HOUSE OF LORDS

Library Note

The Weatherill Amendment (updated November 2007)

The House of Lords Bill 1998-99 sought to abolish the right of all hereditary peers to sit and vote in the House of Lords, and represented the most significant attempt to reform the House for some years. During the Lords consideration of the Bill, Lord Weatherill moved an amendment to allow 92 hereditary peers to remain as Members of the House. Thus the amendment, which was accepted in both Houses and became part of the House of Lords Act 1999, has become known as the 'Weatherill amendment'.

This House of Lords Library Note gives a short history covering the origins of and parliamentary proceedings on the Weatherill amendment, and the subsequent discussions about the role of the amendment in House of Lords reform as a whole. Further context for this particular aspect of the Lords reform debate is given in other Library Notes, in particular *House of Lords Reform Since 1997: A Chronology*.

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1. Introduction

This House of Lords Library Note gives a short history of the Weatherill amendment, the name given to the provision in the House of Lords Act 1999 enabling 92 hereditary peers to continue to sit and vote in the House of Lords following the removal of the majority of hereditary peers, the central reform of the House enacted by the Labour administration elected in 1997. The Note thus provides background to the current composition of the House – a fixed number of hereditary peers chosen initially by their fellow hereditaries and now replenished through by-elections, with the bulk of the House comprising appointed life peers, whose numbers vary. Other Library Notes deal with the broader issue of reform of the composition and powers of the House, principally *House of Lords Reform Since 1997: A Chronology* (LLN 07/05, October 2007).

This note will refer to the provision as the 'Weatherill amendment', deriving as it does from the insertion of what became section 2 of the House of Lords Act by an amendment moved by the late Lord Weatherill, then Convenor of the crossbench peers and previously Speaker in the House of Commons. It should be noted however that the origins of the amendment lie in negotiations involving a range of individuals across the political spectrum, as part 2 below illustrates. Given the secrecy and controversy surrounding these negotiations, it is impossible to give a full account of the origins of the amendment. In the text that follows, every effort has been made to give a balanced summary of those events, based on quotations from those who were involved and a range of secondary sources.

As well as outlining the background to the amendment, the Note summarises the key parliamentary proceedings and subsequent discussions on the 92 excepted hereditary peers and their place in the wider reform debate.

2. Background

The Labour Party's manifesto for the 1997 general election stated:

> **A modern House of Lords**
>
> The House of Lords must be reformed. As an initial, self-contained reform, not dependent on further reform in the future, the right of hereditary peers to sit and vote in the House of Lords will be ended by statute. This will be the first stage in a process of reform to make the House of Lords more democratic and representative. The legislative powers of the House of Lords will remain unaltered.
>
> The system of appointment of life peers to the House of Lords will be reviewed. Our objective will be to ensure that over time party appointees as life peers more accurately reflect the proportion of votes cast at the previous general election. We are committed to maintaining an independent cross-bench presence of life peers. No one political party should seek a majority in the House of Lords.
>
> A committee of both Houses of Parliament will be appointed to undertake a wide-ranging review of possible further change and then to bring forward proposals for reform.
>
> (*New Labour: because Britain deserves better*, April 1997, pages 32–3)

Accordingly, the Queen's Speech opening the 1998-99 session announced the anticipated legislation for the first stage of reform, and, as Ministers had already indicated in the previous session, the establishment of a Royal Commission to consider further reform:

> A Bill will be introduced to remove the right of hereditary Peers to sit and vote in the House of Lords. It will be the first stage in a process of reform to make the House of Lords more democratic and representative. My Government will publish a white paper setting out arrangements for a new system of appointments of life Peers and establish a Royal Commission to review further changes and speedily to bring forward proposals for reform.
>
> (HL *Hansard,* 24th November 1998, col. 4)

Before a white paper and Bill were published, however, it became apparent at Prime Minister's Questions on 2nd December 1998 that the Government had been in negotiation with Viscount Cranborne, then Conservative Leader in the Lords, over a compromise whereby some hereditary peers would remain Members of the Lords:

> **Mr. William Hague (Richmond, Yorks)**: Can the Prime Minister confirm that he is happy to see nearly 100 hereditary peers continue to sit in the House of Lords after his forthcoming Bill on the Lords has been enacted?
>
> **The Prime Minister**: I am delighted to hear the right hon. Gentleman's question. It is an indication that he is now prepared to agree to what would remove hereditary peers altogether, in the two stages, from the House of Lords. If he is now prepared to agree that, we are certainly prepared to agree it; and we shall then have the chance of getting a fully reformed second Chamber without any hereditary peers at all.

Mr. Hague: Will the Prime Minister confirm, because his party may not be aware of what he is talking about on this subject, that for some weeks the Lord Chancellor has been approaching the Conservative party with a proposal to keep a proportion of the hereditary peers, explicitly sitting as hereditary peers, not as life peers, in exchange for my party's acquiescence in the rest of his ill-thought-out change? Although we welcome the huge climbdown on his part, we are not prepared to acquiesce in that change, because we are not prepared to join forces with him on major constitutional change that is based on no comprehensive plan or principle.

The Prime Minister: That is extremely interesting. Yes, we are certainly prepared to agree to a proposal that would allow us to remove the hereditary peers altogether, in two stages. We are perfectly prepared to agree that in the first stage one in 10 hereditaries stays, and in the second stage they go altogether. It is also entirely true that we were prepared to discuss that with the right hon. Gentleman's party. I thought that we had the agreement of the leader of his party in the House of Lords. Indeed, I believe that we have that agreement. [Interruption.] Will the right hon. Gentleman enlighten us whether we have his agreement?

Mr. Hague: The Prime Minister has just had the answer to that. He told the House--[*Interruption.*] … The Prime Minister said in the Queen's Speech debate last week:

> "We believe . . . that it is important to deliver on the pledge that we made to end the right of hereditary peers to sit and vote in the House of Lords.--[Official Report, 24 November 1998; Vol. 321, c. 33.]

He said that their existence was a "democratic monstrosity". [Hon. Members: "Hear, hear."] His party still agrees with that. Now he is proposing to keep hereditary peers in a stage 1 reform--[*Interruption.*] It is no good Labour Members shaking their heads. What they do not know is that the Prime Minister proposes to keep hereditary peers in a stage 1 reform of the House of Lords. Where does that leave his principles?

The Prime Minister: I take it from that that the right hon. Gentleman opposes the deal that has been agreed by the leader of the Conservative party in the House of Lords. As a result, we will indeed remove hereditary peers. We will do it by consensus, stage 1 and then stage 2, so that we can ensure that there is room in the legislative programme for other measures as well.

We are agreed on our side. I believe that the party of the right hon. Member for Yeovil (Mr. Ashdown) will agree also. His party in the House of Lords has now agreed. It is clear from this exchange that the right hon. Member for Richmond, Yorks (Mr. Hague) no longer speaks for the Conservative party in the House of Lords.

Mr. Hague: The Prime Minister need be in no doubt who speaks for the Conservative party. Clearly, he is in no doubt that he speaks for the Liberal party and takes its acquiescence for granted. While we believe that his agreement to retain hereditary peers after stage 1 is a huge climbdown on the part of the Government, let me make it clear to him that we believe it is wrong to embark on fundamental change to the Parliament of this country without any idea where that will lead.

We have said before and we say now: no stage 1 reform without stage 2. Do not the Prime Minister's total lack of principle and his horse-trading confirm that it is common sense to put that reform on hold and await the report of the royal commission?

The Prime Minister: No. What is common sense is to get the thing done with as little fuss and as easily as possible, which we can now do. It is fascinating that the right hon. Gentleman is disowning the agreement that has been entered into by the leader of the Conservative party in the House of Lords. He may want to be in that position, but I doubt very much whether his party wants to be in that position. When he is provided with the means of getting reform through and agreed, he is more interested in playing games about the House of Lords than getting it done. Does he disown the deal made by the leader in the House of Lords, or does he agree with it? We should be told.

Mr. Hague: No deal has been made with the Conservative party. The deal to keep hereditary peers that the Prime Minister has tried to negotiate with the Conservative party does not address the fundamental point that the Government should not embark on major constitutional change without knowing where it leads. His proposal does not even satisfy the one principle in which he said that he was always in favour: the removal of hereditary peers.

Hon. Members on both sides of the House have approached reform of the House of Lords on the basis of a clear principle. Our position was "No reform without knowing where it is going"; until today, theirs was the removal of hereditary peers. Does that not demonstrate that the Prime Minister never had any principle on the matter at all?

The Prime Minister: In fact, it proves that, even when hereditary Conservative peers are prepared to agree to change, the right hon. Gentleman is not. That is the absurd position to which he has reduced himself. If anything demonstrates the way in which the right hon. Gentleman gets every major strategic judgment wrong, it is this.

We have the opportunity to reform the House of Lords properly, and to establish a programme that will remove hereditary peers, but will allow us to do that on the broadest possible basis of agreement. It is clear that nowadays, even when we speak to the leader of the Conservative party in the House of Lords, we cannot be sure that the leader of the Conservative party in this House is of the same mind.

Mr. Hague: What we know is that the Prime Minister intends to turn the House of Lords into a house of cronies, and that he is now prepared to engage in any horsetrading that is necessary to achieve that end. It is beyond his comprehension that any politician can stand on a principle, and stand firm in his beliefs. I stand on the principle--[*Interruption.*] … I stand on the principle that it is not advisable for anyone to blunder in regard to the constitution until they know where they are going. After today, it will be clear that the Prime Minister stands on no principle whatever.

The Prime Minister: I cannot prevent the right hon. Gentleman from engaging on a kamikaze mission. I can only tell him that even his cronies in the House of Lords agree with me that we should try to get this reform through. If we can

manage to get it through with the minimum difficulty, it will be in the interests of the country that demands such action.

(HC *Hansard*, 2nd December 1998, cols. 874–7)

Behind this exchange, it later emerged, was the outcome of discussions between Viscount Cranborne and various Government ministers (including Lord Irvine of Lairg, then Lord Chancellor, Lord Richard, Tony Blair's first Leader of the House of Lords, and his replacement in that post, Baroness Jay of Paddington) without the full knowledge or authority of the Conservative Leader William Hague or his shadow cabinet. The negotiations were apparently based along the following lines: the hereditary peers would not fully resist the Government's commitment to remove them, but were unwilling to accept wholesale abolition of hereditary peers before the Government had set out an acceptable long-term proposal for the future House of Lords; for its part, the Government were prepared to compromise, removing the majority, but not all, hereditary peers in the first instance, if that meant that the House of Lords would not unreasonably obstruct the Government's legislative programme in other areas. According to some accounts, there was some bargaining over the numbers of hereditary peers who would be allowed to remain, before Lord Cranborne and Tony Blair finalised an agreement at 10 Downing Street on 26th November 1998. It appears that William Hague had initially authorised Lord Cranborne's negotiations with the Government, but apparently had not authorised any final deal. Lord Cranborne was therefore dismissed as Shadow Leader of the Lords for acting without authority. His fellow Conservative frontbenchers in the Lords supported his position (some offering their own resignation), before William Hague himself and the Shadow Cabinet endorsed the substance of the compromise, while remaining critical of the Government's wider plans for reform of the House of Lords.

At the time of the exchange at Prime Minister's Questions, however, the negotiations over retaining a proportion of the hereditary peers were unknown to the majority of MPs on all sides. The intention had been to announce the proposal at a press conference later that same day, convened by three crossbench peers who had been involved in the discussions: Lord Weatherill, then Convenor of the crossbench peers, Lord Marsh and the Earl of Carnarvon. Their press release stated:

> The debate surrounding House of Lords reform has clearly shown signs of being far more bitter than it needs to be. The Government has a manifesto commitment and has indicated a desire to move forward in a more consensual way than currently seems possible.
>
> As three Cross-benchers we wish to put forward a specific proposal which, in our view, will allow this consensus to be built. Equally, it will allow the Government to fulfil the commitment, while reassuring the Opposition of the Government's seriousness of intent in proceeding to Stage 2 of House of Lords reform.
>
> Our proposal, which we would table as an amendment to the Bill outlined in the Queen's Speech, is as follows:
>
> Both Government and Opposition accept the Government intends to end the right of hereditary peers to sit and vote in the House of Lords.
>
> During the transition to a reformed Upper House, a block of hereditary peers – one tenth of the total – will be elected among its number, and will remain until the transition to Stage 2 is complete.

> A group of 14 hereditary peers, elected by the whole House, will sit during the transitional phase being available to serve as deputy chairmen and in other capacities in the scrutiny of legislation and the workings of the House.
>
> The Lord Great Chamberlain, as The Queen's representative, and the Earl Marshal, who is responsible for ceremony, would retain their seats until Stage 2 was implemented.
>
> This means that 659 hereditary peers will immediately lose their right to sit and vote as part of Stage 1, while 91 hereditary peers would remain as part of the transitional House.
>
> It would be understood that the Prime Minister could appoint sufficient Labour peers to achieve parity with the number of peers taking the Tory whip.
>
> We would assume that the normal conventions of the House would apply during the transitional period.
>
> (Press notice, 'Cross-bench peers' initiative on House of Lords reform', 2nd December 1998)

In an interview in the *House Magazine* of 11th January 1999, Lord Weatherill gave his account of the discussions that led to the proposed amendment and the timing of its announcement:

> Then I went to see Robert Cranborne. I have to give him full credit because he took the ball and ran with it and was very largely responsible in the end for getting the whole thing together. He rang me the weekend of November 29 to say 'This thing is going to leak and we must get it off the ground very rapidly'. He suggested that we have a press conference the following Wednesday. I said to him: 'What's the hurry?' He said: 'Well, it's going to leak'. So we had this press conference.
>
> We were then asked if we could have it at 3.15 instead of 3 o'clock. When I asked why, the answer was that the government didn't want Tony Blair to have any questions on that day at Question Time and if we had it at 3 o'clock some backbencher might have got hold of it and lobbed a question at him. I was astonished when William Hague himself lobbed one that very afternoon because I thought it had been agreed that this would not happen. That was why our conference was timed for 3.15.
>
> I understand that when Robert Cranborne put the proposition to the Conservative peers he got overwhelming support. Then William Hague sacked him and appointed Thomas Strathclyde who took it only on the basis, as I understand it, that this deal would go forward and that there should be no undue criticism of Robert Cranborne. I just don't believe that Robert would have gone ahead without telling William Hague. What I suspect may have happened is that when he put it to his shadow cabinet they said 'No' and he then said to Robert: 'You've got to pull out of this, it's not party policy' but by then it was too late.
>
> ('A view from the crossbenches', *House Magazine*, 11th January 1999)

Donald Shell, Senior Lecturer in Politics at the University of Bristol, in an article in

Parliamentary Affairs, gives an account of the 'behind the scenes' discussions on Lords reform following the 1997 election:

> Lord Cranborne had been reporting back to his shadow cabinet colleagues on his discussions, now apparently mainly with Lord Irvine, the Lord Chancellor. By mid-November he had secured from the government a commitment to allow some 90 hereditary peers to remain in the House after stage one had taken place. But his shadow cabinet colleagues would not allow this deal to be accepted. He was told to continue discussions and try to gain more concessions. For its part the shadow cabinet appears to have envisaged using Tory peers in a kind of guerrilla war against the government. When, during the parliamentary ping-pong on the European Elections Bill, Lord Cranborne commented from the Lords frontbench that he and his colleagues in the House were 'aware of the limitations on the power of this House', his Commons colleagues appeared to refute this. In particular, the Conservative constitutional affairs spokesman, Dr Liam Fox, emphasised that opposition decisions about tactics in the House of Lords were made in the shadow cabinet and nowhere else. Lord Cranborne realised that the deal that he now knew the government was willing to make would not go through if its endorsement was required. His Commons colleagues wanted the Conservative peers to stiffen their resolve, to dig in and fight. Deciding to act unilaterally, though with the knowledge of some of his colleagues in the Lords, he went alone to see the Prime Minister and not only agreed the deal but devised tactics for unveiling it that would, he hoped, bounce his own party into acceptance.
>
> The intention was to have the deal announced at a press conference by Lord Weatherill who, as convenor of the cross-bench peers and former Speaker of the House of Commons, was the ideal senior non-partisan figure to front the whole arrangement. It was his name that became attached to the amendment eventually included in the bill. But the true progenitor of the arrangement was Lord Cranborne. As soon as the deal was made known, he would meet the Tory peers in the confident expectation that their approval would be forthcoming, while Baroness Jay for the government would make a statement expressing support. However on the day that all this was to take place, William Hague, realising something of what was afoot, decided to go on the offensive at Prime Minister's question time and blow the deal open.
>
> Accordingly on 2 December Hague attempted to embarrass the Prime Minister by revealing that discussions had been taking place about such a deal. The first that Labour MPs knew of the arrangement was through this exchange. Hague then sacked Cranborne from his post as leader of the Conservative peers for 'going behind the backs of his colleagues'. Lord Cranborne adopted a mea culpa attitude, saying that he had behaved like an ill-trained spaniel and thoroughly deserved to be sacked. But he never expressed any regret for what he had achieved, and his replacement as Tory leader in the House, Lord Strathclyde, acknowledged that he had not only been fully aware of what Cranborne had been doing, but had also wholly supported him. This attitude was reflected by the majority of Conservative peers. Three other frontbenchers resigned, while two backbench Conservatives left the party and migrated to the cross-benches.
>
> Subsequently, Lord Cranborne was to argue that his motive had been to 'put sand in the government's shoe', suggesting that the irritation of having some hereditary peers remain in the House would provide an incentive for Labour to introduce further reform. One might equally argue that for many Conservatives the continued presence of 92 hereditary peers in the House would diminish their

desire to see further reform take place. From Tony Blair's point of view, it was more a matter of putting a cushion in the shoe of Tory peers, one they would be reluctant to lose as the prospect of expulsion from their House drew near. In whatever way it was viewed, the likelihood that stage one of the reform would result in a House composed of appointees leavened with elected hereditary peers reinforced the thought of many that further reform would be unlikely. The interim House would be so much more attractive to party leaders—of both main parties—that any alternative would be quietly resisted.

(Donald Shell, 'Labour and the House of Lords: a case study in constitutional reform', *Parliamentary Affairs*, 2000, vol. 53, no. 2, pages 300–1)

3. Proceedings on the House of Lords Bill

3.1 White Paper

The white paper was published in January 1999 (*Modernising Parliament: Reforming the House of Lords*, Cm 4183), and confirmed the Government's intention to legislate to remove the hereditary peers from the House of Lords (and, consequently, to enable them to stand and vote in elections to the House of Commons). The white paper also confirmed that this legislation represented the first stage of Lords reform, and that the Royal Commission would consider longer-term reform. On the question of retaining a proportion of hereditary Members in the 'transitional' House, the white paper stated:

> But if the cross-bench peers promote an amendment for the interim retention of 1 in 10 of the hereditary peers, 75 out of the existing 750, plus some hereditary office holders, until the second stage of House of Lords reform has taken place, the Government is minded to accept that amendment at an appropriate time as a prudent and sensible route towards the early termination of the right of all hereditary peers to sit and vote in the House. The Government is minded to take this view because those promoting the amendment have advocated it on the grounds that it would enable the first stage of reform to be agreed consensually, and without any threat of deliberate frustration of the programme of a government with a huge popular majority. Such a degree of flexibility, where it promotes the smooth evolution of our constitutional arrangements, is very much in the British tradition of reform. If there is consensus, the Government will make every effort to ensure that the second stage of reform has been approved by Parliament before the next election.
>
> A development of this kind is consistent with the Government's commitments on reform of the Lords. The right of the hereditary peers to sit and vote by virtue of their birth alone will have been ended. The vast majority of them would leave immediately, with a small proportion remaining for a transitional period. The idea that certain people had an absolute right to a seat in the legislature on the basis of something an ancestor had done would be ended. The in-built political bias would be removed. The social and economic, as well as political, unrepresentativeness of the House of Lords could be tackled.
>
> Under the proposals for the transitional period which have been suggested, those hereditary peers who remained in the House would do so because they had been chosen to do so by an electoral college based on the separate established groupings in the House of Lords.
>
> (Cm 4183, January 1999, paragraphs 11–13)

3.2 Commons Stages

Coinciding with the publication of the white paper, the House of Lords Bill was introduced in the Commons on 19th January 1999 and received its second reading over two days, on 1st and 2nd February 1999. Margaret Beckett, then Leader of the House of

Commons, outlined the Bill's provisions as follows:

> Hereditary peers lose the right to an automatic place in Parliament in clause 1. They should then have the right of any citizen to vote, and to stand for and to be a Member of this House without disclaiming their peerages. That is the effect of clause 2. Clause 3 makes consequential repeals to the Peerage Act 1963, and clause 4 brings the main provisions of the Act into force at the end of the Session in which it is passed, cancels the existing writs of summons that otherwise run for a whole Parliament, and provides for a power to ensure that peers can register as parliamentary electors for the first register that comes into force after they leave the Lords.
>
> The proposals follow precisely those in our manifesto: to remove the right of hereditary peers to sit and vote in our legislature as:
>
> > "an initial self-contained reform, not dependent on further reform in the future."
>
> (HC *Hansard*, 1st February 1999, col. 609)

On the proposed crossbench amendment, she continued:

> It has been suggested that an amendment may be moved from the Cross Benches in the House of Lords whereby some 90 or so of the 750 might remain in the transitional House until the second stage of reform. The Government have made it clear from the outset that we would prefer to proceed by consensus. However, if such a proposal is made in the Lords and the Government's legislative programme is not being frustrated, we are minded to accept it. Even with such an amendment, the automatic rights of hereditary peers would have been removed and those elected by their peers would serve in a personal capacity--their heirs would not inherit their seats.
>
> (*ibid*)

Mrs Beckett indicated, however, that the Government would resist attempts to amend the Bill in the Commons along the lines proposed by the crossbenchers, thus reserving the option to apply the Parliament Acts in order to enact the Bill as initially introduced:

> If an amendment is moved in this place, I shall advise my right hon. and hon. Friends to vote against it ... Should the Bill be actually obstructed in the Lords, despite being a clear manifesto pledge, or should it appear that the consensus and good faith for which we hope are lacking, then it is to this simple Bill that we would wish to apply the Parliament Acts so that the legislation can be carried in this Parliament, albeit after a delay.
>
> (*ibid*, col. 610)

Liam Fox, then Conservative spokesman on constitutional affairs, contested the Government's position on the crossbench proposal, stating that it reflected the Prime Minister's preference for 'expediency over principle':

> The Leader of the House reiterated what was clearly in the Labour party manifesto, yet we now hear that 91 hereditary peers will survive in the interim Chamber, and she said that the previous one lasted for 80 years; that is, they will survive if they are good girls and boys and if they have the intellectual rigour, independence of mind and parliamentary tenacity of the so-called Blair babes …

> I understand the procedural excuse that has been given by the right hon. Lady, but the Government have signalled in advance that they will accept something that is utterly out of step with their manifesto--they will accept hereditary peers remaining and voting in the House of Lords. However, that proposal will be introduced only in the House of Lords, so a major constitutional change will not be debated in this Chamber and, if it is, it will be rejected by the Government in this Chamber--the Chamber that the Government claim has democratic legitimacy. It will be put forward in the House of Lords and fully debated in the Chamber that the Government claim has no democratic legitimacy. That is a perverse position for a Bill that supposedly strengthens our constitutional relationships. It says everything about the Government's relationship and respect for our democratic traditions.
>
> (*ibid*, col. 621)

At committee stage in the Commons, taken on the floor of the House, an amendment with similar effect to the Weatherill amendment later tabled in the Lords was moved by Conservative MP Eleanor Laing. As well as the merit of the amendment itself, the ensuing debate focussed on the Government's position that they were minded to accept the substance of the amendment if tabled later in the Lords, but would resist its adoption in the Commons. On division, the amendment was rejected by 326 votes to 125 (HC *Hansard*, 15th February 1999, cols. 677-703; 16th February 1999, cols. 745-84).

3.3 Lords Stages

The Bill passed to the House of Lords on 17th March 1999 and received its second reading over 29th and 30th March 1999. Opening the debate on 30th March, the Lord Chancellor, Lord Irvine of Lairg, turned to what would become known as the Weatherill amendment, but was not yet tabled:

> The noble Lord's amendment would provide for the interim retention of one in 10 of the hereditary Peers, 75 out of the existing 750, plus 15 hereditary office-holders, until the second stage of House of Lords reform has taken place. The amendment reflects a compromise negotiated between Privy Councillors on Privy Council terms and binding in honour on all those who have come to give it their assent. Like all compromises it does not give complete satisfaction to anyone. That is the nature of compromise.
>
> It gives less than perfect satisfaction to my party, which two years ago won the largest popular majority this century, on a manifesto containing this pledge:
>
>> "As an initial, self-contained reform, not dependent on further reform in the future, the right of hereditary peers to sit and vote in the House of Lords will be ended by statute."
>
> That meant and means all hereditaries. If the Weatherill amendment passes, that pledge will be delivered in two stages, not one--90 per cent. to go now, 10 per cent. on the completion of stage two, rather than all now. The compromise itself trespasses on the patience of the Labour Party, not least in the other place.
>
> (HL *Hansard*, 30th March 1999, col. 207)

Lord Irvine reiterated the Government's reasons for proceeding in two stages:

> We have always intended a stage two reform to a reformed upper House. Others questioned our genuineness. Although I know as well as anyone the honesty and firmness of our intention, I was not offended by those who claimed to perceive a risk that removal of the hereditaries might prove to be the only reform to take place. All who have assented to this compromise would justify it in their own ways, but I believe what it comes to is the following.
>
> First, a compromise in these terms would guarantee that stage two would take place, because the Government with their great popular majority and their manifesto pledge would not tolerate 10 per cent. of the hereditary peerage remaining for long. But the 10 per cent. will go only when stage two has taken place. So it is a guarantee that it will take place. Secondly, the hereditary Peers who remain will have greater authority because they will have been elected by the whole of the hereditary peerage within the party, Conservative, Labour, or Liberal Democrat, from which they come, or, if they are Cross-Benchers, by all the hereditary Cross-Bench Peers. A nice element of the compromise is that to stand in an election will be a novel experience for the 75. But I have to say clearly that the compromise was that the elections in the several constituencies would be of hereditaries, by hereditaries, for hereditaries, who would remain until the completion of stage two. The rather invidious proposition that life Peers should have a vote in these elections and pass judgment on the comparative merits of their hereditary colleagues is contrary to a compromise which is binding in honour.
>
> Thirdly, to insist on fulfilling the manifesto pledge by one step, not two, would bring down the curtain unceremoniously on the whole of the hereditary peerage, many of whom, and whose forebears, have given so much to this House and to public life. The compromise will enable the elected 75 to participate in our counsels and to vote as the stage two plans are developed and debated. It will allow those who do not stand, or who are not elected, to depart with dignity, not querulously, and without rancour.
>
> (*ibid*, cols. 207-8)

The agreement would fall, Lord Irvine stated, should the House try and undermine the Government's proposals for Lords reform, or otherwise disrupt its legislative programme:

> I wish no one to be left in any doubt: if events take place in this House which are incompatible with the letter or the manifest spirit of this compromise, and the progress of our legislative programme is materially prejudiced, then the Government will not hesitate to treat the compromise as having failed and, if need be, in a spirit of sorrow, not anger, will invoke the Parliament Act to implement their manifesto pledge in full and with the least delay. A statesmanlike endeavour would have failed. The verdict of history would go against those who made it fail. The patience of the country would be exhausted, and the country would be on the Government's side.
>
> (*ibid*, col. 208)

Viscount Cranborne explained why he thought the retention of a hereditary element in the House was important:

> All of us who have mouthed the mantra, “No stage one without stage two” were right--as Members of your Lordships’ House have so often been when disagreeing with governments of both political complexions. The risk is that stage two will never happen. As the summer and autumn of 1998 unfolded, that risk was clearly beginning to grow. The Prime Minister, for all his ability to walk on water, was clearly increasingly and publicly willing to rest for the foreseeable future on stage one.
>
> The noble Baroness the Leader of the House, soon after her appointment, began to emphasise that stage one was a stand-alone reform. She was quoted in a number of newspapers as saying that stage two should wait until devolution had bedded down and its effects were clear. That and a number of private conversations convinced me that stage two would go the way of the preamble to the 1911 Act …
>
> However much we resist this stage one Bill and however good our arguments for resisting a two-stage reform--and our arguments are, in my view, unanswerable--our resistance may be heroic but we would lose. Not because of our lack of determination but because that is what the constitution, as at present framed, says would happen to us.
>
> For that reason, I was attracted by the amendment of the noble Lord, Lord Weatherill. A self-elected body of hereditary Peers in the stage one House would mock the Government’s tone of moral outrage that such a thing as a hereditary Peer should exist in Parliament in 1999. Such a body would be a standing reminder to any government to get on with stage two. And if events prevented stage two from coming about, at least the noble Lord’s amendment would have made stage one a marginally better change than the Government’s original proposal. In that context, I have to say that the outside chance--I hope that it is only a very outside chance--that stage one may last rather longer than the noble and learned Lord and I would like means that by-elections after the next general election would be an extremely helpful reassurance for those of us who would like the Government to get on with stage two.
>
> (*ibid*, cols. 221-2)

Lord Steel of Aikwood concluded the debate for the Liberal Democrats, who had not been involved in the discussions leading up to Lord Weatherill’s amendment:

> I prefer to call it more properly the “Cranborne/Hague amendment”. We on these Benches were not party to any of the agreements entered into, but it seemed to us perfectly reasonable that some element of the hereditary peerage--those who had played a particular part in the House--should be retained. In my naivety, I assumed that that would be done by creating them life Peers.
>
> (*ibid*, col. 416)

He said that the Liberal Democrats would reserve judgment on the amendment:

> Will the amendment further the aim set out in the white paper to ensure that the transitional House more accurately reflects the proportion of votes cast at the last election? That is the commitment in the white paper and that is what we want to

> be looking towards. If the amendment helps us in that direction, it will have our support. But if, as we fear, the effect of the amendment is simply to give further entrenchment to the Conservative peerage, then we see little reason to be sympathetic to it. The Government might be wiser to go back to the thought of creating life peerages under the new appointment commission system for those who have played a major role in this House and who we wish to retain.
>
> (*ibid*, col. 417)

Winding up for the Conservatives, Lord Mackay of Ardbrecknish said his party would respect the Salisbury convention, and would not vote against the Bill at second reading or promote wrecking amendments at later stages. The Conservatives would however table amendments to the Bill, including to the Weatherill provision, to try and improve it, especially concerning the arrangements for maintaining the number of excepted hereditary peers in the House should the 'transitional' phase endure for longer than expected (*ibid*, cols. 421-2).

Lord Weatherill moved the amendment at committee stage on 11th May 1999. He stated that the amendment would insert a new clause (substantively similar to section 2 of the eventual House of Lords Act) with the purpose of providing 'a means of easing the transition from the present Chamber to a fully reformed second Chamber by providing for 92 of your Lordships who at present sit in the Chamber by virtue of a hereditary peerage and who would otherwise be covered by the provisions of Clause 1 to be excluded from those provisions and so continue to sit in this Chamber until it is fully reformed'. He continued:

> My task now is to describe how the amendment will work. I shall not go into all the detail of the scheme behind it as that is to be provided for by Standing Order. The Committee will be aware that the Clerk of the Parliaments has produced a paper with proposals for that. Our amendment should be read in conjunction with that paper. The details of the full scheme will be decided only after consideration by the Procedure Committee and a report from that committee. I am of course happy to discuss how it is envisaged that the system will work but it is an important detail that arises at a later stage.
>
> The Committee will be aware that it has been agreed that the Bill should be recommitted, if this amendment is accepted, to allow for consideration of amendments to the amendment. Subsection (1) of the proposed new clause provides for exclusion from the provisions of Clause 1 of the Bill to which I have already referred. Subsection (2) sets the number to be excluded. The Committee will see that the amendment specifies the figure of 90, excluding the holders of the offices of Earl Marshal and Lord Great Chamberlain: hence the overall figure of 92. How did we arrive at this figure? First, we believed that it would be appropriate if the hereditary Peers of each of the main political parties, and of the Cross-Benchers, were able to elect a proportion of their number who would continue to sit. The proportion is fixed at 10 per cent of the whole. That seemed appropriate given that by no means all hereditary Peers attend the Chamber on a regular basis.
>
> The total number of hereditary Peers is 750: therefore the total to be elected under this heading would be 75. We suggest that the Labour Party elect two, the Conservative Party, 42, the Liberal Democrats, three and the Cross-Benchers, 28. These figures reflect the proportions of the hereditary Peers who support each party or sit on the Cross Benches at present.

> Secondly, as the Committee knows, some hereditary Peers serve the Chamber as Deputy Speakers or Chairmen. At present the number of hereditary Peers who are Deputy Speakers is 15. We believe therefore that that would be an appropriate number to add to the 75--hence the 90 specified in subsection (2). With the Earl Marshal and the Lord Great Chamberlain added the number becomes 92.
>
> Subsection (3) provides that all those excepted from subsection (1) shall sit for life or until a further Act reforming the House removes that right. Any proposal for retirement for any reason would change the very nature of the peerage, and that is beyond the scope of the Bill.
>
> Subsection (4) provides for the new clause to operate by means of Standing Orders which may be made before the Act receives Royal Assent or comes into force so that we can get on with the process in the meantime.
>
> Subsection (5) gives the Clerk of the Parliaments the power to make the necessary certificate and for that power to be conclusive. The proposed Standing Order would provide for the Clerk of the Parliaments to refer any question relating to the propriety of the process of election to the Committee for Privileges. The subsection therefore simply gives the Clerk of the Parliaments the necessary powers to act as the returning officer for us.
>
> (HL *Hansard*, 11th May 1999, cols. 1088-9)

Lord Weatherill explained the rationale for leaving much of the detail to Standing Orders, and the reasons behind the arrangements drawn up by the Clerk of the Parliaments:

> We did so because we envisaged that the arrangements would be temporary and that this would be the most convenient way of making provision. This method has the advantage that more detailed provision on the face of the Bill would have to be agreed by another place, which would therefore have as great a say in determining the process as the House of Lords. Of course, another place could be trusted but in this way we order our own affairs in the matter.
>
> I hope that the Committee will agree with me that the system of election set out in the papers of the Clerk of the Parliaments is transparent and appropriately dignified. We are, after all, disposing of seats in Parliament. That is why we felt there should be one system by which all parties and the Cross-Benchers elect their respective hereditary representative Peers, the system to be supervised by the Clerk of the Parliaments and through him by the House as a whole.
>
> Secondly, the Committee will note that subsection (2) specifies a maximum, not an absolute, number of hereditary Peers who would continue to sit in the House under the provisions of the new clause. There is nothing sinister about that. Our intention is that there should always be 92 while the system lasts. That is, I think, everyone's intention, but I would be grateful if the noble and learned Lord the Lord Chancellor would confirm it on behalf of the Government. The maximum is there because we wished to avoid any danger of doubts arising as to the validity of proceedings in the House if the number of excepted Peers fell temporarily because one of them had recently died.
>
> That brings me to my third point. If the number of 92 is to be maintained, we clearly need a method of replacing any of the original 92 if one dies. The proposal embodied in the papers of the Clerk of the Parliaments and the draft

Standing Order is that the replacement should be the nearest runner-up in the relevant category in the original election. That is undoubtedly the simplest solution, and that is why it is proposed. It is a robust solution for a few years at least, and everything we are discussing in relation to the Bill is predicated on that timescale. If other provisions needed to be made, the Standing Order could be amended to that end.

(*ibid*, cols. 1089-90)

The Lord Chancellor, Lord Irvine of Lairg, indicated the Government's support for Lord Weatherill's amendment:

It is the most significant amendment to the Bill, significant because it represents an inspired way forward by consensus towards major constitutional change …

As the noble Lord said, we considered that it offered a way to achieve the Government's policy, but in stages and by consensus. We know that it is a compromise, and none the worse for that. It does not give perfect satisfaction to my party. It is not the complete fulfilment of our manifesto commitment, on which the Government are entitled to insist. But the best compromises often do not give complete satisfaction to anyone. That is the nature of compromise.

What the Government seek from this compromise is that the progress of the Bill, as amended by the "Weatherill amendment", will not be unreasonably impeded and that the rest of their legislative programme will not be unreasonably impeded.

(*ibid*, cols. 1090-1)

The Lord Chancellor stressed that the compromise would only be a temporary solution:

The transitional House which will be created as a result of the Bill will be exactly that: transitional and not permanent. The Government are absolutely committed to moving to stage two in the reform process. Press speculation that that may not be so is fanciful and without any foundation at all. The notion that the Government would even contemplate the notion of the Weatherill amendment becoming a permanent settlement, as distinct from a short-term compromise, is fanciful. I make it absolutely plain that stage two reform will take place and when it does the hereditary Peers who remain, if the Weatherill amendment passes, will cease to be Members of this House. Then and only then will the Government have delivered 100 per cent on their manifesto commitment.

(*ibid*, col. 1092)

The Leader of the Conservatives, Lord Strathclyde, while broadly critical of the Government's approach for Lords reform, supported the Weatherill amendment:

We welcome the amendment as making a bad Bill better; we welcome it for avoiding for the time being the nightmare of a wholly appointed House; we welcome it as keeping in the House a few of those who we all know have given, and can continue to give, irreplaceable service.

(*ibid*, col. 1096)

For the Liberal Democrats, Lord Rodgers of Quarry Bank questioned the need for such an amendment:

> We have said many times from these Benches that there are hereditary Peers in all parts of the House who, on merit, deserve a place in the transitional House for which this Bill makes provision. That has never been in dispute. I go further. There are many noble Lords who could make a valuable contribution to a post-Royal Commission House, if that turns out to be not wholly elected. But their future should be as life Peers, not as residual elected representatives of the hereditary peerage.
>
> It was widely understood before the Weatherill agreement emerged that a number of hereditary Peers of all parties and on the Cross-Benches would be offered life peerages, so that they could stay in the House as long as existing life Peers. Numbers were not mentioned, but there would have been no difficulty in identifying, say, up to 75 candidates. The arrangements would have been simple and the details could have been negotiated without any change on the face of the Bill. Instead, for all the Government's talk of a manifesto pledge, which is a matter for them and not for us, the principle of the Bill is now to be breached and a complicated series of provisions is to be introduced …
>
> I fully understand that this is very welcome to all those Members of the House who believe that the hereditary peerage as such has a special and particular contribution to make to Parliament and who are opposed to the whole principle of the Bill. Their position is consistent and plain. But I do not understand how those who believe that the hereditary principle has had its time can be remotely comfortable with the proposition.
>
> (*ibid*, cols. 1098-99)

Lord Rodgers criticised the methods envisaged for selecting hereditary peers to remain in the House:

> Then there is the provision, not in the amendment but again in the Standing Orders, that the excepted hereditary Peers should be chosen not in the way each party and those on the Cross-Benches might prefer, but only by hereditary Peers. Why should the parties be dictated to in that way? Why deny the choice of this election being either by other hereditary Peers or by their colleagues, life Peers included? I have not heard the noble and learned Lord the Lord Chancellor give an explanation.
>
> After all, the whole House--hereditary and life Peers--is to choose, again under the proposed Standing Orders, the 15 hereditary Peers who are to serve as Deputy Chairmen. Why are life Peers to be allowed to vote in that case but be denied a vote in choosing their political colleagues? The argument I have heard so far, though very little today, is extremely thin.
>
> The provision relating to Deputy Chairmen is the most surprising of all. Why do we suddenly need 15 hereditary Peers to become Deputy Chairmen?
>
> To my knowledge there has not been an unsuccessful roll-call of life Peers to find volunteers. I can find no rationale for what remains an extraordinary proposal …
>
> (*ibid*, col. 1098)

He was sceptical of the claim that the provisions would only be temporary:

> The noble Lord, Lord Weatherill, referred to them as "temporary provisions". The noble and learned Lord the Lord Chancellor made it plain today, using strong words, that this would last only through the transitional House and that the transitional House would be brought to an end in the next Parliament. However, if I were a betting man I would lay long odds that if Amendment No. 31 is carried, there will still be hereditary Peers in this House in 10 years' time and possibly for much longer.
>
> (*ibid*, cols. 1099-1100)

Consequently, he said that the Liberal Democrats would abstain. On dividing, the Weatherill amendment was agreed in committee by 352 votes to 32 (*ibid*, col. 1137).

In subsequent debates at report stage and third reading in the Lords, the Government indicated that it would accept provision in Standing Orders for filling vacancies arising on the death of an excepted hereditary peer through by-elections, should the 'transitional' House last beyond the end of the first session of the next Parliament. Before this time, Standing Orders would provide for vacancies to be filled by the nearest runners-up in the relevant election. This followed Opposition concerns that the number of hereditary peers be maintained, should the second stage of Lords reform be delayed. Moving the necessary amendment at third reading, the Lord Chancellor stated:

> The transitional House will be of short duration, but let us proceed on the hypothetical assumptions that it might last for more than two or three years and that the "fastest loser" system might have outworn its effectiveness by that time. That being so, our amendment provides that after such time any vacancy due to the death of an elected excepted Peer should be filled by means of a by-election.
>
> The amendment itself does not spell out what is to be the constituency for these by-elections. The detail is left to the Standing Order. However, for the sake of clarity and completeness, perhaps I may repeat what was said at report stage. If a vacancy occurs among any of the 75 Peers elected by the respective parties and the Cross-Bench group, then the voters will be the excepted Peers in the relevant grouping. If the vacancy occurs among the 15 office holders, then the electorate will be the entire House. That reflects the constituencies in the initial elections to be held this week and next. But one thing is clear and is common to all constituencies; and that is that no hereditary Peer who has been excluded from the House at the end of this Session will have a vote. Such … Peers may stand but not vote and the electorate will be those who remain in the relevant grouping.
>
> (HL *Hansard*, 26th October 1999, col. 169)

The amendment was supported by the Conservative Leader, Lord Strathclyde, but opposed by the Liberal Democrat spokesman, Lord Goodhart, who claimed that it would create 'all kinds of anomalies, including the fact that when one of the two elected Labour Peers dies, the other will have a personal and individual power to appoint the successor to that Peer' (*ibid*, col. 171). The amendment was agreed, however, without a division.

On consideration of Lords amendments, the Weatherill amendment was agreed after further debate by the House of Commons on 10th November 1999, by 438 votes to 22, receiving the support of the Government and Opposition, but not of the Liberal Democrats (HC *Hansard*, cols. 1131-1208).

In an article the following year, Donald Shell reflected on the acceptance of the amendment:

> From the government point of view, the purpose of the Weatherill amendment was to ensure the easy passage of the bill and avoid obstruction to other parts of its legislative programme. It was a tactic, and ministers sought to justify it on the grounds that the arrangement would only affect the interim House, which would have a short life. But for Labour it was a very significant compromise. In a formal sense, it certainly was a breach of its manifesto which had clearly stated that hereditary peers would be removed. It was a decision thrust upon the party and one the implications of which were never properly debated, certainly not by MPs …
>
> Were these peers being retained as working peers, members of the existing House whose continued contribution would be desirable in the interim House because of their experience? In so far as Labour ministers developed a rationale, it was along these lines. But if this was the objective, the government could have ensured some continuity among working peers by granting life peerages to some of the existing hereditary peers, including frontbenchers, deputy speakers and committee chairmen. Indeed, among those who had discussed Labour's strategy for the two-stage reform, this had always been assumed. Instead, Labour chose to ensure continuity by allowing within its own legislation for the continued inclusion of hereditary peers. Conservatives, for their part, increasingly referred to these as representative peers, not working peers, chosen by their hereditary colleagues to ensure the continuation of an independent element in the interim House.
>
> (Donald Shell, 'Labour and the House of Lords: a case study in constitutional reform', *Parliamentary Affairs*, 2000, vol. 53, no. 2, page 303)

4. Developments since the House of Lords Act

4.1 Elections

Before the House of Lords Act received Royal Assent on 11th November 1999, elections for hereditary peers under the new Standing Orders were carried out. For the fifteen Deputy Speakers and office holders, elections took place on 27th and 28th October 1999, with the results announced by the Clerk of the Parliaments on 29th October (HL *Hansard*, col. 510). For the 75 hereditary peers to be chosen in the party and crossbench groups, elections were held on 3rd and 4th November, with the results announced on 5th November (HL *Hansard*, cols. 1135-6).

Since the passage of the Act, vacancies arising from deaths among the 92 hereditary peers first elected to remain in the House have been filled in accordance with Standing Orders 9 and 10. Thus, in the 'initial period' (before the end of the first session of the Parliament after that in which the 1999 Act was passed), Lords Cobbold and Chorley, as nearest runners-up in the crossbench election, returned to the House following the deaths of Baroness Wharton and the Earl of Carnarvon. Following the end of the initial period (since the start of the 2002-03 session) several hereditary peers have filled vacancies arising among the 92, having been chosen in by-elections by their respective groups, beginning with Viscount Ullswater replacing the Viscount of Oxfuird in 2003.

In addition to the 92 Members who sit in the House by virtue of the Weatherill amendment, a number of hereditary peers have been given life peerages under the Life Peerages Act 1958, having been excluded from the House under the 1999 Act. The honours list of 2nd November 1999 announced that ten hereditary peers would be given life peerages. These included three peers (Lord Aldington, Lord Erroll of Hale and the Earl of Snowdon) who were first holders of hereditary peerages. The other seven peers were all former Leaders of the House, and included Viscount Cranborne. Later, the list of 'working peers' announced in March 2000 included seven hereditary peers who had been excluded from the House under the terms of the 1999 Act.

The names of the 92 hereditary peers who sit by virtue of the Weatherill amendment, as well as those who have been given life peerages, are listed in the appendix.

4.2 Further Reform

Since the 1999 Act, various proposals for the next stage of reform of the House have been put forward, and have generated considerable debate (for a summary of these developments, see Lords Library Note *House of Lords Reform Since 1997: A Chronology*, LLN 2007/005, October 2007). During this period, some have argued that the 'transitional' or part-reformed House should be subject to more limited reform, in the absence of consensus over any final settlement. Specifically, there have been calls for the 'anomaly' of the remaining hereditary peers to be addressed. In an article in *Parliamentary Affairs* in 2004, Donald Shell wrote:

> From the government point of view, by 2004 the House of Lords represented a blatant piece of unfinished constitutional business. The claim that removing the great majority of the hereditary peers under the 1999 House of Lords Act had made the House 'more democratic and representative' (as proposed in the 1997 manifesto) looked unconvincing. The government believed it had made

> considerable efforts to be accommodating. The agreement embodied in the 1999 Act to keep 92 hereditary peers, and to allow this group to replenish itself indefinitely through by-elections when vacancies occurred, was a significant compromise.
>
> (Donald Shell, 'The future of the Second Chamber', *Parliamentary Affairs*, 2004, vol. 57, no. 4, page 852)

On several occasions the Government have reiterated their intention (including commitments in the 2001 and 2005 manifestos) to remove the hereditary Members remaining by virtue of the Weatherill amendment, either as part of a wider package of reforms to the membership of the House, or as a stand-alone measure awaiting agreement over further reform, stating that the retention of the 92 was never intended to be anything other than a temporary arrangement. Equally, opposition peers have pressed the Government to honour what they consider a binding agreement that the 92 would remain until the second stage of reform had been agreed.

In September 2003, after inconclusive votes in the House of Commons as to the extent to which the House of Lords should be an appointed or elected chamber, the Government announced its intention to bring forward legislation to remove the remaining hereditary peers, while also reforming the arrangements for appointing life peers. The Lord Chancellor, Lord Falconer of Thoroton, gave a statement to the House:

> It was never our intention that the remaining hereditary Peers should remain Members of the House for ever. When this interim arrangement was reached, as well as the immediate benefit of the agreement, we accepted the argument that the presence of the remaining hereditary Peers would act as an incentive to further reform. That has not happened. There is clearly no consensus in Parliament on the way forward.
>
> So the context for reform has clearly and significantly changed. The circumstances which gave rise to the original arrangement over the remaining hereditary Peers no longer apply. The solution which the remaining hereditary Peers were here to help is no longer available.
>
> So the Government must act, and act decisively, to bring about stability and sustainability. It is for the Government to act but it is for Parliament to decide. It will be for Parliament as a whole to decide on the removal of the right to sit and vote of the remaining hereditary Peers.
>
> Therefore the next step of our reform programme will be to introduce legislation, when parliamentary time allows, to remove the right of the remaining 92 hereditary Peers to sit and vote in your Lordships' House, thus completing that element of the reform process on which we embarked in 1997.
>
> In moving on from the current arrangement, I want to pay tribute to the contribution which those 92 Peers make to your Lordships' House. Many of them are among our most active and effective Members. I hope that we shall continue to benefit from the contribution of at least some of them should they be nominated as life Peers in the future.
>
> (HL *Hansard*, 18th September 2003, col. 1058)

Lord Strathclyde, the Shadow Leader of the House of Lords, criticised the Government's proposal:

> The legitimate expectations of this House in 1999, when so many of its Members surrendered their places, on the basis that 92 hereditary Peers would remain to guarantee genuine reform, have been gratuitously and deliberately dishonoured. It is a sorry and shabby tale, and I am not alone in believing that this ancient House deserves far, far better.
>
> (*ibid*, col. 1061)

For the Liberal Democrats, Lord Goodhart was also critical, believing the Government lacked genuine commitment to reform:

> The Government have now made it clear that they want no democratic reform at all. They have betrayed the trust of those who believed that they were truly committed to full constitutional reform. They have done so because your Lordships' House is a nuisance to them. We amend their Bills and we take up their time in debates. A proper reform would make things even worse for the Government, so they take the easy way out. Your Lordships' House will remain wholly appointed.
>
> It is, and remains, the aim of my party to end the hereditary basis of membership. But the remaining hereditary Members should go when, and only when, they can be replaced by a mainly elected membership.
>
> (*ibid*, col. 1063)

In the light of these discussions, the terms of the agreement underlying the Weatherill amendment were the subject of questions in the House of Lords:

> **Baroness Sharples** asked Her Majesty's Government:
>
> Whether the Weatherill amendment for the retention of 92 elected hereditary Peers until stage 2 of House of Lords reform was negotiated on terms which were regarded as binding by those who gave it their assent.
>
> **The Parliamentary Under-Secretary of State, Department for Constitutional Affairs (Lord Filkin)**: My Lords, the Weatherill amendment was negotiated on terms considered to be binding by all those who gave it their assent. It was agreed on the basis that it was a transitional arrangement and that agreement on final reform was within reach in the near future. It has not been possible to obtain that agreement, and consequently the basis on which the amendment was negotiated has changed. We have therefore developed proposals which form the next stage of reform and which go as far is possible at this point. There was never any intention that the Weatherill amendment should become a permanent settlement.
>
> (HL *Hansard*, 13th October 2003, cols. 603-4)

In the event, the Government did not bring forward legislation, acknowledging that opposition to a bill would jeopardise other parts of the Government's legislative programme.

Several private members' bills, however, have been introduced aiming to address the continued presence of hereditary peers in the House of Lords. In the 2006-07 parliamentary session, Lord Avebury introduced a private member's bill, the House of Lords (Amendment) Bill, aiming to end the system of replacing deceased hereditary Peers in a by-election, allowing the 92 to reduce gradually over time. The Bill received its second reading in the Lords on 18th May 2007 (HL *Hansard*, cols. 416-42). More recently, the Lords gave a second reading to Lord Steel of Aikwood's private member's bill, the House of Lords Bill (HL *Hansard*, 20th July 2007, cols. 483-542). Again, among other provisions, this Bill would have ended the by-elections to replace hereditary peers. Neither bill progressed to a committee stage. Lord Steel's Bill is discussed in part 4.3 below.

The Government's most recent proposals for reform of the House of Lords were set out in a wide-ranging green paper on constitutional reform, *The Governance of Britain* (Cm 7170, July 2007). This committed the Government to enacting the will of the House of Commons, which in March 2007 had voted in favour of a fully or substantially (80%) elected House of Lords. As the green paper noted, both the Conservatives and Liberal Democrats had called for a substantially-elected House in their 2005 manifestos:

> On 7 March 2007 the House of Commons, in its free votes, came out in favour by a large majority of a wholly elected House of Lords. The Commons also supported a reformed second chamber based on an 80 per cent elected, 20 per cent appointed composition but rejected the other hybrid options. The Government welcomes the results of the free vote and is committed to enacting the will of the Commons. The Conservative and Liberal Democrat parties also committed themselves in their 2005 manifestos to a substantially elected House of Lords.
>
> The Secretary of State for Justice and Lord Chancellor will continue to lead cross-party discussions with a view to bringing forward a comprehensive package to complete House of Lords reform. The Government will develop reforms for a substantially or wholly elected second chamber and will explore how the existing powers of the chamber should apply to the reformed chamber.
>
> (Cm 7170, July 2007, paragraphs 136-7)

On the issue of the remaining hereditary peers, it continued:

> As part of this package, the Government is committed to removing the anomaly of the remaining hereditary peers. This will be in line with the wishes of the House of Commons, which voted by a majority of 280 to remove the hereditary peers in the free votes in March 2007.
>
> (*ibid*, paragraph 138)

A white paper on House of Lords reform, reflecting the ongoing cross-party discussions, is expected in late 2007 or early 2008.

4.3 Lord Steel's Bill

Introducing his bill at second reading in the 2006-07 session, Lord Steel of Aikwood explained the reasons for ending the hereditary by-elections, referring to the

Government's suggestion that full reform of the House of Lords would be phased in over a period of years:

> The second part of the Bill brings to an end hereditary by-elections. Much has been made of the statement made in 1999 by the noble and learned Lord, Lord Irvine of Lairg, that hereditary Peers would remain until stage 2 reform took place. He said that stage 2 reform "will" take place, but he was talking in 1999 and I do not think that he was contemplating 2014. I do not think that any of us thought in 1999 that we would be having an endless series of hereditary by-elections. The Bill does not propose that the hereditary Peers be dismissed from the House; it simply proposes that no new ones should come in. Therefore, it brings the principle of entry to this House by heredity to an end, which was foreshadowed in the Labour Party manifesto and was part of Mr Asquith's pledge back in 1910.
>
> It is necessary to do this because, although the by-elections that we have had may pass muster in the Conservative Party and, indeed, on the Cross Benches, on these Benches the process was ridiculous: we had six candidates for a by-election and four voters. Before the Great Reform Bill of 1832, the rotten borough of Old Sarum had at least 11 voters. In the Labour Party, there were 11 candidates and only three voters, and we had the spectacle of the Clerk of the Parliaments declaring to the world that a new Member had been elected to the British Parliament by two votes to one. That should not be allowed to continue and my Bill brings it to an end.
>
> (HL *Hansard*, 20th July 2007, col. 485)

Lord Hunt of Kings Heath, Parliamentary Under-Secretary of State at the Ministry of Justice, said that the Government would not oppose the Bill at second reading, and believed that party agreement on a substantially elected House of Lords was within reach (*ibid*, cols. 534-9). The Bill did not proceed further.

In the current 2007-08 Parliamentary session, Lord Steel has introduced a similar House of Lords Bill (HL Bill 3). Clause 2 of the Bill would amend section 2 of the House of Lords Act to provide that no vacancy arising from the death of one of the 92 excepted hereditary peers would be filled in a by-election. The effect would be to bring to an end the fixed number of 'Weatherill peers', and the 92 would thus diminish over time. Lord Steel's Bill is due to have its second reading in the House of Lords on 30th November 2007.

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Appendix: Lists of Hereditary Peers

Hereditary Members excepted under the House of Lords Act 1999 (under the 'Weatherill amendment')

Ex-officio (2)

Cholmondeley, M. (Lord Great Chamberlain)
Norfolk, D. (Earl Marshal)

Elected by the House to serve as Deputy Speakers or in any other office (15)

Ampthill, L.
Brougham and Vaux, L.
Colwyn, L.
[8]Eccles,V.
Elton, L.
Falkland,V.
Geddes, L.
Lyell, L.
Mar, C.
Methuen, L.
Reay, L.
Simon,V.
Skelmersdale, L.
Strabolgi, L.
[3]Ullswater,V.

Elected by the Conservative hereditary peers (42)

Arran, E.
Astor of Hever, L.
Astor,V.
Attlee, E.
Brabazon of Tara, L.
Bridgeman,V.
Caithness, E.
[10]Cathcart, E.
Courtown, E.
Crathorne, L.
[7]De Mauley, L.
Denham, L.
Dundee, E.
Ferrers, E.
Glenarthur, L.
Glentoran, L.
Goschen,V.
Henley, L.
Home, E.
Howe, E.
Inglewood, L.
Lindsay, E.
Liverpool, E.
Lucas, L.

Luke, L.
Mancroft, L.
Montagu of Beaulieu, L.
Montrose, D.
Moynihan, L
Northbrook, L.
Northesk, E.
Onslow, E.
Peel, E.
Rotherwick, L.
Selborne, E.
Selsdon, L.
Shrewsbury, E.
Strathclyde, L.
Swinfen, L.
Trefgarne, L.
[5]Trenchard,V.
Willoughby de Broke, L.

Elected by the Labour hereditary peers (2)

Rea, L.
[4]Grantchester, L.

Elected by the Liberal Democrat hereditary peers (3)

Addington, L.
Avebury, L.
[6]Glasgow, E.

Elected by the Cross-bench hereditary peers (28)

Allenby of Megiddo,V.
Listowel, E.
Baldwin of Bewdley, E.
Monson, L.
Bledisloe,V.
[9]Montgomery of Alamein,V.
Bridges, L.
Moran, L.
Brookeborough,V.
Northbourne, L.
[2]Chorley, L.
Palmer, L.
[1]Cobbold, L.
Rosslyn, E.
Colville of Culross,V.
Saltoun of Abernethy, Ly.
Craigavon,V.
Sandwich, E.
Darcy de Knayth, B.
Slim,V.
Erroll, E.
St. John of Bletso, L.
Freyberg, L.

Tenby,V.
Greenway, L.
Walpole, L.
Hylton, L.
Waverley,V

1. Replaced B.Wharton (died 15th May 2000) under Standing Order 9(7)
2. Replaced E. Carnarvon (died 11th September 2001) under Standing Order 9(7)
3. Replaced V. Oxfuird (died 3rd January 2003) under Standing Order 10(3)
4. Replaced L. Milner of Leeds (died 20th August 2003) under Standing Order 10(2)
5. Replaced L.Vivian (died 28th February 2004) under Standing Order 10(2)
6. Replaced E. Russell (died 14th October 2004) under Standing Order 10(2)
7. Replaced L. Burnham (died 1st January 2005) under Standing Order 10(2)
8. Replaced L. Aberdare (died 23rd January 2005) under Standing Order 10(3)
9. Replaced B. Strange (died 11th March 2005) under Standing Order 10(2)
10. Replaced L. Mowbray and Stourton (died 12th December 2006) under Standing Order 10(2)

Hereditary peers granted life peerages

Announced 2nd November 1999

Aldington, L. (died 7th December 2000)
Belstead, L. (died 3rd December 2005)
Carrington, L.
Cranborne, V.
Erroll of Hale, L. (died 14th September 2000)
Jellicoe, E. (died 22nd February 2007)
Longford, E. (died 3rd August 2001)
Shepherd, L. (died 5th April 2001)
Snowdon, E.
Windlesham, L.

Announced 31st March 2000

Acton, L.
Berkeley, L.
Chandos, V.
Grenfell, L.
Mar and Kellie, E.
Ponsonby of Shulbrede, L.
Redesdale, L.

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