

The Draft Bill and the Report of the Royal Commission on the reform of the House of Lords

Reform of the House of Lords is badly needed. The fundamental agreements between the recommendations of the Royal Commission and the Draft Bill shows that the most radical reforms can and should be carried out now. When the report of the Royal Commission was first published, it was pushed aside because both those in favour of an elected house and those in favour of an appointed house united to oppose the idea of a hybrid. [Richard Harries](#) argues that we need to look seriously at the idea of a hybrid house, even if not in the proportions put forward by the Draft Bill.



The report of The Royal Commission on the Reform of the House of Lords was published in 2000. It was the result of a year's serious work by a distinguished panel, yet until now it has not been to the forefront of debate. The reason is clear. When it was first published the House of Commons and the House of Lords took diametrically opposed views, the first wanting an all elected house, the other an all appointed one. The Wakeham Commission, which proposed a hybrid, satisfied neither. Indeed the one point on which the two extremes could agree on was a rejection of any hybrid.

Despite this, many members of the Royal Commission remained quietly confident that if there was to be any reform there would have to be a return to some of the fundamental points made in its report. It is now striking how many of the proposals in the Bill coincide with those of the commission, though, as I will show, how fundamental is the one key difference.

First, there is total agreement about the role and powers of a reformed Lords. The Commons would remain the primary house with the Lords there to scrutinize legislation and, if necessary, delay it and force the Commons to think again for a limited period.

Secondly, there is total agreement about the most radical change: the separation of membership of the chamber from the peerage. The peerage would revert to being an honour.

Thirdly, there is agreement that the length of office should be 15 years, in order to ensure that the Lords take a long term view rather than a short one with a view to re-election. There is one difference here. The Wakeham Commission did allow for the possibility, in rare circumstances, for a person to be appointed for a further term. The draft bill does not. I think that is a mistake. Suppose someone is elected or appointed at the age of 25, after 15 years they will only be 50, and if they are making a key contribution it seems a loss to forbid them under any circumstances to continue. The Appointments Commission would make a judgement about the continuing value of their contribution.

There was also agreement that there should be such an independent statutory appointments commission responsible for recommending independent cross bench peers to the Prime Minister for nomination to the Queen. However, the Royal Commission also foresaw a wider role for the appointments commission. They would keep a watch on the ethnic and gender balance of the house and also ensure that the balance reflected that of the previous general election.

There is also agreement that the number of Bishops should be reduced, though here again there is an element of disagreement. Wakeham wanted the number reduced from the present 26, to 16, but suggested that there could be leaders from other Christian or faith communities appointed. The Draft Bill proposes to reduce the number of bishops to 12 (which actually represents a higher percentage of their proposed much smaller house than the 26 do for the present large one) but there is no proposed place for other representative religious leaders.

There is also agreement that change from the present system should take place in three stages over a period of time.

One significant difference which has a bearing on the major difference is the size proposed. Wakeham proposed a house of about 550, the Draft Bill one of 312. Although the present house is absurdly large, 312 is too small. It would mean that, for example, there could no longer be a wide representation of different professions and walks of life amongst the independent cross benchers, who are making an increasingly significant difference to the house.

Another significant difference, which again has a bearing on the fundamental divide is the question of money. The Royal Commission proposed a flat Per diem allowance, such as the House has in fact recently adopted. The Draft Bill proposes a full salary and pension arrangements for all members. The underlying philosophical difference is clear. The Royal Commission envisaged a larger house made up of people of experience who would not necessarily see it as their sole occupation. The Draft Bill envisages a smaller house all of whom would be full time.

This leads to the most fundamental disagreement, but one which nevertheless points up a hardly less fundamental agreement – a hybrid house. This, which was so scorned before by all parties, is a key part of the Draft Bill. The divide is that the Bill proposes an 80% elected house and a 20% appointed one, whereas the Royal Commission proposed the possibility of 65, 87 or 197 members being elected in a total house of about 550, obviously a much smaller percentage even if and when the full total of 197 had been achieved.

The members of the Royal Commission were strongly divided in their initial view on the issue of election/appointment. Although there was no final agreement on this, with a range of possibilities being offered, it is significant that there was agreement both about a hybrid house and one which had a large percentage of appointed members.

Although initially in favour of an all appointed house for all the usual reasons, I support an elected percentage because I thought this would be a way first of all to ensure that the regions were better represented, and secondly to offer another way into the Lords for those who might not fit easily into other categories. The issue of democratic legitimacy was not a factor in my own decision. There are many forms of legitimacy, and election is only one. Provided the primary house is fully elected and their political will prevails in the end, that is what matters. If the independent cross bench peers have been appointed by an appointments commission set up and monitored by parliament and if the appointed political peers have been nominated by parliamentarians who have themselves been elected and such appointments are monitored by the independent appointments commission, that, in my view, is appropriate legitimacy.

I have already noted above that one of the reasons for having a larger house is to ensure that there is a wide range of expertise and experience on the cross benches. Another reason is that amongst those making the most valuable contribution to parliament at the moment are former MP's including a good number of former members of the cabinet. They do not necessarily want to be there for every day the house sits, but their experience is invaluable. Elections would of course bring in young, ambitious people who wanted to make a political career. But at the heart of the House of Lords is a great deal of the wisdom that comes with age and experience – not least political experience. This can only continue to be the case if a significant percentage of the political element is appointed, not elected. This does not rule out an elected political element, which the Royal Commission proposed and I support, but there would be a huge loss if the only politicians in the House were those who were elected, for they would mostly be at the beginning of their careers.

Although the House of Lords is in fact working well, from the point of view of its long term health I believe that reform is very necessary, and we need to grasp the nettle of reform sooner rather than later. With a view to that, it is well worth considering the proposals in the Draft Bill and comparing them with those in the report of the Royal Commission. As the above argument shows, I hope that despite the positive features of the Bill, it will still be modified in the direction proposed by the Royal Commission.

*On Monday, 18 July, the Constitution Society, CentreForum and British Government @ LSE hosted the debate, **The future of the House of Lords**. The debate brought together MPs, peers and academics to discuss the proposals set out in the Draft Bill and the prospects for reform of the House.*

The speakers were:

- [Mark Harper MP](#), Minister for Political and Constitutional Reform, who was in favour of the proposed reforms;
- [Professor Patrick Dunleavy](#), London School of Economics, who was also in favour, but urged the reforms to go further;
- [Professor the Rt Revd Lord Harries](#), who was skeptical of the proposals and advocated a hybrid system;
- [Professor Tim Bale](#), University of Sussex, who was against the proposals.

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