

## GENERAL SYNOD

## PRIVATE MEMBERS' MOTION – HOUSE OF LORDS REFORM

Background Note by the Secretary General**History**

1. The Parliament Act 1911 definitively established the supremacy of the House of Commons over the House of Lords. Since then the House of Lords has been a revising chamber, with the power to amend but not ultimately to block legislation supported by the House of Commons.
2. In 1911 the House of Lords still consisted of hereditary peers plus the Law Lords and 26 Lords Spiritual. The introduction of life peers by the Macmillan Government gradually changed the character of the Lords from the late 1950's and increased its membership from around 800 to 1273 by the end of the century. The Blair Government's legislation of 1999 removed all but 92 of the hereditary peers. Since then the membership of the Lords has steadily increased from its low point of 614 in 2000 to just under 800.
3. The 1999 legislation was seen as the prelude to a more fundamental process of reform, for which the report in January 2000 of the Royal Commission chaired by Lord Wakeham was meant to map the ground. The Commission came out against a fully or mainly directly elected Second Chamber, instead favouring a mix of appointed members and those elected regionally.
4. It also recommended that, instead of 26 places for the Lords Spiritual, there should be 26 places for representatives of Christian denominations in the United Kingdom, of which 16 would be for the Church of England, 5 for other churches in England and 5 for churches in the other nations (the necessary mechanisms to secure this were left somewhat unclear and would not be easy to devise). It recommended in addition that the new statutory Appointments Commission should, among other things, seek to appoint at least 5 members 'broadly representative of the different non-Christian faith communities.'
5. The Commission's report triggered a debate about the basis for membership of the second chamber which remains unresolved. There remain those who believe that the introduction of **any** elective element would inevitably increase the Lords legitimacy at the expense of the Commons and that that is undesirable.
6. Others argue that, whatever the relative roles of the two houses ought to be, there does at least need to be some greater clarity over what the reform of the second chamber is fundamentally designed to achieve and what future relationship between the two Houses of Parliament is intended. Their concern is that settling membership of the second chamber without achieving a measure of agreement over its functions would not only be illogical but pave the way for difficult relations between the two houses.
7. All that is clear is that there has been a growing view in the 3 main parties that, if there is to be major reform of the Lords, it should lead to a wholly or at least a substantially elected Second Chamber. All 3 main parties are now formally committed to that view, though the extent to which they see it as a priority vary and there remain widely differing views among back benchers.

## **White Paper and Draft Bill**

8. The Government published its proposals on 17 May. The key features of the draft Bill are that:
  - There would be 300 full time members of the new Second Chamber, of whom 240 would be elected and 60 appointed.
  - In addition to the 300 the Prime Minister would be able to appoint a certain number of ministers to the Second Chamber for the duration of their ministerial term of office.
  - There would also be 12 Lords Spiritual- the 5 senior Sees (Canterbury, York, London, Durham and Winchester) plus 7 other bishops selected by the Church of England in a manner of its choosing.
  - The transition from the present to the new composition would be achieved over 3 general elections. For bishops that would mean that numbers would reduce from 26 to no more than 21 in the first transitional Parliament, no more than 16 in the second and no more than 12 thereafter.
  - There would be no change in ‘the powers, rights, privileges or jurisdiction of either House of Parliament, or the conventions governing the relationship between the two Houses.’ This is, however, easier to say than believe given that a House elected as to 80% by proportional system would arguably have greater legitimacy than the House of Commons elected by first past the post.
  - Members would normally serve for one non-renewable term of 15 years, though could resign at any time. This period would not apply to Lords Spiritual or to ministers.
  - During the transitional period vacancies to the 5 senior Sees could be filled but, otherwise, no new Lords Spiritual could be appointed until the total number of Lords Spiritual had fallen below 12. After the transitional period it would be for the Church of England to notify the Clerk of the Parliaments who, in addition to the five senior sees, were to be the Lords Spiritual for the following 5 years. There would also then be scope for filling casual vacancies as they arose.
9. The draft Bill is being considered by the Parliamentary Committee drawn from the Commons and Lords. The Bishop of Leicester is a member. The Committee was originally asked to report by the end of February though this has changed to March. Recent reports about what the Committee may recommend remain speculation.
10. In the light of the Parliamentary Committee’s report the Government will need to decide before the start of the next Parliamentary session in May whether to commit itself in the Queen’s speech to introduce a Bill and, if so, what changes, if any, to make to last May’s draft in the light of the Parliamentary Committee’s report.
11. If the Government decides to proceed with what will be major constitutional legislation each stage will need to be taken on the floor of the Commons and then the Lords. As the Wilson government discovered when it attempted Lords reform in 1968 that makes any bill harder to manage than other kinds of legislation because it means both that all members are entitled to speak and vote at each stage and that the opportunity cost in terms of the time available for other legislation is high.

12. It is for these reasons and the apparent lack of consensus on key elements of any reform package, both across and to some extent within the main political parties, that many commentators continue to doubt whether legislation will be enacted before the end of this Parliament in 2015. And, if it is, it is hard to predict in what final form it might emerge from the Parliamentary process.

### **Implications for the Church of England**

13. The Archbishops of Canterbury and York made a submission to the Wakeham Commission in 1999 and since then the Archbishops and other senior bishops have made various statements on the public record and engaged privately with successive ministers on a regular basis. The consistent approach has been to comment on the underlying constitutional issues and what makes for good governance, as well as offering views on the role of the Lords Spiritual and on a religious presence in the Second Chamber more generally.
14. The submissions have been in line with a Private Member's Motion passed by the General Synod on 6 July 2001 by 372 votes to 25. It read:  
*'That this Synod call upon Her Majesty's Government, in the reform of the House of Lords, to ensure that provision fully adequate to enable bishops of the Church of England to continue to contribute effectively to a reformed House be retained, and that members drawn from other Christian churches of other faiths also be added to the composition of a new Second Chamber in our parliamentary democracy.'*
15. Following publication of the draft Bill the Archbishops established a small group consisting of themselves and the Bishops of London, Leicester, Liverpool and Norwich to advise them on how best to respond. The Group met in July and September. In addition, in September the Archbishops consulted the Archbishops' Council on the draft of a submission to go to the Parliamentary Committee.
16. In the light of the Private Members' Motion tabled in July the Archbishops also proposed that the Group should be expanded to include members of all three Houses. Philip Giddings (Chair of Laity), Christine Hardman (Prolocutor of the Southern Province), Philip Fletcher (Chair of MPA) and April Alexander (a Church Commissioner) have joined the Group. It met earlier this month and will meet again as the Government's intentions emerge.
17. The Archbishops submitted their response to the Parliamentary Committee in October and the Archbishop of Canterbury gave oral evidence to the Committee on 28 November. A copy of the written evidence was sent electronically to Synod members as GS Misc 1004 and is being reissued in hard copy for February. A transcript of the Archbishop's oral evidence can be found at "<http://www.parliament.uk/documents/joint-committees/draft-house-lords-reform-bill/1313-ix%20uncorrected%20oral%20evidence.pdf>".
18. Previous debates in both Houses on Lords Reform as well as the questioning that the Archbishop of Canterbury received from the Parliamentary Committee have highlighted the range of views in Parliament on whether Church of England bishops should have any place in a reformed Second Chamber and indeed whether there should be a place for senior figures from churches and faiths more generally.
19. At present the Archbishops and the Bishops of London, Durham and Winchester are members of the House of Lords by virtue of their office. The 21 other places for Lords

Spiritual are filled by order of seniority among the 37 other English diocesan bishops. If proposals along the lines set out in the draft Bill were to be enacted - whether or not with some of the modifications canvassed in the Archbishops' Submission – there would be a number of questions for the Church of England to resolve.

20. These would include:
- whether those Diocesan bishops chosen to serve in the reformed Lords would do so for all or part of their episcopal term of office, and, if the latter, whether there should be some minimum period of service there
  - whether 'Parliamentary Sees' should be identified in advance of appointments being made by the CNC (whether or not the person appointed necessarily went to the Lords straightaway),
  - how, given the length of episcopal vacancies and the reduction in numbers from 26 to 12, to minimise the risk of gaps on the bench,
  - how bishops/dioceses affected might best be resourced given that each Lord Spiritual, though not a full time Parliamentarian, would be expected to attend more frequently than is currently the case with a bench of 26,
  - how to ensure that the system was sufficiently flexible to enable particular portfolio holders (for example the lead bishop on education) to be one of the 12,
  - to the extent that there was some reshaping of the episcopal bench in the Lords at the beginning of each five year Parliament whether this should primarily be at the discretion of the Archbishops of the day and how best they and perhaps others would be supported in that task.
21. The Working Group established by the Archbishops has had a preliminary discussion of some of these matters and will be considering them further at forthcoming meetings. Since the answers to some would have a bearing on CNC appointments processes the intention would be that any new set of arrangements would, as with the changes to Crown appointments processes following the then Prime Minister's statement of July 2007, be brought to the General Synod for endorsement.
22. Before this happens, however, it will be important to be clearer about the Government's intentions, about how any legislative process in Parliament might unfold, and about whether there is to continue to be a place for any non-elected members in a reformed House.
23. In the meantime, the Parliamentary Unit and I continue to work closely with the Lords Spiritual and the Second Estates Commissioner in engaging both with the Government and with members of both Houses of Parliament.

WILLIAM FITTALL

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