

Chapter 2 – Development of the House of Lords

Historical background

2.1 With its origins in the medieval royal practice of summoning the great landowners (both lay and ecclesiastical) to offer counsel and provide resources, the House of Lords pre-dates the House of Commons by some centuries and it was long the pre-eminent House of Parliament. The House of Commons' power over financial resources was evident as early as the 14th century, and it asserted its sole privilege in financial matters from the 17th century onwards. This change in the balance of power between the two Houses was given further impetus through the growing linkage between a Government's perceived legitimacy and its popular support, as expressed through the ballot box. The significance of electoral support was underlined by the Reform Acts of 1832, 1867 and 1884 which together increased the size of the electorate by a factor of ten, to around 8 million. At the same time, the issue of Home Rule for Ireland led to a split in the Liberal Party, which gave the Unionists a permanent majority in the House of Lords. The contrast between a House of Commons which reflected changes in the political will of the electorate and a House of Lords under the permanent control of one of the major political parties inevitably led to conflict and to pressure for reform.



The House of Lords rejecting the 1909 Budget

Previous reforms

2.2 While motions proposing reform were debated from the mid-1880s onwards, the first major consideration of the issue was precipitated by the clashes between the Unionist-dominated Lords and the Liberal Government which came to office in 1905. In 1908, the all-party Rosebery Committee agreed that heredity should no longer of itself entail the right to membership of the House. Instead, it recommended that eminent independents should be appointed to life peerages. No agreement was reached on the powers that the House of Lords should wield. These powers became the

central consideration during the constitutional crisis which followed the Lords' rejection of Lloyd George's 1909 Budget. The Government decided to leave the issue of how the House of Lords should be constituted for a later date and eventually secured the passage of the Parliament Act 1911. The Act gave the House of Commons the right to overrule the House of Lords' rejection of a Bill if the Bill was passed by the House of Commons in three successive sessions over a period of at least two years.¹

¹ See R. Jenkins. *Mr Balfour's Poodle* 1968. There is a fuller discussion of the Parliament Acts in Chapter 4 of this report.

2.3 The Bryce Conference 1917–18² set out the powers considered appropriate to the second chamber but failed to reach full agreement on composition. It did, however, agree that members should include “persons of experience in various forms of public work”. It also emphasised that the chamber should include “a certain proportion of persons who are not extreme partisans” and that every precaution should be taken to ensure that “no one set of political opinions should be likely to have a marked and permanent predominance”. The members agreed that heredity alone was not an appropriate basis for membership of the second chamber but were unable to agree on what should replace it. A substantial majority proposed that most of the members should be elected by regional groups of MPs, with the full complement made up by a number of hereditary peers chosen by a Committee of Selection. However, the fire had gone out of the reform movement and the First World War meant that other matters had become more pressing. None of the Bryce Report’s recommendations was implemented.

2.4 The second phase of reform came after Labour’s landslide victory in the 1945 election. Although the Conservative majority in the Lords adopted the self-denying ordinance of the ‘Salisbury Convention’³ – under which they did not reject Bills fulfilling manifesto commitments – the Government decided to reduce the length of the Lords’ delaying power. An inter-party conference⁴ again agreed that heredity should not be sufficient grounds for membership of the House of Lords and that no one political party should enjoy a permanent majority. It proposed that individuals, including women, should be appointed as life peers on the basis of their “personal distinction or public service” and that some remuneration should be payable so as not to exclude people who had no private income. No agreement was reached on reducing the powers of the House of Lords. The Government accordingly used the procedures of the existing Parliament Act to secure the passage of the Parliament Act 1949. This Act reduced the Lords’ delaying power from a minimum of two years to a minimum of one. The issue of composition was again deferred, though Conservative Governments subsequently introduced a system of expenses in 1957 and life peerages in 1958.⁵ The introduction of life peerages (for men and women) enabled the number of Labour peers – then only a handful – to be increased without requiring those concerned to accept a hereditary peerage. The right to disclaim a hereditary peerage and the right of hereditary peeresses to sit in the House of Lords followed in 1963.⁶



Baroness Wooten of Abinger, one of the four women life peers created in 1958.

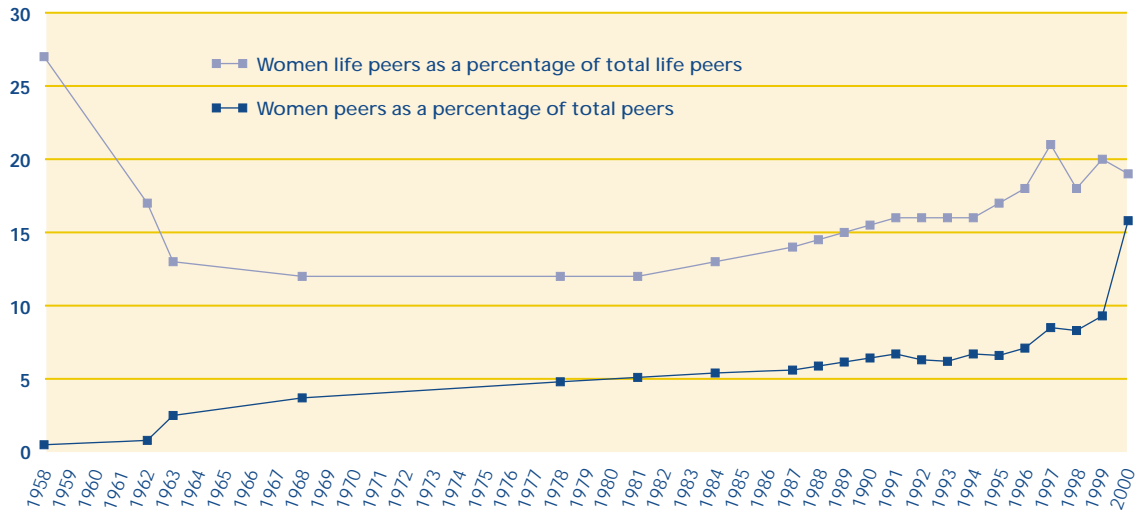
² *Conference on the Reform of the Second Chamber*. Letter from Viscount Bryce to the Prime Minister. April 1918. Published as Cd 9038.

³ There is a fuller discussion of the Salisbury Convention in Chapter 4 of this report.

⁴ *Parliament Bill 1947: Agreed Statement on Conclusions of Conference of Party Leaders*. February–April 1948. Cmd 7380.

⁵ Life Peerages Act 1958.

⁶ Peerage Act 1963.



Percentage of women in the House of Lords 1958–2000

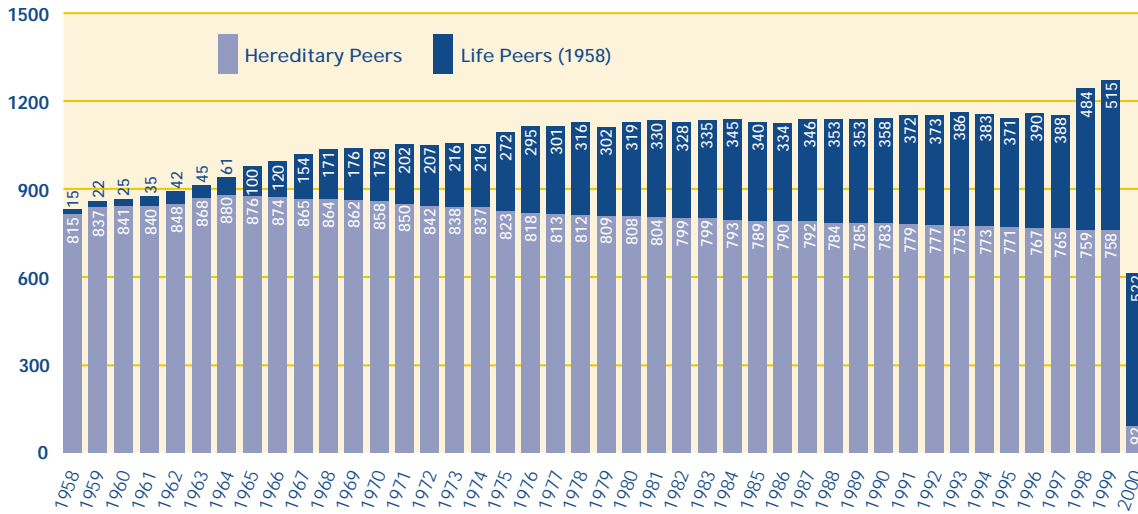
2.5 A third phase of reform was attempted in 1967, when the Wilson Government opened inter-party talks. These broke down following the House of Lords' rejection of the Southern Rhodesia (United Nations Sanctions) Order in June 1968. The Government then put forward proposals based on the emerging conclusions of the inter-party talks.⁷ These proposals envisaged that the voting rights of both hereditary and infrequently-attending life peers should be removed. They also argued that the governing party should have a small majority over the other political parties, while the continued presence of independent members would prevent it securing an absolute majority. In addition, the House of Lords' power to delay Bills would be reduced to six months and its power to veto secondary legislation abolished. The resulting Bill, however, was talked out by a combination of backbenchers from both sides of the Commons, some of whom feared the proposals would give the Prime Minister too much power of patronage while others were concerned about the risk of changing the relationship between the two Houses.

Changes since 1958

2.6 The years since the introduction of life peerages have seen considerable changes in the composition of the House of Lords; in its workload and work rate; and in the way it has gone about discharging its responsibilities. Bagehot divided the institutions of the British state into two categories: the "*dignified* parts..., which excite and preserve the reverence of the population" and the "*efficient* parts... those by which it, in fact, works and rules."⁸ In many respects, the House of Lords has over the past 40 years made the transition from the first to the second.

⁷ *House of Lords Reform*, November 1968, Cmnd 3799.

⁸ Walter Bagehot, *The English Constitution*, first published in 1867, Chapter 1.

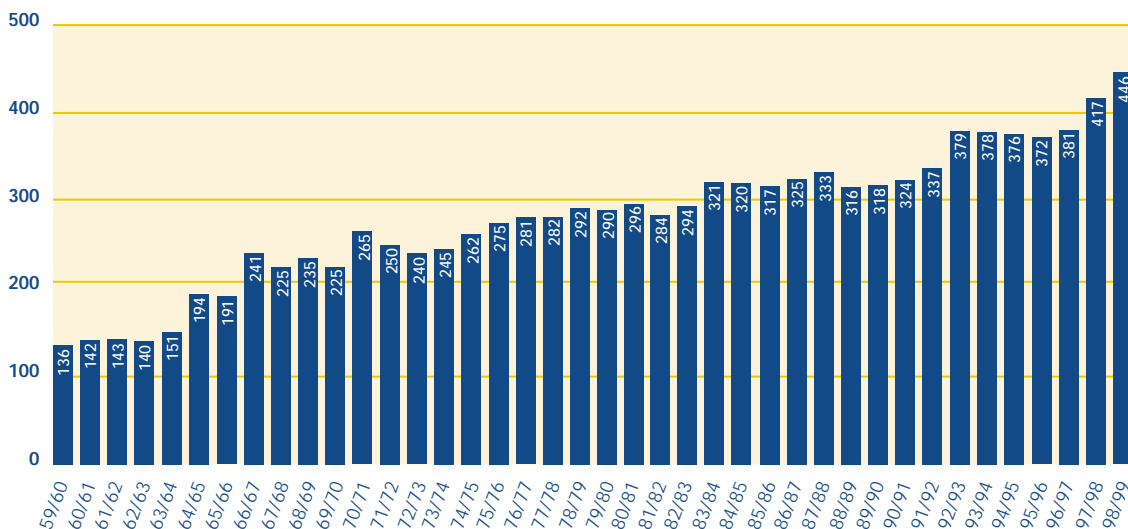


Membership of the House of Lords since 1958

(Excluding the Lords of Appeal in Ordinary and the Church of England bishops)
 (Figures are for the end of each session, except for the last which is for the start of the 1999/2000 session)

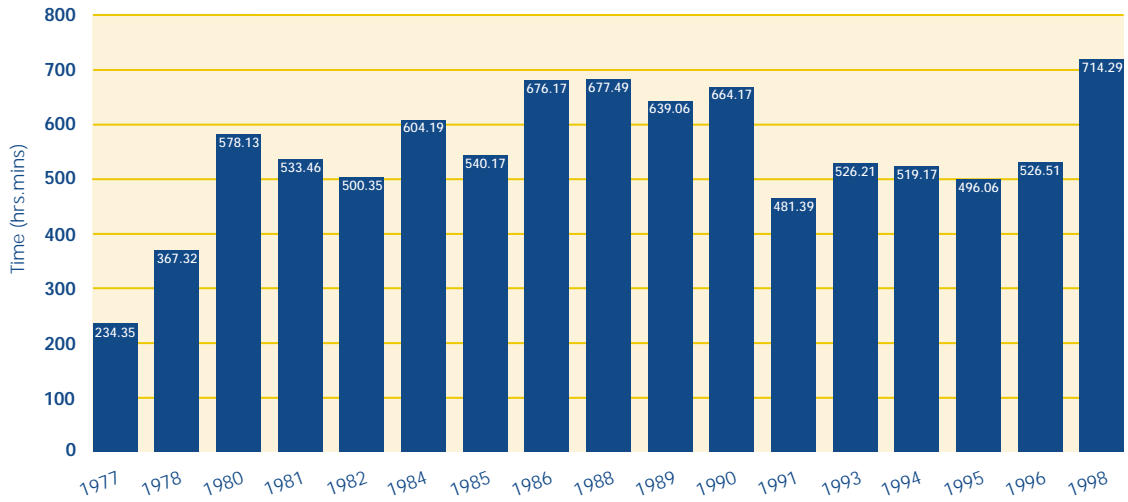
2.7 Since the arrival of life peers in the House of Lords, there have been significant changes in its characteristics and working practices. While these have not been exclusively due to the introduction of life peers, their impact has been considerable. The changes may be illustrated by considering developments in a number of key areas.

2.8 The average daily attendance has more than trebled, from 136 in 1959/60 to 446 in 1998/99. The proportion of regular attenders has also grown. Although there is no formal distinction between ‘working’ peers and others, the increased level of attendance reflects a change from the largely part-time and amateur nature of the House in the 1960s to the more professional approach we see today. This trend has been supported and reinforced by the introduction of a system of modest expenses related to participation in the work of the House of Lords.



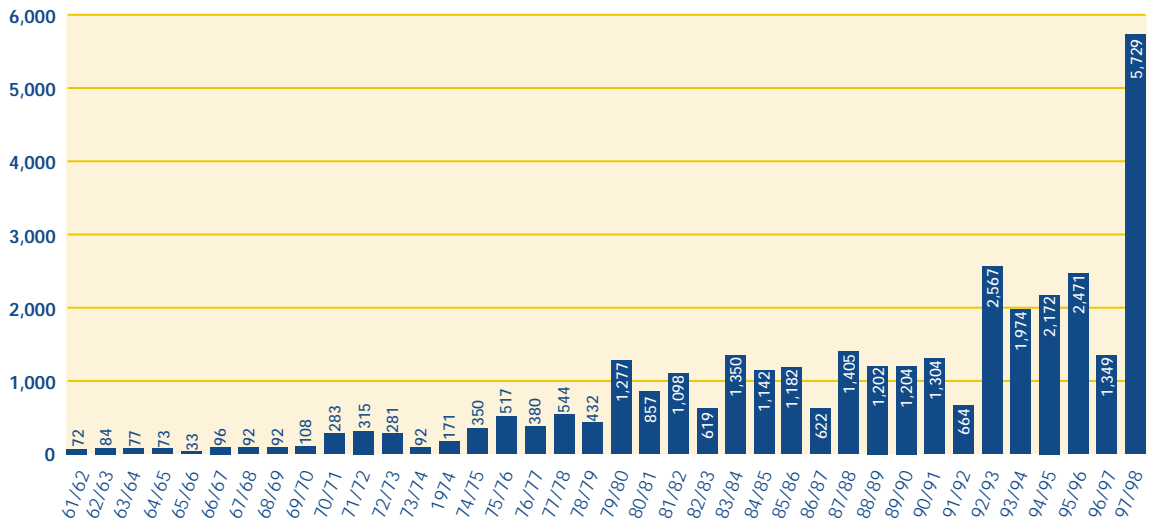
Average daily attendance by session

2.9 The number of sitting days per session and the amount of time spent considering public Bills have also risen substantially. From the 1970s onwards, the tempo of work in the House has risen steadily, with the number of sitting hours almost doubling by 1998. Accompanying this increase, the time spent by the whole House on public Bills has more than trebled.

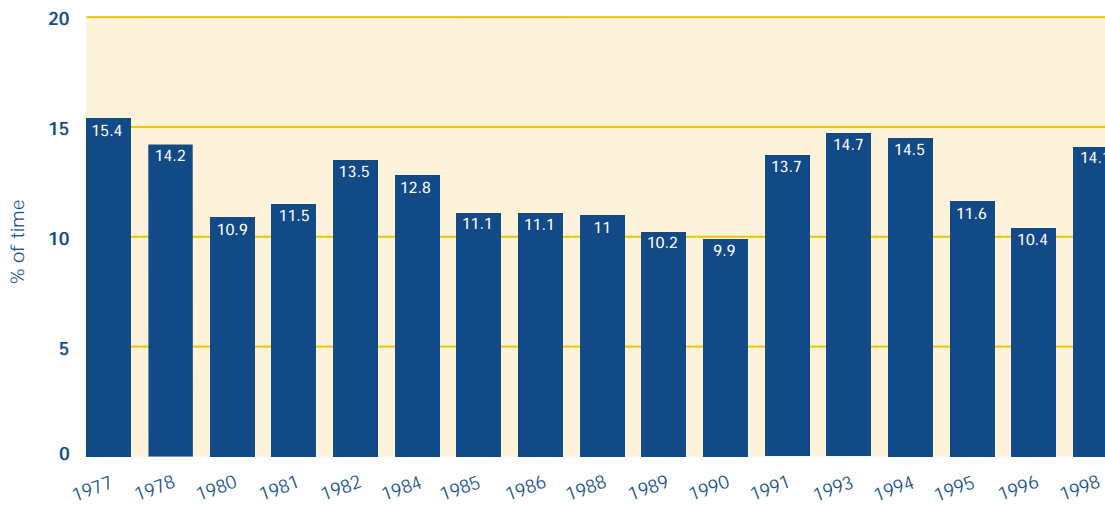


Time spent on public Bills (excluding election years)

2.10 The introduction of life peers, and the increasingly wide range of occupations followed by hereditary peers, has broadened the areas of expertise of the House’s members beyond the traditional fields of agriculture, the armed forces and the law. Life peers have included, for example, university vice-chancellors, economists, businessmen and women, trade unionists, social welfare workers, environmentalists, people active in local government and authors. In its consideration of public policy issues, the House of Lords has also increasingly been able to draw on the political experience of former Cabinet Ministers, other senior politicians, retired public servants and people eminent in a range of spheres of public life. As a result, debates have been better informed and questioning of Ministers has become more thorough. This has been reflected in the increased range and number of questions Ministers are asked. The number of Questions for Written Answer has increased 80-fold and in 1998/99 Questions for Oral Answer took up over 14 per cent of the time of the House of Lords.



Questions for Written Answer by session



Percentage of time spent on Questions for Oral Answers (excluding election years)

2.11 A further trend has been observable in changes in the House of Lords' social and political attitudes. In 1956, the House rejected a Bill to abolish the death penalty by 238 votes to 95 – a huge majority by the standards of that time. Ten years later, the House passed a Bill to abolish the death penalty, this time by a majority almost as large as that against the Bill of ten years earlier (204-104). It also initiated legislation on homosexual relations and on divorce and abortion. During the 1960s, the House began to gain a reputation as a liberal political force on social matters. Again, this change was due not simply to the arrival of life peers in increasing numbers but also to a change in the attitudes of hereditary peers, many of whom voted in the reformist lobbies.

New areas of scrutiny

2.12 All these changes seem to have been reinforced by the failure of the 1968 scheme to reform the powers and composition of the House of Lords, a scheme which the House of Lords supported, but which was vigorously and successfully opposed by Labour and Conservative backbenchers in the House of Commons. The House seemed to find a new sense of purpose and direction through developing its ability to hold the Government to account in various ways which did not run the risk of triggering any constitutional confrontation with either the Government or the House of Commons.

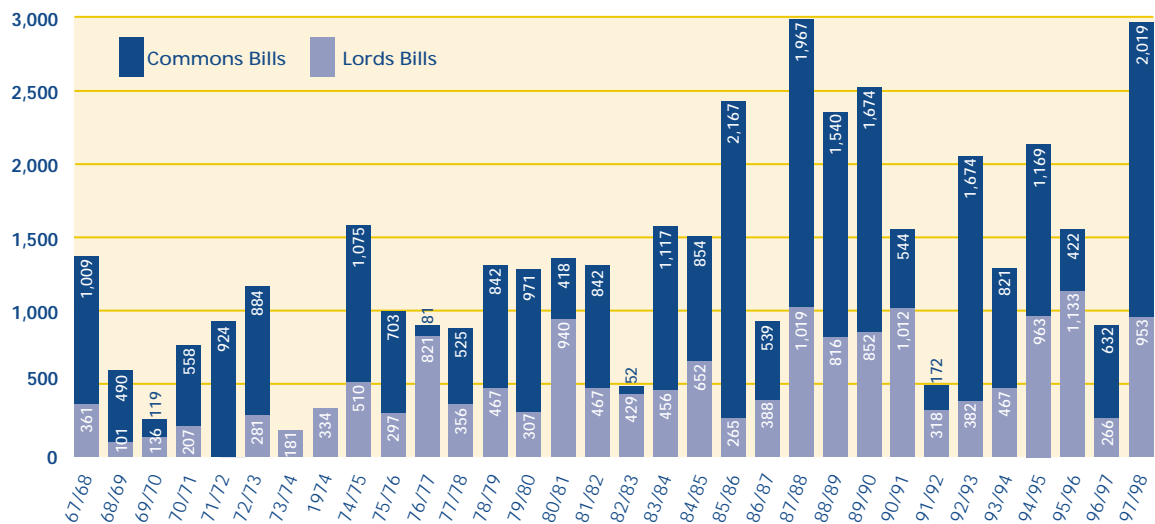
2.13 In response to the United Kingdom's accession to the European Economic Community in 1972, the House of Lords established the European Communities Committee⁹ to scrutinise proposals emanating from Brussels. The Committee has absorbed a large part of the staff resources of the House. A considerable number of peers serve as members of its six sub-committees, which have a well deserved reputation throughout the European Union for the quality of their reports. The House also responded to the abolition of the Commons Science and Technology Committee in 1979 by establishing its own Committee. This Committee, and other *ad hoc* committees on specific issues, conduct specialist investigations and produce a large number of authoritative reports.

⁹ Now the European Union Committee.



2.14 Innovations have been made in the consideration of legislation, such as the use of a Grand Committee procedure to relieve pressure on the floor of the House and the establishment of Special Public Bill Committees able to take evidence on Bills before subjecting them to detailed scrutiny. Alongside these developments there has been a considerable rise in the number of amendments made by the House of Lords, especially to Government Bills. While a high proportion of these are

Government amendments, they frequently arise from points made during House of Lords proceedings and in general reflect the constructive role which the House of Lords plays in the technical consideration of proposed legislation. The greater importance of the House of Lords' consideration of primary legislation has also been reflected in changes in the scheduling of Government business. A larger number of Government Bills now start in the Lords. This allows for a more even distribution of legislative work between the two chambers throughout the Parliamentary year.



Amendments to Bills considered by the House of Lords by session

2.15 Finally, the House of Lords has conscientiously examined the grant of delegated powers and the subsequent exercise of powers to make secondary legislation. This work was given focus by the establishment of a Delegated Powers Scrutiny Committee in 1992.

2.16 Alongside these developments, there has been an improvement in the range and quality of facilities available to members of the House of Lords, although these are still well below the standards enjoyed by the House of Commons or other legislatures. The House also took the lead, in 1984, in allowing the broadcasting of its proceedings on television, five years before the Commons.

Key features

2.17 Several features of the present House of Lords, which have contributed to the relative success it has made of its new role, were highlighted with approval by respondents to our consultation exercise:

- **procedural freedom** – The House of Lords is self-regulating, with proceedings regulated by consensus rather than being dictated by the Speaker or the Government. All members have equal rights and there are virtually no formal restrictions on the ability of members to raise issues of concern. The growing volume of business has led to the development of conventions and other ‘guidance’, which have restricted these freedoms to some extent, but have not altered the underlying spirit of the House;
- **expertise** – The breadth of expertise among members means that many speakers and members of Select Committees will have significant practical understanding of the subject under consideration. This allows the House as a whole to consider proposals with the benefit of knowledge and so make informed decisions;
- **time** – The absence of constituency duties and of the need to sustain a Government in office means that the House of Lords and its members can devote their time to the detailed consideration of legislation and other issues of public importance. This provides the opportunity for a significant level of scrutiny, often of technical areas which may be of limited public interest despite their practical importance;
- **independence** – Members of the House of Lords have considerable independence; they are relatively immune from any pressure from the Government or the political parties. Most members have a degree of personal standing which makes it unlikely that they will subordinate their personal judgement to the views of their party. Few have further political ambitions. They also have security of tenure. Also, the presence of the Cross Benchers, comprising at least 20 per cent of the membership of the House of Lords, is important in ensuring that independent judgement is brought to bear on the issues; and
- **non-partisan style** – The presence of the Cross Benchers also means that a partisan appeal will rarely strike a chord in the House of Lords. Reasoned and courteous argument is more likely to secure support, as well as being consistent with the self-regulating nature of the chamber. The contrast with the more combative style of the House of Commons is noticeable.



A debate in the House of Lords

2.18 The House of Lords has developed considerably over the past four decades. Further significant changes are required if the second chamber is to play an effective role in the new century. The departure of a majority of the hereditary peers and the consequent need to determine a new basis of composition provide a rare opportunity to make these changes. For the moment, we simply note that over the past 40 years the House of Lords has developed, or maintained, characteristics which have won widespread approval and are well suited to the various roles and functions which a reformed second chamber could play. We return, in Chapter 10, to a consideration of what characteristics the reformed second chamber should possess after reviewing those roles and functions in more detail.