September 2003 when the Lord Chancellor, Lord Falconer, announced that legislation would be introduced, when parliamentary time permitted, to remove the 92 hereditary peers from membership as well as put an appointments commission on a statutory basis. Removal of the hereditaries had been part of the stage two package, the removal to take place at the same time as a new House was created. Lord Falconer emphasised that no agreement had been possible on the second stage of reform and that therefore the Government was pressing ahead with this particular and limited measure. In a subsequent exchange in the House, on 13 October, there was intimation by a junior minister, Lord Filkin, that some hereditaries may return as life peers.

A brief summary of how the present position was reached also serves to reinforce the view that substantial reform of composition is unlikely. After 1997, the Government had made clear what it was against (hereditary peers) but was unable to say what it was for. It was thus committed to stage one but was uncertain as to the content of stage two. It established the Royal Commission to suggest that content. The Prime Minister and other senior ministers were keen not to go too far down the road of an elected chamber (see Jones 1999, Cook 2003) and established a Commission designed to produce the desired result. When the Royal Commission recommended a small element of election (a recommendation that, in Robin Cook's recollection, probably was more than the Prime Minister wanted), it was prepared to embrace the Commission's recommendations. When the Government sought to pursue them through its own 2001 White Paper and encountered considerable opposition, not least from some of its own supporters, it withdrew, handing the issue to Parliament to resolve.

The Government had been prepared to embrace, at most, a partially elected House but was wary of going beyond that and, in any event, had no mandate to do so. Labour MPs who supported an elected chamber kept quoting the manifesto commitment to make the House ‘more representative and democratic’, but neglected to mention the commitment to the Wakeham Commission’s report and conclusions. (At least one opponent of election – a Labour peer – did the reverse.) Though the Conservative manifesto in 2001 signalled the party’s preference for a ‘substantial elected element’, the advocacy of the 80% elected option by Iain Duncan Smith looked too much like an exercise in political opportunism – trying to outflank the Labour Party’s position – and was not well received in all parts of the party. It looked too much like the short-term responsiveness that had characterised the party in the previous Parliament.

The issue was thus not an easy one for either party, certainly not for the leadership. Divided opinions within both parties not only made it difficult to hold MPs to a particular line, they also have important implications for what happens following the votes in February 2003. The foregoing analysis suggests that support among MPs for an elected second chamber may have been broad but not as deep as many supporters supposed. Though putting the options in a different sequence, or offering different propositions (for instance, a choice between all-appointed and a partially-elected House), would plausibly have produced different outcomes (see MacLean, Spirling and Russell, 2003), the political reality is not only that none of the options on offer was carried but also that in the votes both main parties were badly divided. There is little reason for either of the party leaderships to pursue the issue. The Labour leadership has a parliamentary party split down the middle on the subject, the vote on the all-appointed option reflecting the extent of the divide. The Conservative leadership also has a party split down the middle. As we have noted already, in the vote on the 80% elected option – formally Conservative policy – slightly more Conservative MPs (76) voted against than voted for (73). Only Liberal Democratic and nationalist MPs voted overwhelmingly in favour

of election. There is little incentive for the leaders of the two main parties to pursue the issue.

### *Conclusion*

When the 1911 Parliament Act was passed, limiting the powers of the House of Lords, it was seen as stage one of reform of the second chamber. The preamble to the Act envisaged moving toward a House ‘constituted on a popular instead of a hereditary basis’. In the event, there was no second stage reform. One might be forgiven for suspecting that history has repeated itself. The return of a Labour Government in 1997 led to the achievement of a first stage of reform, with the removal of most hereditary peers from membership of the House (thus achieving part of what was envisaged in the preamble to the 1911 Act). However, attempts to achieve a second and final stage have been thwarted. Neither House of Parliament has voted in favour of a partly, predominantly or wholly elected second chamber.

In the summer of 2002, the prospects of an elected or part-elected second chamber being created by or in the next Parliament looked very good. By the summer of 2003, they looked dismal. However, an elected second chamber and reform of the House of Lords should not be treated as synonymous. There may not be election but there may be other changes that affect both the mechanism by which members reach the second chamber and the way in which the House fulfils its functions.

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<sup>1</sup> *House of Lords: Official Report (Hansard)* is available online at [www.parliament.uk/hansard/hansard/cfm](http://www.parliament.uk/hansard/hansard/cfm)

<sup>2</sup> The House passed a declaratory amendment regretting that the Bill changed the historic nature of the House without consensus and consultation on the successor House's role and composition 'and without making it more democratic', but then proceeded to give the Bill a Second Reading. *HL Deb.* Vol. 599, c. 427-30. The Salisbury Convention – enunciated by the Conservative leader in the Lords (Viscount Cranborne's grandfather) in 1945 – stipulates that the House should not divide on the Second Reading (that is, the vote on principle) of Bills promised in the governing party's programme.

<sup>3</sup> Two of the 92 were to serve ex officio (the Earl Marshal and Lord Chamberlain); 75 were to be elected on a party basis (allocated according to the number in each party) by the hereditary peers in each party; and 15 were to be elected by the House as a whole to be available to serve the House in official positions. The Act provided that, in the period until the end of the Parliament, if one of the elected hereditaries died, the closest runner-up was to succeed; in the succeeding Parliament, a by-election would be held, a new member being elected from excluded hereditary peers. In March 2003, the by-election procedure was activated, a new member being elected to succeed an hereditary peer (Viscount Oxfuird), one of the 15 elected by the whole House, who had died.

<sup>4</sup> There is no limit on the size of the House and the membership varies depending on deaths and new creations. In April 2003, there were 678 members. The number excludes 13 peers who were on leave of absence.

<sup>5</sup> As MacLean, Stirling and Russell record, 13 of the 15 Government whips in the Commons voted for the all-appointed option. In the Lords, the Government whips appear to have kept above the fray, though five of the eight did vote for the all-appointed option.

<sup>6</sup> Volunteered to the author by a senior member of the Royal Commission.