



Chapter 1 – Introduction

1.1 Two primary considerations governed our approach. First, we were determined to produce recommendations which were not only coherent and intellectually persuasive but also realistic, workable and politically achievable. Our aim has been to produce a report that could command a reasonable degree of consensus across the political spectrum and that would therefore stand a good chance of being implemented in the near future. We were aware that if we failed to achieve this aim, another opportunity to reform the House of Lords might not arise for many years. This is the fourth attempt at reforming the House of Lords in the 20th century. The three preceding efforts failed. We did not wish to spend months compiling a report that would gather dust in a pigeonhole.

1.2 Second, we were very conscious that we had been selected to exercise our collective judgement on the issues raised by our terms of reference. Our task therefore was to put ourselves in a position to make those judgements. As part of that process and before we began to form any conclusions of our own, we sought to secure the widest possible range of views and proposals on the issues raised by Lords reform; but the judgements we reached, having weighed the evidence, are ours alone. We were not appointed merely to reflect other people's views.

1.3 We identified four key criteria: a modern second chamber should be conducive to a *stable overall constitutional settlement*; *complement* the work of the House of Commons; assist Parliament as a whole to provide *better scrutiny* of the Executive; and thus contribute to *better Government*. There was no challenge to those criteria during our consultation exercise. Our recommendations fulfil them.

Overseas comparisons

1.4 There are many second chambers around the world and we felt it was important to draw lessons from overseas experience. The Constitution Unit,¹ which had already embarked on a major comparative study, provided useful statistics and analysis. The Foreign and Commonwealth Office also provided helpful reports on the 20 second chambers which seemed to constitute the most likely comparisons for the reformed second chamber. The more we looked into all of them, however, the less it seemed that there were any general lessons to be drawn. It is an interesting feature of second chambers around the world, noted in Patterson and Mughan's *Senates: Bicameralism in the Contemporary World*,² that they are nearly all the subject of complaint and criticism and of more or less radical proposals for reform. Furthermore, they are generally very different from each other.

¹ At the School of Public Policy, University College London.

² S. C. Patterson and A. Mughan, Eds. *Senates: Bicameralism in the Contemporary World*. Ohio State University Press. 1999. ISBN 0 8142 5010 6.

1.5 Our broad conclusion was that the more successful second chambers are those which fit best with the history, traditions and political culture of the country concerned and complement most effectively the characteristics of its ‘lower’ chamber. We therefore decided to concentrate on identifying what kind of second chamber was needed to fit the unique circumstances of the United Kingdom. We took account of specific overseas comparisons whenever that was appropriate, but we did not consider that any other second chamber provided a sufficiently close parallel to justify making an overseas visit.

The work of the Commission

1.6 Following our first meeting, on 1 March 1999, we started an extensive programme of background reading; organised an academic-led seminar to enhance our knowledge of the main issues; sought additional information from a range of sources; published a consultation paper; and set up a series of public hearings around the country.

1.7 In developing our own understanding of the issues we benefited from the willing assistance of staff in both Houses of Parliament. We received a considerable volume of helpful briefing material from the Clerk of the Parliaments and his staff in the Parliament Office, from the Clerk of the House of Commons and his staff, from the respective Library staffs and from the House of Lords Information Office.³ We commissioned other analytical papers from a number of sources. Other academics and specialists also responded to our requests for papers and analyses.⁴ We were also able to take account of the report of the Conservative Party Constitutional Commission on options for a new second chamber. This became available at an early stage in our own work.⁵ We are grateful to all of them. At a later stage in our work we were able to draw on the advice of Sir Christopher Jenkins KCB, retired First Parliamentary Counsel, and Professor Anthony Bradley, both of whom provided expert support for our consideration of specific issues.

1.8 The Commission met formally on 29 occasions, including the public hearings and visits to regional centres. In addition there were numerous informal meetings and discussions, both among members of the Commission and with other interested parties.

The consultation exercise

1.9 We were particularly keen to seek views and opinions from people with a detailed understanding of the specific contributions which a reformed second chamber could make in various fields as well as from members of the public more generally.

Consultation paper

1.10 Our consultation paper was circulated widely within both Houses of Parliament and to MEPs, members of the Northern Ireland Assembly and those active in the

³ We are particularly grateful for the valuable technical advice we received from Sir James Nursaw KCB QC and Mr Derek Rippengal CB QC, Counsel to the Chairman of Committees in the House of Lords, and D.R. Beamish, Principal Clerk of Committees in the House of Lords.

⁴ All this material can be found on the CD-ROM enclosed with this report.

⁵ The Rt Hon the Lord Mackay of Clashfern KT, Chair. *The Report of the Constitutional Commission on Options for a new Second Chamber*. Douglas Slater. April 1999.

Regional Chambers and Regional Development Agencies. Copies were sent, after the respective elections, to members of the Scottish Parliament and the National Assembly for Wales. The paper was also distributed to a large number of leading academics and other political commentators as well as to people with an interest in particular issues, such as the implications of devolution and regional matters; the scrutiny of European Union institutions; the implications of the Human Rights Act 1998; the judicial role of the House of Lords; and the future of the Lords Spiritual. Copies were also sent to all those members of the public who showed an interest in our work. In all, in addition to making the consultation paper available on the Commission's website, we distributed some 6,000 copies of the consultation paper to more than 4,500 individuals and organisations. We were pleased by the quality of the response we received. In total we received over 1,700 written submissions, many of considerable length. Virtually all of them⁶ can be found on the CD-ROM enclosed with this report.

Parliamentary debates

1.11 We also benefited from being able to study the debates which took place in the House of Commons and the House of Lords during the course of our work, both on the White Paper, *Modernising Parliament: Reforming the House of Lords*,⁷ published in January 1999, and on the House of Lords Bill. We were particularly assisted by the points made during the House of Commons Second Reading debate on the House of Lords Bill⁸ and by the subsequent House of Commons debate on the White Paper.⁹ There were major debates in the House of Lords on 14 and 15 October 1998, 17 February 1999, 22 and 23 February 1999 and 29 and 30 March 1999.¹⁰ These focused primarily on the proposals reflected in the House of Lords Bill but also covered a number of issues relevant to our work. We were also interested to read the National Assembly for Wales' debate on our consultation paper.¹¹

Private meetings

1.12 During the course of our work, our Chairman met former Prime Ministers The Rt Hon Sir Edward Heath MP, The Rt Hon Lord Callaghan of Cardiff, The Rt Hon Baroness Thatcher and The Rt Hon John Major MP. We are grateful for the insights they provided. At the suggestion of the Speaker of the House of Commons, the Rt Hon Betty Boothroyd MP, our Chairman also had an informal meeting with Nicholas Winterton MP (Chairman) and other members of the House of Commons Procedure Committee. That meeting helped to improve our understanding of the ways in which the reformed second chamber could effectively complement the work of the House of Commons.

⁶ Some respondents requested that their evidence be treated as confidential.

⁷ Cabinet Office. *Modernising Parliament: Reforming the House of Lords* 1999. Cm 4183.

⁸ Hansard (HC). 1 and 2 February 1999 (House of Lords Bill, Second Reading Debate).

⁹ Hansard (HC). 9 June 1999 (House of Lords Reform, Debate on White Paper).

¹⁰ Hansard (HL). 14 and 15 October 1998 (House of Lords Reform, Motion to Take Note); 17 February 1999 (Separation of Powers); 22 and 23 February 1999 (House of Lords Reform, Debate on White Paper); 29 and 30 March 1999 (House of Lords Bill, Second Reading).

¹¹ National Assembly for Wales' debate on 22 June 1999, www.wales.gov.uk

1.13 Additionally, the Commission had a series of private meetings with the First Ministers and Presiding Officers of the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly; with the Archbishop of Canterbury and the Bishop of Durham, and with Archbishop Lord Eames of Armagh; with representatives of Churches Together in Britain and Ireland, and with the Chief Rabbi; with two senior Lords of Appeal in Ordinary; with the Rt Hon Chris Patten CH, the former Governor of Hong Kong; with the Rt Hon Lord Neill of Bladen QC, Chairman of the Committee on Standards in Public Life; with the Chairman of the House of Lords' Delegated Powers and Deregulation Committee and his staff; with officials supporting the House of Commons European Scrutiny Committee; and with a number of others. We are grateful to all those who gave us the benefit of their views and their experience in this way.

Public hearings

1.14 We visited Scotland, Wales, Northern Ireland and several of the English regions and had valuable meetings with local politicians and other leading figures. In total we held 21 sessions of public hearings in nine locations around the country, including seven sessions over two and a half days in London.¹² Those hearings gave us an opportunity to probe and test many of the arguments that had already been presented to us in written evidence and to explore the implications of various proposals. They also stimulated considerable media interest throughout the United Kingdom and gave members of the audience the opportunity to register their views, both directly and by completing a brief questionnaire. In total some 900 copies of the questionnaire, which was also available on the Commission's website, were completed. Although it could not be regarded as providing an authoritative reflection of public opinion, the data it provided (see Appendix A for details) were very much in line with the arguments presented to us in both written and oral evidence.



1.15 The public hearings, and the consultation exercise more generally, turned out to be an important aspect of our work. They enabled us to assess the relative strength of different arguments for and against particular propositions, and to see how robust they were to vigorous cross-examination. Members of the public made some significant contributions. Our recommendations are not in line with any individual set of proposals put to us, but they take fully into account those arguments that emerged most clearly from the consultation exercise and meet those criticisms that we felt were most valid. Our recommendations have been significantly influenced by the consultation exercise and we are grateful to all who put their views in writing, responded to our questions, attended the public hearings and completed the questionnaire. All of them contributed to the formulation of this report.

¹² The transcripts of all these public hearings can be found on the CD-ROM enclosed with this report.

The structure of the report

1.16 Our report follows a logical sequence. After a brief review of the historical background and recent developments (Chapter 2) we discuss the overall role of the reformed second chamber (Chapter 3) and then, in turn, the part it could play in:

- making the law (Chapter 4);
- protecting the constitution (Chapter 5);
- giving a voice to the nations and regions (Chapter 6);
- scrutinising secondary legislation (Chapter 7); and
- holding the Government to account (Chapter 8).

The powers of the second chamber are discussed in Chapters 4 and 7. Chapter 9 discusses the judicial functions of the present House of Lords and the role of the Law Lords.

1.17 The next part of the report considers what method or methods of composition would produce a second chamber with the characteristics necessary to enable it to carry out the overall role and specific functions which we recommend. Chapter 10 sets out the characteristics which the second chamber should possess. Chapter 11 sets out our broad

overall conclusions on composition. Chapters 12 and 13 discuss specific practical points arising from those conclusions. These include the arrangements we envisage for the selection of ‘regional’ members for the second chamber and the establishment, role and working practices of an independent Appointments Commission.

1.18 Chapter 14 explains our proposals regarding the existing life peers and Chapter 15 deals with the representation of religious faiths in the second chamber.

1.19 Chapters 16 to 18 incorporate our recommendations on a series of essentially subsidiary points, including the procedural style appropriate to the role and functions of the

reformed second chamber; the principles that should be followed in setting a structure of expenses and allowances; and the future relationship between the peerage and membership of the reformed second chamber. We also discuss the name of the new chamber and the title by which its members should be known.

1.20 Chapter 19 describes how our recommendations could be implemented.



Conclusion

1.21 The issues raised by our terms of reference are individually difficult and interconnected in a variety of often subtle ways. The evidence we received, while helpful, was conflicting and frequently internally inconsistent. For example, widespread support for elections to the second chamber was combined with near-universal cynicism about the role of political parties and a desire to limit their influence in the second chamber. That said, we found the process of reaching our conclusions both challenging and stimulating. While we naturally all came to the subject with our own views, we found that our thinking developed along new lines as we became immersed in the issues and came to weigh the balances between the various factors. Our recommendations provide a coherent response to the complex and interrelated issues raised by our terms of reference. This report sets out the arguments which have led us to those conclusions.

Thanks to the Secretariat

We owe a great debt to our Secretary, David Hill, his Deputy, Dr Martin Samuels, and the rest of the Secretariat. We were extremely well looked after: all the practical arrangements went like clockwork. But it was the quality of their supporting papers, both their factual content and the clear analysis of the many issues, which was so invaluable. Without this and their skill with words the Commission simply could not have completed its work in time and that work would have been greatly impoverished.