Government Response to the Report of the Joint Committee on the Draft House of Lords Reform Bill

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Introduction

The Government is grateful to the members of the Joint Committee for their report on the draft House of Lords Reform Bill, and to those who gave evidence to the Joint Committee. The Government has considered their report, and has accepted the majority of their conclusions and recommendations in preparing the Bill for introduction.

The principle behind the Bill is simple. The Government believes that those who make the laws of the land should be elected by those to whom the laws apply. We believe that this work of the Joint Committee and their agreement to the key provisions of the draft Bill provide a strong basis on which to introduce a Bill which brings democratic legitimacy to the House of Lords.

Government Response to the Conclusions and Recommendations

Functions, Role, Primacy and Conventions

The principle of an electoral mandate

1. Differences of perception as to the need for an electoral mandate exist within the Committee too, as well as within political parties and across the two Houses. They will doubtless condition the debate when the Bill is introduced and considered in both Houses. The Committee, on a majority, agrees that the reformed second chamber of legislature should have an electoral mandate provided it has commensurate powers. (Paragraph 23)

The Government welcomes the agreement of the Joint Committee with the principle that the reformed second chamber should have an electoral mandate. This is the core of the Government's proposals. The Government believes that, in a modern democracy, it is important that those who pass legislation should be chosen by those to whom the legislation applies.

The introduction of elected members has also been a consistent feature of previous proposals from others, including the previous Government's White Papers of 2001, 2007 and 2008. The House of Commons also voted on 7 March 2007 in favour of a second chamber that was 80% elected and a chamber that was 100% elected, during a series of free votes in which it rejected the retention of an all-appointed House and other options with a lower proportion of elected members.

All three main political parties have been committed to House of Lords reform since 2001; all agreed in their manifestos in 2010 to work towards the introduction of either a wholly or mainly elected House of Lords. The agreement of the Joint Committee is a further landmark in that it represents the first agreement by a committee of both Houses with the principle of an electoral mandate for the second chamber.

The Government notes the observation from the Committee that the reformed House should have commensurate powers if it is to contain elected members. The Government believes that the current powers of the House of Lords would remain appropriate to a mainly elected House, although it recognises that conventions would continue to adapt and evolve. The question of the powers of the reformed House of Lords is considered more fully below.

Functions, powers and role

2. The Committee agrees with the Government's view that in order to enhance the effectiveness of the parliamentary process it is appropriate that a reformed House should perform, but not be constrained by, the functions of the present House of Lords—including initiating and revising legislation, subjecting the executive to scrutiny, and acting as a forum of debate on matters of public policy. Indeed, the Committee agrees that for the first time the reformed House will, in respect of its elected members, acquire a representative function. (Paragraph 33)

The Government welcomes the agreement of the Joint Committee that the reformed House of Lords should perform, but not be constrained by, the functions of the present House of Lords. The House of Lords plays a vital role in the political system, carrying out a number of functions crucial to the effectiveness of our legislative process. A House of Lords with an electoral mandate will continue to perform these roles, but its ability to do so will be enhanced by greater legitimacy. It will ensure that the House will have the legitimacy that it currently lacks.

The Government accepts that elected members of the reformed House of Lords may develop some degree of representative function; indeed, it is a key intention of the reform proposals that elected members will be drawn from all nations and regions of the United Kingdom, and will have the mandate to carry out the important revising and scrutinising functions that the House already performs. Both elected and appointed members will continue to be drawn from a wide range of backgrounds that allow them to represent a diverse breadth of experience and expertise in their contributions to the work of the House. However, the Government agrees with the Joint Committee that in general it would be inappropriate for elected members to involve themselves in the direct representation of a constituency through personal casework of the kind currently undertaken by MPs on behalf of their constituents.

This is discussed further in the Government's response to recommendations 43-46.

3. The Committee is firmly of the opinion that a wholly or largely elected reformed House will seek to use its powers more assertively, to an extent which cannot be predicted with certainty now. (Paragraph 34)

10. We agree that following election the increased assertiveness of a reformed second chamber will affect the balance of power between the two chambers in favour of the House of Lords. (Paragraph 66)

4. The Committee considers that a more assertive House would not enhance Parliament's overall role in relation to the activities of the executive. (Paragraph 35)

The Government accepts that a mainly elected House of Lords is likely to be more assertive, as it has been after every major reform to its membership. However, the Government believes that this will enhance the ability of Parliament as a whole to hold the executive to account. A more legitimate House of Lords will be better placed to carry out the House's essential functions of scrutiny of the executive and revision of legislation, which are complementary to the related, but distinct functions of the House of Commons.

Primacy of the House of Commons

8. We agree that the existing primacy of the Commons rests on a number of factors including, but not limited to, the self-restraint of the current House of Lords. (Paragraph 64)

9. We are wary of according too much weight to claims about the relative strength of individual mandates, not least in relation to the passage of time. A mandate is a mandate for the period for which a member is elected. An MP's mandate is no weaker in the fourth or fifth session of a Parliament than in the first. (Paragraph 65)

11. Opinion within the Committee varied as to the impact which any shift in the balance of power would have on House of Commons primacy. Some members believed that Commons primacy would remain absolute, buttressed by the provisions of the Parliament Acts: some believed that an electoral mandate would inexorably lead to claims of equal primacy with the Commons. Some believed that no attempt should be made to preserve Commons primacy, while others believed Commons primacy would be undermined. A majority, while acknowledging that the balance of power would shift, consider that the remaining

pillars on which Commons primacy rests would suffice to ensure its continuation. (Paragraph 67)

The Government strongly welcomes the agreement of the Joint Committee that the primacy of the House of Commons would continue under the proposals in the Government's Bill. The primacy of the House of Commons and the self-restraint of the House of Lords do not rest solely on the fact that the House of Commons is elected; primacy also rests on a great many factors, as the Joint Committee highlight. These include the Parliament Acts, which provide for control by the House of Commons of the supply of money and allow it, if necessary, to legislate without the consent of the Lords; that the majority of ministers are drawn from the House of Commons; the fact that the Government must command the confidence of the House of Commons; and that only the House of Commons can call an early general election under the Fixed-term Parliaments Act 2011. These factors will all be preserved in the reformed House and underpin the primacy of the House of Commons.

7. We concur with the overwhelming view expressed to us in oral and written evidence that Clause 2 of the draft Bill is not capable in itself of preserving the primacy of the House of Commons. (Paragraph 55)

The Government has never asserted that clause 2 of the draft Bill was capable in itself of preserving the primacy of the House of Commons; as the Government advised the Committee, clause 2 was intended to be purely declaratory. As a matter of law, the Government was clear that primary legislation does not need to deal with the powers and the relationship between the two Houses, and that if the Bill was silent on these, the current position would not be changed by the Bill. Clause 2 was, however, designed to provide clarity and reassurance that the House of Commons would retain its primacy.

Given that the Joint Committee shares the Government's view that the primacy of the House of Commons would not be undermined by the Government's proposals, it is clear that clause 2 is not needed. The Government has therefore removed clause 2 and replaced it with statutory provision in the Bill for the continued application of the Parliament Acts (see response to recommendation 84 below).

Conventions

5. Any overall strengthening of Parliament would have to be subject to a defined understanding of the relationship between the Commons and the reformed House and of any conventions governing that relationship. (Paragraph 36)

13. We agree with the weight of the evidence we have received which suggests that the conventions governing the relationship between the two Houses will evolve further once the House of Lords is reformed and would need to be re-defined. (Paragraph 91)

15. We think it inevitable—and desirable—that following any reform the two Houses will need to establish a means of defining and agreeing the conventions governing the relationship between the two Houses and thereafter keeping them under review. We agree that any new conventions or modifications of existing conventions should be promulgated by the adoption of a "concordat" in the form of parallel, identical resolutions prepared by a Joint Committee and adopted in each House. We note, however, that any concordat will only have force so long as both chambers continue to accept its terms. (Paragraph 93)

The Government accepts that the conventions governing the relationship between the two Houses will evolve further as the House of Lords is reformed, but within the context of the continued primacy of the House of Commons which the Joint Committee has recognised will remain. The ability of both Houses to develop and adapt conventions over time is one of Parliament's continuing strengths. The Government therefore does not accept that measures need to be taken to constrain the reformed House.

16. We agree with the Cunningham Committee report, noted with approval by both Houses of Parliament, that as there are now firm proposals in this draft legislation to change the composition of the House of Lords preliminary work should begin as soon as possible. We recognise, however, that it cannot be completed until after 2015. There would be little point in finalising a concordat to which elected members of the second chamber were not a party. (Paragraph 94)

85. We agree that dispute resolution procedures should be a matter for the two Houses of Parliament, not for the courts. Nonetheless, we believe that the Government should consider proposing improved dispute resolution procedures as part of the process of reforming the House of Lords. We have already recommended that a Joint Committee be established to consider the conventions which should govern the relationship between the two Houses; it should also examine the ways in which differences might be resolved without resort to the Parliament Acts. (Paragraph 371)

The Government does not agree that work needs to begin now to establish new or developed conventions, or dispute resolution procedures. The long transition period will aid in ensuring that any evolution of conventions is gradual; in the 2015 Parliament, for

example, there would be 120 elected members in a part-reformed House of over 675 members. Conventions may evolve over time, but this will fundamentally be a matter for the reformed House and the House of Commons. The Joint Committee itself highlights (in paragraph 94) the fact that such work can only be concluded by the reformed House.

6. The inclusion of conventions alongside the powers, rights, privileges, and jurisdiction of either House of Parliament in subsection (1)(c) of Clause 2 lays these conventions open to judicial intervention. The Courts could infer that if Clause 2 were passed that Parliament intended the courts to have the authority to determine what those conventions (and indeed the powers, rights, privileges, and jurisdiction) were. The Committee's view is that no provisions in the Bill should afford the opportunity for judicial interference in a manner inconsistent with Article 9 of the Bill of Rights 1689. (Paragraph 49)

14. The essential character of conventions cannot be preserved if they are defined in legislation. The Government's approach in Clause 2(1)(c) of the Bill of simply referring to conventions in a general Savings Clause is not only ineffective but risks judicial intervention in the most highly-politicised circumstances of all, a dispute over the conduct of business between the two Houses. This would be a constitutional disaster. (Paragraph 92)

Clause 2 was intended to be entirely declaratory, and the Government does not believe it would have impacted on parliamentary privilege. Nonetheless, given that clause 2(1)(c) was not necessary as a matter of law, the Government has replaced this clause with one restating that the Parliament Acts will continue to apply.

Primacy: additional statutory provision

12. A majority of the Committee does not advocate any proposals for making statutory provision to entrench Commons primacy. These ideas and others in the same vein may be brought forward during the legislative passage of the Bill through Parliament. If such proposals are advanced, it may be expected that they will meet opposition on the grounds that they would diminish the powers of an elected House of Lords too greatly, that they would weaken scrutiny of the Executive, or that they would be meaningless and unworkable. Such proposals may also give rise to the possibility of judicial intervention which the Committee considers to be profoundly undesirable. (Paragraph 74)

As expressed in answer to paragraph 67, the Government welcomes the Committee’s agreement that the primacy of the House of Commons will be maintained. Primacy will continue to rest on, among other

factors, the Parliament Acts and the need for the Government to command the confidence of the House of Commons. This makes further statutory provision in this area unnecessary and undesirable for the reasons the Joint Committee set out.

The Parliament Acts

83. It is not for this Committee to give legal advice on the applicability of the Parliament Acts to a reform Bill. We leave the evidence of Lord Pannick and Lord Goldsmith to speak for itself. (Paragraph 367)

The Government has always considered that the Parliament Acts could properly be used to reform the House of Lords, and that the courts would uphold such a decision. The Government therefore agrees with the view cited in the Joint Committee's report from Lord Pannick QC and the evidence received from Rt Hon The Lord Goldsmith QC.

84. If the Government wish to ensure that the Parliament Acts apply to a reformed House, they should make statutory provision for it. (Paragraph 368)

The Government accepts this recommendation from the Joint Committee. Clause 2 now confirms that the Parliament Acts 1911 and 1949 will continue to apply to the reformed House, despite the changes to the House of Lords made by this Bill.

Electoral System, Size, Voting System and Constituencies

Ratio of Elected to appointed members

17. Some members of the Committee would prefer a fully appointed House. They hold the view that as the House of Commons has primacy it holds ultimate responsibility for legislation. That being the case, they do not consider it necessary for the members of the House of Lords to be elected. However, a fully appointed House is not being proposed in the draft Bill. (Paragraph 106)

18. If there are to be elections, the Committee agrees on a majority with the proposal for a 80 per cent elected and 20 per cent appointed House as a means of preserving expertise and placing its mandate on a different footing from that of the Commons. (Paragraph 107)

The Government welcomes the Joint Committee's support for the Government's proposed approach of an 80% elected chamber. The Government agrees that the experience of individuals who are experts in their field can be of great benefit to Parliament's consideration of legislation.

Size

19. The Committee agrees that a House of 300 members is too small to provide an adequate pool to fulfil the demands of a revising chamber, for its current range of select committees, and for the increasingly common practice of sitting as two units: the main chamber and Grand Committee. In addition, we have recommended that appointed members should not have to attend as frequently as those who are elected. Accordingly, we favour a House of 450 members. (Paragraph 114)

53. We consider that the advantages of having part-time appointed members (the maintenance of professional expertise and the ability to attract individuals who would not want to commit to a full-time role) outweigh the possible disadvantage (that it might result in a two-tier House). We recommend therefore that appointed members should not have to commit to the same level of activity as elected members of the reformed House of Lords. (Paragraph 255)

The Government agrees with the Joint Committee that allowing individuals to maintain relevant professional expertise and attracting individuals who would not want to commit to a full-time role would strengthen the reformed House, as it does the present House. The Government therefore accepts that it is desirable that appointed members should not necessarily be expected to attend every sitting day of the reformed House.

However, the Government believes that the same logic applies equally to elected members. Professional expertise is not incompatible with adherence to the programme of a political party, nor with a desire for election to the legislature. The Government therefore believes that if the retaining of outside interests is to be permitted, elected members should also be able to vary their level of participation in the same manner as the Committee suggests for appointed members.

This approach is reflected in the revised approaches to remuneration of members and to disqualifying offices in the Bill as compared to the earlier draft Bill. These are discussed further below.

A reformed House of 450 members in which the 360 elected members were expected to attend every sitting day would also be significantly costlier than the Government's initial proposal, and carry the greatest

risk of establishing a two-tier membership. The Government believes that a reformed House of 450 members, all of whom are able to vary their level of participation, will be sufficiently large to carry out the full range of work in the House, but without being unacceptably costly. On this basis, the Government accepts the Joint Committee's recommendation that the size of the reformed House should be increased to 450.

The electoral system

20. The Committee would like the Government to give further consideration to a nationally indirectly elected House as an alternative in the event that Parliament does not support direct elections with geographical electoral boundaries. (Paragraph 120)

Direct elections have been a feature of previous proposals from others, including the previous Government's White Papers of 2001, 2007 and 2008. The House of Commons also voted on 7 March 2007 in favour of a reformed House that was directly elected.

21. A majority agreed with the Government's proposal to use a form of proportional representation for elections to the House of Lords. A proportional system will best preserve the independence and political diversity of the current House of Lords and ensure that it retains a different character from that of the House of Commons. It is less likely to lead to elected members challenging the link between MPs and their constituents. We consider these issues in more detail below. Most importantly, however, it makes it unlikely that any one party will achieve and maintain a majority in the upper chamber. (Paragraph 124)

The Government agrees with the Joint Committee's analysis.

22. We do not support the introduction of a closed list system for the sort of regional elections proposed in the draft Bill. (Paragraph 129)

The Government agrees with the Joint Committee's view.

23. The Committee considers that it will be for the political parties to address the diversity issue in their selection of candidates so that a reformed House will be no less diverse on gender, ethnic or disability grounds than the present one. (Paragraph 143)

The Government agrees with the Joint Committee's recommendation that it is desirable for elected members to reflect the diversity of the population and that this is best taken forward by political parties themselves.

The Government also believes that it is desirable for the appointed membership of the House to reflect the diversity of the population, and has taken measures to address this. This is discussed below in response to recommendations 50 and 51.

24. A proportional system of election based on STV or open lists will be new to English voters, less so to voters in Scotland, Wales and Northern Ireland. The Government must publicise the new system so as to maximise electors' understanding and to avoid confusion arising from the use of different voting systems on the same day. (Paragraph 146)

The Government agrees that clear information for voters at all elections is important, particularly when the electoral system is less familiar. Part of the Electoral Commission's statutory duties are to promote public awareness of current and pending electoral systems in the UK by carrying out or funding programmes of education or information. The Government will work with the Electoral Commission to ensure voters are provided with clear information about the system used at House of Lords elections.

25. In the Committee's view, the voting system chosen should give voters the widest choice possible of where to cast their preferences, whether that is within a single party or across candidates from multiple parties and yet be as intelligible as possible to the voter. We also believe that voters who wish to simply vote for a political party, rather than individual candidates, should be free to do so. We looked into the potential, therefore, for a voting system that would encapsulate these two conditions. It would:

- **allow voters the option of casting a simple party vote; and**
- **allow voters to express preferences among individual candidates across, as well as within, parties. (Paragraph 147)**

26. The Committee recommends that the Government should consider introducing the version of STV currently used in New South Wales, as an alternative to the pure STV system currently proposed in the draft Bill. (Paragraph 152)

The Government has noted the concerns expressed elsewhere in the report about the need to ensure proper differentiation between the role of an MP and that of elected members of the House of Lords; for example, in relation to the constituency work carried out by MPs. The Government therefore considers that the regions in England used for election to the European Parliament should also form the districts for these elections, rather than the smaller groupings of local authorities that were proposed in the White Paper.

Using the regions means that there will be a larger number of seats in each district; in the South East region for example, initially there will be 16 seats contested. International precedent for STV at this 'district magnitude' is rare, and significant practical issues arise, not least with the size of ballot papers and the time required to complete the vote transfers required under STV. Evidence of these difficulties can be seen at elections to the New South Wales Legislative Council. As a result the Government has concluded that a list system would be more appropriate for elections to the House of Lords in Great Britain.

However, the Government has noted the Joint Committee's careful consideration of these issues, and agrees with the analysis put forward on a number of counts. In particular, the Government agrees that a closed list system of the kind used for European Elections, and which gives electors no say over which individual candidates are elected, is not appropriate for the House of Lords. The Government also agrees that the complexity of the system is an important consideration, and that electors should have the option of simply voting for a party. The Government therefore considers that the most appropriate system for the reformed House in Great Britain is a semi-open list, under which electors will vote by marking a single X for one of a party, an individual candidate on a party list (a preference vote), or an independent candidate. Drawing on the evidence put to the Joint Committee and international examples, the Bill provides that where a candidate is sufficiently popular with the electorate that his/her preference votes comprise at least 5% of the party total, that candidate will be elected to seats won by that party ahead of candidates who achieved fewer preference votes, irrespective of their position on the party list. However, the Government acknowledges that the details of the system will be important and looks forward to the debates in Parliament on this issue.

The Bill follows precedent by providing for STV to be used in Northern Ireland. STV is used for all elections in Northern Ireland other than to the Commons, and we see no reason to depart from this practice as there will likely be only three seats contested at each Lords election. However we welcome debate on this issue.

27. Given the relative complexity and novelty of the system, compared with first-past-the-post, we recommend that the Government should ensure that ballot papers are not regarded as spoiled where a clear intention has been expressed, reflecting the practice at other UK elections. (Paragraph 153)

The Government agrees with the Joint Committee and would expect current practice at other UK elections to be reflected at elections to the House of Lords.

Non-renewable terms

28. Non-renewable terms have the potential to make members of a reformed House of Lords more independent, both from public opinion and from party structures (since they would not be standing for re-election on a party ticket). They would do much to distinguish the character of the reformed House from that of the House of Commons. Although political parties would continue to be accountable to the electorate at the ballot box, individual members would not. (Paragraph 164)

29. Allowing members to stand for re-election would make them feel more individually accountable, but would have the disadvantage of members of the reformed House of Lords having a similar electoral mandate to those elected to the House of Commons and might encourage them to undertake more constituency-based activities. It would, however, allow the electorate the choice of keeping an elected member of the Lords they support rather than being deprived of that option. (Paragraph 165)

30. The Committee is divided on whether election should be for a non-renewable term or whether a single further term—say for ten years—might be available for any member wishing to stand again. (Paragraph 166)

31. A majority of the Committee agree with the Government's proposal for non-renewable terms. (Paragraph 167)

The Government welcomes the support of the Joint Committee for the principle of non-renewable terms. Non-renewable terms of three electoral cycles have been a feature of cross-party reform proposals since they were agreed over a decade ago by the Wakeham Commission in January 2000. Serving a single, long term, with no prospect of re-election will enhance the independence of members of the second chamber. It will also reinforce the distinct role for members of the second chamber.

Length of term

32. The Committee considered the arguments in favour of 15-year terms. It should be noted that the transition period will be determined by the length of term, and as such was a significant factor in the Committee's deliberations. With a 15-year term,

transition would end in 2025, allowing for more members of the current House to remain for longer thus guaranteeing continuity and the preservation of the current ethos of the House. Fifteen-year terms would also enable election by thirds, which make it less likely that short-term electoral swings would shift the party balance in the reformed House dramatically. And the longer the term, the weaker the mandate of the House of Lords as a whole compared with the House of Commons. (Paragraph 171)

33. A 10-year term would have some of these characteristics, but to a lesser degree. On the other hand, a 10-year term might be more appealing to candidates who wished to stand for election in mid-career. It would also make the House as a whole more accountable, allowing the electorate to influence its composition to a greater extent at each election since half of the House would be elected at each general election. (Paragraph 172)

34. A majority of the Committee consider on balance that a 15-year term is to be preferred. (Paragraph 173)

The Government welcomes the support of the Joint Committee for fifteen year terms. As the Joint Committee notes, fifteen year terms enable members to be elected in thirds at general elections.

The timing of elections

35. We recognise the concerns expressed by some witnesses over the prospect of holding elections to the House of Lords at the same time as elections to the House of Commons, in particular the likelihood that it might lead to elections to the Lords being overshadowed by the general election. On balance, we consider that the arguments in favour of doing so—the reduced cost, the avoidance of mid-term 'protest voting' and minimum disruption to the Government's legislative programme—outweigh these drawbacks. We support the Government's proposals to hold elections to both Houses of Parliament at the same time. (Paragraph 181)

The Government agrees with the Joint Committee's analysis.

Accountability mechanisms

36. We observe that under the provisions of the Fixed-term Parliaments Act 2011 there are circumstances in which general elections could take place before five years have elapsed. Those circumstances are covered in the draft Bill. (Paragraph 182) We consider that a recall mechanism would be an appropriate way to ensure elected members can be held accountable by the electorate in exceptional circumstances. We do not attempt to set

out the details of a scheme in this report, but we recommend that the Government make provision in the Bill for a recall mechanism, tailored to multi-member constituencies, based on constituency petitions that could force members serving the first ten years of their 15-year term to stand for re-election at the next set of elections to the House of Lords. The Government should consider how to minimise the risk of the recall mechanism being manipulated for frivolous or vexatious reasons. (Paragraph 188)

The Government notes the Joint Committee's support for a recall mechanism to ensure elected members can be held accountable by the electorate in exceptional circumstances.

The Government has published a draft Bill which proposes a power to recall Members of Parliament where they have engaged in serious wrongdoing. This draft Bill is currently the subject of pre-legislative scrutiny by the Political and Constitutional Reform Select Committee in the House of Commons. The Government will consider whether to make provisions following those proposed for the House of Commons for the reformed second chamber once it has considered the report of the Political and Constitutional Reform Committee.

37. We agree that members should be required to participate regularly in the work of the House. We recommend below that appointed members should not have to commit to the same level of activity as elected members of the House. Elected members, however, will be salaried and expected, as a general rule, to spend most of their time on their parliamentary duties while the House is sitting. In addition, unlike members of the House of Commons they will not have to deal with a large volume of individual casework. We consider it reasonable, therefore, to set high expectations for their expected level of participation. We recommend that elected members should have to stand for re-election at the next general election if they fail to attend over 50 per cent of sitting days in a session. A decision to force a member to stand for re-election on these grounds would have to be agreed to by the House, on a report from the Privileges and Conduct Committee, to ensure that members with extenuating circumstances were not penalised inappropriately. (Paragraph 190)

As stated above, the Government believes that if the retaining of outside interests is to be permitted, elected members should be able to vary their level of participation in the work of the reformed House in the same fashion as appointed members. The Government does not therefore believe that it is appropriate to determine a minimum level of attendance for elected members, and the Bill does not do so. If the reformed House believes that members of any category should be expelled if their attendance falls below a certain level, it will have the power to make such provision itself through its own Standing Orders.

Filling vacancies

38. We agree with the Government's view that by-elections should not be used to fill vacant seats. The multi-member constituencies proposed by the Government would contain millions of voters making by-elections extremely expensive, and they would violate the principle that members of the reformed House of Lords should be elected by proportional representation. (Paragraph 196)

The Government welcomes the Joint Committee's agreement that by-elections would not be appropriate for the reformed House of Lords for reasons of principle as well as costs.

39. In the circumstances, we agree with the Government proposal to replace departed members with substitute members only until the next set of elections to the House of Lords. (Paragraph 197)

The Government welcomes the Joint Committee's support for this proposal which will be applied to the list system now proposed.

40. The Committee recommends, however, that if a vacancy should occur within a year of the next set of elections to the House of Lords, the seat should remain vacant and an additional member should be elected at the next election to fulfil the remainder of the departed member's term. (Paragraph 204)

The draft House of Lords Reform Bill contained a similar provision to that recommended by the Joint Committee, but one which specified that a seat should remain vacant if a vacancy occurred within six months, rather than one year, of the next reformed House of Lords election. The provision was included to prevent substitute members serving very short terms.

The Government notes that the Joint Committee has not set out reasons for its recommendation. A prohibition on filling the vacancy one year before a House of Lords election would likely correspond with the entire final session of a parliament. The Government believes that this would be a significant period of time for a seat to be unfilled, and for the party of the member who vacated the seat to be without a substitute member. The Government therefore continues to believe that a prohibition of six months on filling the vacancy is a more proportionate arrangement (see clause 8(5)).

41. A "count back" system (option 2) in which the original election is re-counted ignoring votes for the departed member has some merit, but we do not consider that it is feasible given the long, multi-parliament terms of elected members. If a vacancy arose 13 years into a 15-year term, it would mean re-running election results from over a decade ago. Apart from any other

considerations, we think it unlikely that many of the candidates from the original election would be in a position, or willing, to take up a seat in Parliament for a relatively short interim period such a long time after the election took place. (Paragraph 205)

The Government agrees with the Joint Committee that a countback system of this kind is not feasible.

42. Options 3, 4 and 5 are viable. Of these, the Committee prefers option 3—the Government's preferred option—in which the seat would go to the candidate with next highest number of votes in the same party at the last election. This would not disrupt the party balance in the House mid-term. (We note that an exception to this rule might occur if a seat was vacated by an independent member. Under the Government's proposals the seat would be filled by the candidate with the next highest number of votes at the last election, irrespective of party. This could result in a change to party composition). Even this arrangement has its shortcomings in that sometimes reliance will have to be placed on electoral information several years old. (Paragraph 206)

The Government welcomes the Joint Committee's support for its preferred option in Great Britain. The Government believes that a system which provides for the seat to be filled by the person who, at the last House of Lords election, achieved the most votes standing for the same political party as the departing member without being elected best balances the original will of the electorate and practical considerations. Furthermore, the Government believes that the adoption of a party list system in Great Britain strengthens the argument in favour of this arrangement, as many electors will have cast a vote for a party (rather than an individual candidate, as would have been the case under the STV system proposed in the White Paper). Of course, where the seat belonged to an independent member it would not be possible to identify candidates from within the same party, and in this instance – and in the unlikely event that a substitute cannot be found from a party's list – the fairest option seems to be that the seat should transfer to the party and candidate who would have achieved the next seat in the relevant district at the last House of Lords election, had an additional seat been contested.

The Government acknowledges the imperfection of the system, since it cannot reflect directly the current wishes of the electorate in the way that by-elections do in the House of Commons, but believes it represents a cost effective solution which reflects the views expressed at the most recent election.

Constituency issues

43. The Committee considers that elected members will inevitably be concerned with, and be approached about, regional, local and legislative matters. (Paragraph 221)

44. The Committee believes that in general it would be inappropriate for elected members to involve themselves in personal casework of the kind currently undertaken by MPs on behalf of their constituents. (Paragraph 222)

45. The Committee observes that the level of engagement with constituency work will be governed by the resources available to elected members. Accordingly, we recommend that IPSA should make no provision for members of the reformed House to deal with personal casework, as opposed to policy work, or to have offices in their constituencies. The Committee believes that the practical difficulties of large regional constituencies, together with a lack of resources, will make any substantial level of individual casework less likely. We anticipate, however, that some elected members will seek to carve out a constituency role for themselves even without dedicated resources and we do not see how this can be prevented. (Paragraph 223)

46. The Committee considers that no further action should be taken to define the manner in which elected members of the reformed House carry out their representative role. As the Minister suggested it will be for the members of the two Houses to come to a mutual understanding on these matters. (Paragraph 224)

As noted above, the Government is mindful of the need to ensure a proper separation of the respective roles of MPs and elected members of the House of Lords in relation to constituency issues. The Government believes that the move to larger regional districts – rather than the sub-regions proposed in the draft Bill – is important in this regard; even the smallest English region would now have an electorate of around 2 million, and the largest around 6.5 million.

The Government agrees with the specific recommendations of the Joint Committee, and that members of the reformed House will be carrying out a role distinct from the direct representative role of an MP elected to a single-seat constituency. The Bill therefore stipulates that IPSA shall not provide an allowance for the purposes of maintaining a constituency office. Elected members in the reformed House of Lords will be drawn from all nations and regions of the United Kingdom, and will have the mandate to revise, debate and input to legislation. As the Committee states, it will principally be for the members of the two

Houses themselves to come to a mutual understanding on their complementary roles.

Appointments, Bishops and Ministers

Appointments

47. We agree that the Appointments Commission should be placed on a statutory footing. (Paragraph 231)

The Government welcomes the support of the Joint Committee for this proposal.

48. We support the establishment of a statutory Joint Committee of members of the two Houses to oversee the Appointments Commission, as proposed in the draft Bill. This Joint Committee should oversee the governance of the Commission in addition to the responsibilities set out for it in the draft Bill. (Paragraph 232)

The Government welcomes the support of the Joint Committee for the creation of a statutory committee to oversee the Appointments Commission. The Government accepts the recommendation of the Joint Committee that the new oversight committee should play a role in overseeing the governance of the Commission, and accordingly has made provision at paragraph 20 of Schedule 5 that there should be a power for the new committee to comment on the Appointments Commission's annual report before it is laid. It is envisaged that this could involve a hearing at which the Commission could be held to account for its performance.

The Government has also given further consideration to the composition and the name of the new oversight committee. The committee will have broadly comparable functions to the existing Speaker's Committee on the Electoral Commission and Speaker's Committee for IPSA (which is to be renamed the Speakers' Committee by paragraph 14 of Schedule 9 of the Bill to reflect that the Lord Speaker will be added to its membership). Given the similarity of the committees' functions, the Government believes it is appropriate for the Speakers of each House to be added to the membership of the new oversight committee for the Appointments Commission, and for the committee to be accordingly renamed the Speakers' Committee on the House of Lords Appointments Commission. These changes are reflected at Schedule 6 of the Bill.

49. We support the Government's proposal that the Appointments Commission could appropriately include former and current members of the House of Lords, but not serving MPs or Ministers. (Paragraph 233)

The Government welcomes the Joint Committee's support for its proposal.

50. We consider that the values set out above—independence, expertise and experience, and diversity—should form the core values around which the Appointments Commission should construct its criteria for appointing members to the House of Lords. While we recognise that the Appointments Commission should apply its criteria independently, we believe that it is appropriate that Parliament should have the final say on the criteria devised by the Appointments Commission, and the guidance it produces on how it will apply those criteria. (Paragraph 248)

51. We consider that there would be merit in placing on the face of the Bill certain broad criteria to which the Appointments Commission "should have regard" when recommending individuals for appointment. We recommend that these should be:

- **an absence of recent overt party political affiliation;**
- **the ability and willingness to contribute effectively to the work of the House;**
- **the diversity of the United Kingdom, in the broadest sense;**
- **inclusion of the major faiths; and,**
- **integrity and standards in public life. (Paragraph 249)**

The Government accepts that it is appropriate that Parliament should have the final say on the criteria to be applied by the Appointments Commission, and accordingly agrees that there would be merit in placing on the face of the Bill certain broad criteria to which the Appointments Commission should have regard when recommending individuals for appointment. This is reflected at clause 17(2) of the Bill. The drafting of the Bill does not coincide exactly with the language used by the Joint Committee, but the Government believes that the Appointments Commission would be required to consider each of the factors listed by the Committee in making its recommendations for appointments.

In particular, the Government does not believe it is necessary for the Bill to make explicit reference to the "inclusion of the major faiths", as this would raise unnecessary questions about what constitutes such a faith. The Government believes that the Appointments Commission would be required to consider the adequate representation of faith groups, and of people of no faith, by the requirement upon it to have

regard to the desirability of the appointed members collectively reflecting the diversity of the population of the UK.

The Government has also inserted provision at clause 17(4) that the House of Lords Appointments Commission must take whatever steps it deems necessary to ensure a diverse pool of candidates are considered for appointment.

52. Variations of the Appointment Commission's criteria, or guidance produced under them, should be subject to parliamentary approval through the super-affirmative procedure. (Paragraph 250)

The Government agrees with the principle that if criteria for the Appointments Commission are to be set in primary legislation, it should require the approval of both Houses for changes to be made to those criteria. The Government believes that the affirmative procedure is the appropriate way to achieve this.

The Government does not believe that the scheme prepared by the Appointments Commission setting out any more detailed criteria and its procedures for selection should require parliamentary approval.

54. To ensure that there is a mechanism to remove appointed members who fail to contribute to the work of the House as expected, we recommend that appointments made by the Commission should be for an initial term of five years, with the expectation of reappointment up to the maximum limit of an elected term. (Paragraph 257)

55. The Committee expect that the Appointments Commission will use its discretion to decide what they consider to be an appropriate "contribution to the work of the House," and that such a definition will be published. (Paragraph 258)

56. Finally, the Committee note that appointed members wishing to leave the House at the end of a five-year period could do so by giving notice to the Appointments Commission that they did not wish to be reappointed. (Paragraph 259)

The Government does not agree with these recommendations. Non-renewable terms of three electoral cycles have been a feature of cross-party reform proposals since they were agreed over a decade ago by the Wakeham Commission in January 2000. The Government does not see any need for differing term lengths for appointed members, nor does it believe that it is appropriate for the Appointments Commission to determine whether an individual should remain a member of the House.

The Joint Committee's recommendation 56 (paragraph 259) is not necessary as clause 45 of the Bill makes provision for members to resign their membership if they wish. Similarly, as already noted, if the reformed House believes that members of any category should be expelled if their attendance falls below a certain level, it will have the power to make such provision itself through its own Standing Orders.

Appointed Ministers

57. We recommend that a reformed House of Lords should continue to contain Ministers of the Crown to represent the Government. In a fully-elected House, there should be no power to appoint additional members to carry out ministerial roles. (Paragraph 266)

58. We agree that the Prime Minister should be able to appoint a small number of additional members to a hybrid (part-elected, part-appointed) House as Ministers of the Crown. We believe that these members should have the right to sit, but not to vote, in a reformed House. (Paragraph 267)

59. We acknowledge that the appointment of ministers to the Lords is a significant power of patronage. We have recommended that such appointees should not vote. Were the Government not to accept this recommendation, however, we would recommend that the number of additional ministerial appointments should be limited, to no more than five at any one time. This limit should be on the face of the Bill. (Paragraph 268)

60. We also agree that Members appointed to the House of Lords specifically as Ministers of the Crown should cease to be Members on the termination of their ministerial appointment. This reflects the special circumstances under which they come to be Members. (Paragraph 269)

The Government welcomes the Committee's agreement that a reformed House of Lords should continue to contain ministers of the Crown to represent the Government, and that the Prime Minister should be able to recommend for appointment a small number of additional members from outside the membership of the House.

The Government believes that a cap of eight such ministers at any one time is a suitable limit, and that this should be on the face of the Bill. On reflection, the Government now believes that it would be preferable for ministers appointed in this way to be treated in the same way as an appointed member and remain in the House for a term of three electoral periods, to provide consistency, and to ensure that those appointed as ministers are expected to give the same level of

commitment as other members. This would include a power to vote, just like every other member of either House.

61. The House of Lords Appointments Commission should vet the individuals appointed as Ministers of the Crown for probity. In this capacity, it should act only as an advisory body to the Prime Minister. It should not have the power of veto over ministerial appointments. (Paragraph 270)

The Government agrees that any individuals appointed as Ministers of the Crown should be vetted for probity. It will consider, in a reformed House of Lords, who is best placed to do this.

Lords Spiritual

62. The Committee agrees that, in a fully elected House, there should be no reserved places for bishops. (Paragraph 288)

The Government notes the Committee's endorsement of this proposal, which is no longer relevant as the Government is no longer considering the option of a fully elected House.

63. The Committee agrees, on a majority, that bishops should continue to retain *ex officio* seats in the reformed House of Lords. (Paragraph 289)

The Government welcomes the Committee's support for its proposal to retain ex-officio seats for Church of England bishops.

64. The Committee agrees, on a majority, with the Government's proposal that the number of reserved seats for bishops be set at 12 in a reformed House. (Paragraph 290)

The Government welcomes the Committee's agreement.

65. The Committee recommends that the Appointments Commission consider faith as part of the diversity criterion we have recommend at paragraph 249. (Paragraph 291)

The Government notes this recommendation for the Appointments Commission. As explained in response to recommendation 51 (paragraph 249), the Government believes that the Appointments Commission would be required to consider the adequate representation of faith groups, and of people of no faith, by the requirement upon it to have regard to the desirability of the appointed members collectively reflecting the diversity of the population of the UK.

66. The Committee recommends that the exemption of bishops from the disciplinary provisions be removed, as requested by the Archbishops. (Paragraph 292)

The Government accepts this recommendation and the Bill has been redrafted, so that the Lords Spiritual are subject to the provisions on disqualification, discipline and taxation (as apply to other members of the reformed House of Lords.)

67. The Committee recommends that any approach to the Government by the Church to modify the provision on the named bishops be looked upon favourably. (Paragraph 293)

After considering the suggestions from the Committee and the Church of England, the Government has decided to keep five named offices (the Archbishop of Canterbury, Archbishop of York, Bishop of London, Bishop of Winchester and Bishop of Durham). As the five most senior positions in the Church of England, the Government considers that it is appropriate for these positions to be permanently represented. The identity of the remaining seven bishops would be a question for the Church of England.

68. The Committee recommends that Clause 28(4) be left out of the Bill so as to allow greater flexibility in transition arrangements so that any women bishops and the wider pool of diocesan bishops can be eligible for appointment in the second transitional parliament. (Paragraph 294)

The Government has noted the Committee's view, but after careful consideration has elected to keep this clause (now appears amended as clause 21(2)) in the Bill. Whilst the Government appreciates the possible advantages of allowing new diocesan bishops in the second transitional period, the purpose of the transitional period is to ensure that there continues to be representation of members with experience of the present House, to provide a degree of continuity in our constitutional arrangements.

Transition, Salaries, IPSA, Disqualification, etc

Transition

69. Of the options set out in the White Paper, the Committee considers Option 1 the best of those canvassed. (Paragraph 312)

70. The Committee agrees that the House of Lords should itself, through the medium of the political parties and the crossbench peers, be responsible for establishing the selection of transitional members. (Paragraph 313)

71. The Committee recommends an alternative fourth option with three characteristics:

a) a transitional membership in 2015 equal to a benchmark figure derived from the total number of members attending 66 per cent or more of sitting days in the financial year 2011-12. These transitional members will remain in place until the final tranche of elected members arrive in 2025, at which point they will all leave;
b) an allocation of the transitional seats to parties and crossbench peers in proportion to their current membership; and
c) parties and crossbench peers to determine for themselves the persons to serve as transitional members. (Paragraph 317)

The Government welcomes the Committee's agreement that Option 1 (removing the existing members in thirds) was the most appropriate option of those presented and that the House of Lords itself should be responsible for establishing the selection of transitional members. The Government has considered the Committee's proposed 4th Option and welcomes the Committee's agreement that all transitional members should leave the House by 2025. The Government notes that this 4th Option would, compared to Option 1, reduce the number of members in the 2015-2020 period. However, this reduction would be more than outweighed by the increase in the number of members during the 2020-2025 period, leading to an increase in overall costs. The Government has therefore decided to proceed with Option 1.

72. The Committee further recommends that, if this option finds favour, parties and crossbench peers should have regard in particular to a member's attendance record over a designated period for determining who should remain as a transitional member. (Paragraph 318)

The Government notes the Committee's recommendation, which is a matter for the political parties and groups and the House as a whole.

73. The Committee strongly suggests that, as in 1999, the authorities of the current House of Lords may wish to consider the extension of certain club and access rights to those members who are not selected as transitional members. (Paragraph 319)

The Government notes the Committee's recommendation, which is a matter for the House of Lords Authorities.

Salaries, etc

74. We recommend that transitional Members should receive a per diem allowance rather than a salary. We further recommend that IPSA should consider whether appointed members may elect to receive a per diem allowance if it better reflects their level of participation in the work of the House. The Bill should leave it to IPSA to set the level of those allowances. (Paragraph 327)

75. We agree that, as proposed in the draft Bill, IPSA should determine the level of salary and allowances. Membership will likely entail for many members the need to maintain a second home in London. We concur with the Electoral Reform Society that the salary and allowances should be set at such a level as to enable people from all social backgrounds and all parts of the United Kingdom to serve in the second chamber. (Paragraph 331)

The Government welcomes the Committee's agreement that the Independent Parliamentary Standards Authority (IPSA) should have a significant role in determining the level of pay and allowances. IPSA is independent of Parliament, Government and political parties and it is appropriate that they take on these responsibilities.

There is, however, a legitimate role for Parliament in setting the parameters within which IPSA may make its determinations. The Government believes that it is essential that reform of the House of Lords should not significantly increase the cost of Parliament itself. There are elements of the Bill that support this objective – for example new section 7B(4) of the Parliamentary Standards Act 2009 as inserted by clause 46 caps the amount that IPSA can pay members of the reformed House at the annual salary of a Member of Parliament, and new section 7D(9) prohibits IPSA from paying an allowance to elected members in respect of maintaining an office in their electoral district. Further decisions on the nature and volume of allowances are for IPSA, but the Government expects it will work to keep costs down. IPSA will be accountable for its decisions through the oversight of its budget by the Commons members of the Speakers' Committee for IPSA, and through that, the House of Commons.

The Government's full forecast of costs has been published today alongside the Impact Assessment for the Bill. The estimates in this forecast derive from an expectation that members of the reformed House of Lords will have a much lower staffing complement than Members of the House of Commons. The Government estimates that the net annual average costs of reform of the House of Lords after transition will be around £13.6 million per year. This is offset by the upcoming reduction in the number of MPs under the Parliamentary Voting System and Constituencies Act 2011, which is forecast to save around £13.6 million per year. Net savings are expected in the

transitional period, as the savings from a smaller House of Commons are realised earlier than the costs of Lords reform.

As already stated, the Government believes that both appointed members and elected members should be able to vary their level of participation in the reformed House, so that they can maintain outside occupations and interests that can inform their contribution within the House. New section 7B(2) of the Parliamentary Standards Act requires that the pay system devised and administered by IPSA reflect the ability of members to do this. The Government notes the Committee's recommendation that IPSA consider whether a per diem allowance would be the most effective payment system in this context, but agrees that this is a decision for IPSA.

The Government agrees that transitional members should continue to receive a per diem allowance in the manner of the members of the present House of Lords. They have therefore been excluded from the pay and allowances system established by clause 46.

Disqualification

76. There are sound constitutional arguments for avoiding fettering the discretion of Parliament by statute law. On balance, we consider the provisions of the draft Bill which allow the reformed House to resolve to disregard some grounds for disqualification are appropriate. We expect this power is most likely to be used (if ever used) in cases where a member of the House has been convicted in another jurisdiction for behaviour which would not be criminal in the United Kingdom, or where the judicial process is open to serious criticism. (Paragraph 336)

The Government welcomes the Committee's support for this provision.

77. There are good reasons for different disqualification regimes for elected and appointed members. Otherwise, the disqualification regime would permit those with significant private sector interests to serve, but exclude those with experience drawn from important public sector posts. Since elected members will be full-time, professional politicians they should be subject to the same disqualification regime as Members of the House of Commons. Part-time appointed members should be allowed to keep their outside interests and should instead be subject to a code of conduct on similar lines as that applying to current members of the House of Lords. (Paragraph 342)

78. The disqualification scheme for elected members of the reformed House is based on that for the House of Commons, which rests on clear and long established principles. Moreover, the electorate has power to ensure that candidates it considers have a conflict of interest are not elected. It is appropriate for the

reformed House to approve changes to the lists of disqualifying offices for elected members just as the Commons approves changes to the relevant schedules of the House of Commons Disqualification Act. There is as yet little clarity about the principles which might underpin the disqualification regime for appointed members. We consider that the Government should set out what it thinks those principles should be. The Government should also reflect on whether it is in fact appropriate for a single House to determine the disqualification regime for appointed members. (Paragraph 344)

The Government believes that elected members should also be able to retain outside occupations and interests, including the holding of some public offices, that would inform their contribution within the House (see response to recommendation 19). Professional expertise is not incompatible with adherence to the programme of a political party, nor with a desire for election to the legislature. For this reason, the Bill makes provision for a single regime of disqualifying offices for both elected and appointed members, that will also cover Lords Spiritual and ministerial members. The Government considers that the list of offices should be substantially shorter than that applying to members of the House of Commons, to reflect the desirability that members of the House of Lords are able to retain outside interests and also the inherently lower risks of conflicts of interest arising in a revising chamber with no power over supply. The list established by Schedule 8 is therefore limited to those offices which would seem to present a clear conflict of interest or an unacceptable blurring of the separation of powers (such as civil servants, police officers and judges).

The Joint Committee also suggested the Government reflects on whether there is a role for the House of Commons in determining a list of disqualifying offices. The Government accepts this suggestion, and agrees that the House of Commons, as the primary chamber, should be involved in determining the disqualification regime for the second chamber. For this reason, part 3 of Schedule 8 makes provision for the list of disqualifying offices to be modified through a resolution agreed by both Houses.

Parliamentary Privilege and the draft House of Lords Reform Bill

79. We recommend that Clause 56 should be restricted to providing that the House of Lords has power to expel or suspend its members. We are confident that the House will use that power responsibly and make appropriate provision itself. (Paragraph 352)

The Government accepts this recommendation. Clause 56 has therefore been redrafted, and is included in the Bill as clause 44.

The clause will allow the House of Lords to determine how it would use its powers of expulsion or suspension to address conduct by individuals, including that which occurred before they entered the House or before commencement, but only came to light afterwards.

80. We consider that Clause 58 of the draft Bill is unnecessary and should be omitted. (Paragraph 355)

Clause 58 provided for House of Lords proceedings not to be challenged or brought into question (a) because of a vacancy within the membership of the House of Lords, or (b) because of the inclusion of a person who should not have been participating i.e. a disqualified member. The Government agrees with the recommendation of the Joint Committee that this clause was unnecessary, as Article IX of the Bill of Rights 1689 provides that proceedings in Parliament cannot be impeached or questioned in any court. This clause has therefore been removed from the Bill.

81. The sub-paragraphs in paragraphs 3 and 5 of Schedule 9 which go beyond prescribing that "selection is to be made in accordance with standing orders of the House of Lords" are unnecessary and should be omitted, reflecting the approach of the House of Lords Act 1999. (Paragraph 357)

The Schedule, which is now Schedule 7, has been re-drafted, with the relevant provisions now contained solely in paragraph 3. While the Government has not implemented the Joint Committee's recommendation, it considers that the redraft goes some way to addressing the issue raised in the report, whilst retaining certain provisions that may be helpful about what the House *may* do, that is, to select members in any way including by elections or by reference to decisions made by political parties or other groups of members; to determine that the selection is void; and to select transitional members before the provision is enacted. The Government considers that any concerns about justiciability should be further allayed by the inclusion of the general saving provision, as discussed below.

82. We further recommend that for the avoidance of doubt the Government should consider the insertion into the Bill of a general saving provision, like that used in the Parliamentary Standards Act 2009, as follows: "Nothing in this Act shall be construed by any court in the United Kingdom as affecting Article IX of the Bill of Rights 1689". (Paragraph 358)

The Government's view is that nothing in the Bill would in any event affect parliamentary privilege. However, for the reasons the Joint Committee gives, the Government is willing to accept the Joint Committee's recommendation, and has included clause 49, which would be declaratory in effect.

Referendum

86. While our primary task is to review the draft Bill in the White Paper referred to us, it is highly probably that a desire will be expressed in both Houses to debate whether a referendum ought to be held on the House of Lords reform proposals. Even if the Government were to decide to make no such provision in the Bill itself, they would in our view nonetheless be well advised to facilitate debate before the Bill goes into Committee in the House of Commons on whether it be an Instruction to the Committee on the Bill that it may make provision in the Bill for a referendum on House of Lords reform. (Paragraph 384)

The Government has already provided room for discussion and debate around the subject of a referendum in the forum of the Joint Committee. If it desires to do so, it will be open to Parliament to debate the issue of a referendum during the passage of the Bill.

87. The Committee recommends that, in view of the significance of the constitutional change brought forward for an elected House of Lords, the Government should submit the decision to a referendum. (Paragraph 385)

The Government does not agree with this recommendation as it does not believe that the case has been made for a referendum which would inevitably be a costly enterprise The Government remains of the view that this is a reform that commands wide agreement amongst the public and that all three of the main political parties supported at the last election. As such, it contests the need for a costly polling of public opinion on an issue on which it feels it received a sufficient mandate at the last election.

The Government also notes that referendums were not held before previous reforms of the composition of the House of Lords, and that reforming the composition of the Lords was not included in the list of constitutional reforms requiring a referendum set out in the House of Lords Constitution Committee's Report "Referendums in the United Kingdom."

There does not therefore seem to be a compelling case for a referendum, and without such a case it is difficult to justify the significant expenditure that would be incurred.

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