

The Government have now published the House of Lords Reform Bill. It is fundamentally flawed. Among the problems with the Bill are:

- The Bill has no coherence. It seeks to change composition without putting it within the context of what is expected of Parliament as a whole. The second chamber does not exist in a vacuum. Any changes to the second have consequences for the first. The starting point should be what we expect of Parliament. This will be the basis for determining the functions of the two chambers and the relationship between them. Once that is determined, only then can one consider composition of the two chambers.
- There is nothing in the Government's proposals to demonstrate in what way an elected House of Lords will deliver better value to the political system than the existing House.
- The proposals are premised on the assumption that 'the role of the House of Lords will remain unaltered' (Impact Assessment) but fail to address adequately *why* the role of the second chamber should remain unaltered. There is no theoretical or empirical evidence advanced to sustain the claim that it will remain the same. Given that the Government's case rests on the claim that the present House lacks legitimacy, it is not clear why a House that it asserts will be legitimate will then be content to maintain the role, underpinned by convention, of the present House.
- The Government said that they would consider carefully what was said in the report of the Joint Committee and in the Alternative Report published by twelve members of the Committee. The Government have published a response to the Joint Committee's report, but there is no evidence in that or any other accompanying document of the Government having given any consideration to the Alternative Report.

- The Government's proposals are incoherent even in their own terms. According to the Government, those who make the law should be elected. The Impact Assessment asserts: "An elected House of Lords will create a second chamber that has democratic legitimacy while maintaining an element of independent expertise through the appointment of 20% of its members by the Independent House of Lords Appointments Commission." In other words, not all those who 'make the laws' will be elected. There is no explanation of how 'democratic legitimacy' will somehow waft over the members who are not elected.
- Nor, incidentally, is it correct to claim that 80% of the members will be elected. The House will not be a 450-member House, but a House of between 450 and 470 or more members, with 360 elected members, 90 appointed, 'up to' 12 Lords Spiritual, as well as up to 8 ministerial members at any one time, plus any ministerial members who have ceased to be members (ministerial members once appointed serve for three electoral terms).
- The Government wish to keep the relationship between the two Houses as it presently exists. It sought to do so through Clause 2 of the original Bill. That was rejected unanimously by the Joint Committee. The new Clause 2 states that the Parliament Acts will continue to apply. There is no mechanism included for dispute resolution between the two Houses, nothing to prevent the second chamber using to full the existing powers, or to stop it demanding more. Asserting the primacy of the Commons through the Parliament Acts does not prevent the relationship changing between the two Houses, especially given the new House will, on the Government's own argument, enjoy democratic legitimacy.
- Stating that the Parliament Acts remain in place does nothing to address the fact that there is no rationale for them remaining in place. The preamble to the 1911 Parliament Act recognised that a House constituted on a more popular basis would need to have its powers and

functions re-examined. This Bill repeals the preamble to the 1911 Act. As a preamble has no legal force, the reason for repealing it appears to be to hide the Government's failure to acknowledge that an elected second chamber cannot continue on the same basis as an unelected chamber.

- The draft Bill recommended the STV method of election. The Joint Committee recommended a variation on an STV system. The Bill introduces a semi-open regional list system. The STV system was designed to put power in the hands of electors (they could choose between candidates of the same party); the regional list system puts power in the hands of parties - the same as selecting who will be on the list for European Parliament elections.
- Given that the Government wants (a) an elected chamber that will not have more powers than the existing unelected House, and (b) members who are elected will not have constituency responsibilities, it is not clear on what basis electors will feel impelled to vote. What precisely will they be voting *for*?
- A referendum is ruled out because it would be too expensive. Apparently, a referendum on a modification to the existing method of electing members of the first chamber can be afforded, but one on the actual method of electing members of the second chamber cannot.
- The costs published by the Government are based on a mass of assumptions, mostly that elected members of the second chamber will behave like members of the first, and assumes a payment regime (£300 a day attended, taxable) for which it has no responsibility. Under the Bill, IPSA will decide salaries, allowances and whether there will be a pension. The only cap imposed on IPSA is that the salary of a member should be related to participation and must not exceed that of an MP. The Government is assuming a maximum salary of £43,950: there is nothing to stop IPSA deciding it should be in excess of £60,000. Equally, there is nothing to stop IPSA deciding that a member may require more than one administrative member of staff. In evidence

to the Joint Committee on the Draft House of Lords Reform Bill, the chair of IPSA indicated it would see how the role of members developed.

- The Government's assumptions as to the annual cost exclude the cost of electing the second chamber but include the savings to be made by reducing the size of the House of Commons. Given that the document is headed 'House of Lords Reform Bill – Cost Projections', the inclusion of any savings made by the Parliamentary Voting System and Constituencies Act is not appropriate.
- The Government costings assume that members will attend approximately 75% of sittings. As Lord Reid said in the Lords (27 June, col. 248): "I do not know what the Leader of the House of Lords would think of any new company which starts up with 450 employees and bases its overheads and costs assessment on the hope that they would not turn up for work, which seems to be what he is doing."
- Apparently reflecting the Government's wish to give the impression that the role of the House will not change, it has made no attempt to change the name. The second chamber will be the House of Lords, but the members will not be Lords. As Lord Strathclyde noted (27 June, col. 248): "We are not calling them Senators at the moment; we are not calling them anything."
- There is also one very practical consideration that has not been addressed. Members are likely to expect individual offices (or at least not accept the current crowding that exists in the House of Lords, several Lords sharing an office). Even on the Government's assumption that each member will need only one member of staff, the total (members + staff requiring to be housed) will exceed the current number of peers working in the Palace of Westminster. Where will the members and their staff be accommodated? There is nothing in the costings for the acquisition of new buildings or office space. Or is it

expected that the House of Commons will relinquish some of its space?