



## Public Administration and Constitutional Affairs Committee

### Oral evidence: Membership of the House of Lords, HC 199

Tuesday 14 May 2024

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Members present: Dame Jackie Doyle-Price (Chair); Ronnie Cowan; Jo Gideon; Mr David Jones; John McDonnell; Damien Moore; Tom Randall; Lloyd Russell-Moyle; John Stevenson.

Questions 45 - 145

### Witnesses

I: The Rt Hon. Baroness Smith of Basildon, Shadow Leader, House of Lords; The Earl of Kinnoull, Convenor of the Cross-Bench Peers, House of Lords.

II: The Rt Hon. Lord True CBE, Lord Privy Seal and Leader, House of Lords.

### Examination of witnesses

Witnesses: Baroness Smith of Basildon and the Earl of Kinnoull.

Q45 **Chair:** Good afternoon and welcome to this meeting of the Public Administration and Constitutional Affairs Committee. Today we are holding our fourth and final evidence session in our inquiry into membership of the House of Lords. We will be reflecting on the evidence that we have heard so far with representations from the political groupings in the House of Lords. We want to explore things like the appointments system, the size and membership of the Chamber, its role and its relationship with the House of Commons.

Our witnesses this afternoon are spread across two panels. First, we will be hearing from Baroness Smith of Basildon, the shadow Leader of the House of Lords, and the Earl of Kinnoull, convenor of the Cross-Bench peers, before moving on to Lord True from the Government. Good afternoon. Perhaps you could introduce yourselves for the record, starting with Baroness Smith.

**Baroness Smith of Basildon:** I am Angela Smith, Labour leader in the House of Lords and shadow Leader of the House.



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**Earl of Kinnoull:** I am Charles Kinnoull. I am a Cross-Bench peer and I was elected as convenor in April last year.

Q46 **Chair:** Welcome. We are grateful to have your time this afternoon. Perhaps I could start with an opening question. What do you consider to be the role or roles of the House of Lords? We have been through quite a journey over the last century in terms of its role and composition. Perhaps starting with you, Baroness Smith, a large chunk of where we have got to now happened under the period of the last Government with rather more incremental change since. What are the roles and responsibilities from your perspective now?

**Baroness Smith of Basildon:** The main role is one of scrutiny and revision. It is a scrutiny and revision Chamber. We are an unelected House, and that puts limits on what we can and should do.

It is quite interesting. Most of the criticism about the House of Lords comes from things that we have little control over, like the membership and appointments. In terms of the work that we do, there is some pride in that. You have the opportunity and the time to do a deep dive into and scrutinise legislation, and to suggest amendments to the House of Commons.

At the end of the day, the House of Commons has the final say as the elected House, but there is a usefulness in having the time to explore a different way of doing things and whether there are more amendments that could be looked at.

It is a secondary Chamber. Perhaps we could do that better sometimes. Perhaps the relationship between the two Houses could be better. It should be useful to Parliament as a whole rather than trying to take a leading role.

Q47 **Chair:** You have been in the House of Commons as well as the House of Lords. You are right to emphasise that the House of Commons will always be the primary Chamber. Is its composition, and ultimately its lack of legitimacy in terms of direct election, a hindrance or help in its revision and scrutiny role?

**Baroness Smith of Basildon:** It is the way you are looking at it. In some ways, it is a help to the House of Commons because we do not have the legitimacy of an elected House. If you look at ping-pongs on Bills, there is always a point at which the House of Lords will say, "The House of Commons has spoken. We have to take a step back". In that case, it is quite helpful to the House of Commons that it is not elected.

On the other hand, it can be quite frustrating for the second Chamber if it wants to press things further. I feel very strongly about primacy of the Commons perhaps because I have come from the Commons. I have just reached the point when I have been longer in the House of Lords than I was in the House of Commons. There is a matter of months in it. The primacy of the House of Commons is very important to me. There are



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times when the House of Lords has to say, "We have made our point; we have made suggestions. We feel strongly".

We talk about the House of Lords and the House of Commons, but sometimes the Government confuse the role of the House of Commons and the role of the Government. I can think of examples on legislation where they have said, "You are challenging the House of Commons". No, we are sending something back to the House of Commons. If the Government have a large enough majority, they will often say, "We are not accepting any amendments to this Bill". It is a bad starting point for any Minister to say, "My Bill is perfect the first time it comes out".

It needs to be in two directions. The House of Lords has to know when it is appropriate to pass amendments and when it is appropriate to stop pushing the issue. There has to be an acceptance from the Government that the House of Commons has the right to consider the amendments and give some thought to the amendments that are sent to it from the House of Lords.

Q48 **Chair:** That is really a challenge to the Executive, is it not?

**Baroness Smith of Basildon:** It is.

Q49 **Chair:** To what extent is that attitude on the part of the Executive not just related to the House of Lords but perhaps—

**Baroness Smith of Basildon:** That is probably more of a question for the people around this table, rather than me. I can think of an example recently on the Rwanda Bill where there was a particular issue about Aghan interpreters. Most people felt that they should be exempt from the Rwanda legislation. Whatever your views, even if you were supporting it, most people felt that was a sensible amendment to the Bill. We had more ping-pong votes on that than on any other issue. I had people saying to me, "We would rather be voting with you, but we are voting with our party".

We did have an approach from the Government. They said they would accept that amendment or something similar, and we said we were very happy with that, but that was stopped by the Executive. Ministers wanted to see the change and the Executive did not. Later on, it was accepted by the Executive as well as Ministers.

Sometimes it is not just about the House of Commons versus the House of Lords. It is the Executive recognising that Ministers who are dealing with legislation have a right to take views across both Houses, across Parliament as a whole. That can be a challenge for the Executive, particularly if they do not want any amendments to a Bill. I come from the starting point that it is very rare that any piece of legislation is going to be perfect on its first draft.

Q50 **Chair:** That is the purpose of parliamentary scrutiny.



**Baroness Smith of Basildon:** Yes, in both Houses.

Q51 **Chair:** I have another question. One of the things that personally I feel very strongly about is the following of herds that can happen in terms of electoral politics. To what extent can the House of Lords act as a brake on that? I ask that question because over the last decade we have seen a lot more polarisation in terms of how we conduct our debate. To what extent does the non-elected nature of the House of Lords give it a degree of objectivity in terms of that scrutiny?

**Baroness Smith of Basildon:** The fact that we are not elected does not mean we do not have our moments when it can be a bit tense. From being in both Houses, my sense is that you can get co-operation across the House. Partly, we have a significant group. The second largest group in the House of Lords are the Cross-Benchers, the independents. You have others with this new criterion, which is slightly strange, of non-aligned. Boris Johnson appointed non-aligned peers, not Cross-Benchers. That is a strange concept that is relatively new. You have the bishops. You have smaller parties. No party has ever had a majority.

The Government often say, "We do not have a majority in the House of Lords, but we are the biggest party". It is about 50% of the political grouping. "We are the largest party. We do not have a majority". No party or Government have had a majority in the House of Lords since 1945.

It can be more deliberative. The House of Lords works better when it does not try to replicate the House of Commons by saying, "We are going to put lots of people in to get our legislation through", as we have seen more recently. It is when it says, "We are going to take a deliberative approach to this so we can have a discussion about it", that it does its best work and is most useful in looking at whether legislation is fit for purpose.

Q52 **Chair:** Lord Kinnoull, how do you see the role of the House of Lords?

**Earl of Kinnoull:** I should say that I agree with everything that Baroness Smith has just said.

**Baroness Smith of Basildon:** It does not always happen.

**Earl of Kinnoull:** Looking at it from a slightly different angle, the British constitution is a three-legged stool. One of the legs is Parliament. That leg is split between the Commons and the Lords. We both do the same things, which are to look at primary legislation and to carry out the scrutiny of the Government.

On the primary legislation side, the Lords is pretty busy. In the last Session, according to my numbers, there were 7,500 amendments considered, of which 2,500 became part of Bills. The Chambers—both Chambers are used for this—are very active and sit late into the night regularly, looking line by line at legislation. It is something that,



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institutionally, we are quite tuned up to. Individual Members will understand the meaning of words, and we joke about that.

The other bit is the scrutiny bit. We are divided there between on-the-floor scrutiny, like during Question Time, and House of Lords committees. Our committees are set up, as you know, differently from yours. You face the Ministries and we face themes. For the whole of Parliament, that is quite a useful structure all round. I was chair of the European Union Committees before taking up this role. We looked at masses of different Ministries during the Brexit period. We looked at things in great detail. Of course, we had to publish unanimous reports. Every report of all seven committees throughout the Brexit period was unanimous. All the committees included people with very different views about the Brexit thing.

We are trying, as a House, in a particular style, to produce useful scrutiny as well through the committee system.

**Q53 Chair:** In contrast with the House of Commons, where we are extremely partisan, what role do the Cross-Bench peers in particular add in the House of Lords?

**Earl of Kinnoull:** The first thing we should remember is that the writ does not run very strong for party-aligned peers in the House of Lords because there is nowhere for them to go. You get a lot of disobedience among them. Emotionally, there are a lot of Cross-Benchers, even on Angela's Benches.

The Cross Bench is trying to produce people who are genuine experts in particular things. We have quite a lot of scientists. We have a lot of lawyers. We have the military men as well. Those are just some examples. In trying to produce that type of expertise and to have people who genuinely look at things in an independent way, the idea is that we can assist the House in reaching difficult decisions on hard matters.

**Q54 Chair:** In 21st-century Britain, is it appropriate for a non-elected House to play such a significant part in our parliamentary system?

**Earl of Kinnoull:** I strongly believe in a second Chamber. It does not matter whether you look within these shores at the lack of second Chamber problems in Edinburgh or whether you look further than these shores at other countries. A second Chamber, with revising powers and a well-set up system to provide the revising—I have tried to put some numbers on that—is a very good thing.

The question comes as to what type of Chamber you would like. The difficulty with an elected Chamber is that there would then be a question about the supremacy of the House of Commons. The imperfections that we have generated—I am sure we are going to come on to discuss a few of those—are ones that are well worth the price because we get a highly effective revising Chamber. I really believe that both the committee work



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and the legislative work within the Lords is very valuable and is looked at in other jurisdictions with some envy.

Q55 **Chair:** Baroness Smith, how do you feel about the continual role of an unelected Chamber in our Parliament?

**Baroness Smith of Basildon:** It is quite interesting. I was listening to Charles speak and he talked about revising powers. I do not have anything against an elected House, but my concern about managing it is how you avoid giving greater powers or legitimacy to a second Chamber and losing the primacy of the Commons.

That is one of the contentions. How do you do that? Could you do it if you had a fully elected House? I am uncomfortable with a House that would be hybrid. All Members in the House should be equal. If you have an elected House, how do you ensure that the House does not, in a sense, try to say, "We have an equal mandate to the Commons"? That is the challenge.

The way in which peers are appointed is pretty opaque to most people. I have no idea how Cross-Bench peers are appointed at all. Charles mentioned this earlier. As things change, there will be different ways of doing this. I know some will want an elected House and some will want a fully appointed House.

Whatever happens, the challenge is to find a way not to throw the baby out with the bathwater, but to get these deep dives into legislation with a specific role for the second Chamber without losing the primacy of the Commons. If you are going forward on reform, how do you marry those up? That is the challenge.

**Chair:** That is why it always gets parked.

**Baroness Smith of Basildon:** I was on the committee that looked at removing hereditary peers all those years ago, not long after I came into Parliament. That was one of the big issues constantly being discussed at the time. That is why we have this ridiculous situation with by-elections for hereditary peers. If one falls off their perch, another one can be elected to take their place, which gives an imbalance in numbers when you add appointments into that.

That was because of the bandwidth in terms of how long you could spend talking about House of Lords reform before you exhausted people. You have a partial reform, and everyone says, "Put it off until later." Some of these things sound easy but then become more complicated.

My advice would be, if you are embarking on that major reform, to know where your end point is or have a rough idea of the parameters for your end point when embarking on it.

Q56 **John McDonnell:** I have an end point, but we can discuss it another time. It would be the end. How do you describe the relationship between



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the Lords and the Commons? Do Members of the Lords understand how the Commons works? Do Members of the Commons understand how the Lords work?

**Baroness Smith of Basildon:** I am probably in a different position because I have done both Houses. There is a lack of understanding, which does not help. I have had MPs say, "It is outrageous that the Lords voted for an amendment. You are trying to wreck our Bill." Being accused of wrecking a Bill is a common one. We do not have the power to wreck legislation. That is a common misunderstanding.

There is also a tendency within the Commons to think of the Lords as being about numbers. I had not been leader of the Labour group for long in the House of Lords when the Brexit debate was on. Jacob Rees-Mogg said that the Government would appoint 1,000 extra peers to get their legislation through. He did not realise that you can only introduce two a day so it would have taken some time to get to the point of having a majority. That is a misunderstanding about the role.

Sometimes peers do not understand the other pressures on MPs. We make a great play that we focus on legislation and how much we do. That is what we do. That is the day job and the evening job. As an MP, there are other pressures as an advocate for your constituency, your constituent work and all those. Those feed into your parliamentary work, but that is another role you have that peers do not have.

It works really well when we have Joint Committees before legislation because you get a different perspective feeding into the legislation. There is more we could do on that one.

There are certain things that I wish I had known about the House of Lords when I was a new MP. Some of the reports that the House of Lords produces would have been really useful in looking at legislation, particularly secondary legislation. The Lords can only be good at scrutiny if the other side wants to hear what they have to say. Otherwise, it is an exercise with no great value.

We need to say, "The Lords is not about numbers. It is about looking at some of the detail that could be useful to us." That would build a better relationship. When peers and MPs work together, there is normally a better outcome.

Q57 **John McDonnell:** How would you describe the relationship at the moment?

**Baroness Smith of Basildon:** It depends on the issue, to be honest. It is not a bad relationship. The relationship with the Government is more difficult because the Government often want to equate the Commons with the Government. I said that Jacob Rees-Mogg talked about 1,000 new peers. Michael Gove said he wanted to send the Lords to York, which was quite an interesting concept when you have two Houses of Parliament



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looking at legislation and Ministers answering questions. The relationship is better with MPs than it is with the Government.

**John McDonnell:** Some people would like to send Mr Gove somewhere else as well.

**Earl of Kinnoull:** The relationship is slightly asymmetric. In the Lords, we have the advantage of having quite a lot of ex-MPs around. They inform us about the Commons quite successfully. That is on top of things like the UK-EU Parliamentary Partnership Assembly, the Council of Europe thing, the Inter-Parliamentary Forum and the Joint Committees, where we intermingle with each other. By definition, it does not go the other way around. You do not have a lot of ex-peers running around.

In preparing for this, I was reflecting on the asymmetry of our knowledge of each other. Sometimes our processes are probably a little bit strange to you. As Angela was saying just now, you think, "Gosh, that is a wrecking amendment" and all we are thinking is that it is something logical because we have spent four hours debating it. It is a very strange thing.

It is certainly something that should be worked at. Now I have had time to think about it, thanks to this session, I feel that something should be done.

**Baroness Smith of Basildon:** To add to that, John, we have no selection of amendments when we are doing legislation. We do not select the committees that are looking at legislation. That means anyone who has an interest can participate, mainly on the Floor of the House. That creates a different way of doing things. That is just to add to the comments that Charles made about the differences.

Q58 **John McDonnell:** At different stages, particularly in this Session, we have sent down to you huge amounts of amendments, some of which have been introduced quite late in the Commons itself. Have we in the Commons become overdependent upon you scrutinising legislation?

**Baroness Smith of Basildon:** We are doing more of the heavy lifting of legislation, which is unfortunate because we both benefit when we both do it. The Public Order Bill is an example where the amendments put into the House of Lords had not even been considered by the House of Commons. The Ministers did not initially realise that, if they were voted down in the House of Lords, they could not come back to the Commons procedurally. That is unfortunate.

Yes, that is happening a little bit more often. I did a TV programme with a Conservative MP and she was complaining that we were taking too long on legislation. She said, "What you take three days to do we do in an afternoon". That says as much about the House of Commons as it does about the House of Lords, which is unfortunate.





**Earl of Kinnoull:** This is slightly an area that Erskine May patrols, but all I can say is that it does not matter what state you send the legislation in; the Lords will perform its function. It will. Certainly, with some of these things—Angela has given a very good example—we are scratching our heads a bit because the issues that have come down are ones we know to be of great interest to all politicians of whatever party in whatever legislature. It is not for us to worry about your processes. We are trying to worry about ours.

Q59 **John McDonnell:** Are we becoming overreliant upon you?

**Earl of Kinnoull:** Erskine May would suggest that I should not answer that question.

**Baroness Smith of Basildon:** If a Bill comes to us that the Commons has not spent very long debating—I was once told by a Minister that we should not pass any amendments to those Bills because the Commons had not debated them—it gives some people an excuse to speak longer and spend more time on it than is needed.

If there is a balance between both Houses in the time we are spending on legislation, that seems reasonable. If there has not been much time spent on legislation, there will be peers who say, “The Commons has not looked at it. We need to go through it in even more detail.” That can give an unbalance in the time that is spent.

Q60 **John McDonnell:** You have no caps or guillotines.

**Baroness Smith of Basildon:** No, there are no caps or guillotines.

Q61 **Chair:** Just as a follow-on to that, though, there is legislation and there is legislation. Do you perceive that this issue of legislation not being fit for purpose and requiring more amendment has become more acute over time? Is it a function of how political the issue is and the extent to which it is a reaction to current events? What are the dynamics behind that?

**Baroness Smith of Basildon:** There has never been a time when legislation presented to Parliament has been perfect the first time. The Government’s attitude to whether something should be amended has changed. They have become less prepared to look at amendments.

In my early days in the Lords, I did the Home Office brief. I remember afterwards we would talk to the Minister—perhaps we would have a drink—and say, “What about this? We put forward that. What was your answer?” Sometimes they would take it away, come back and say, “We cannot do that, but we have been talking to the Secretary of State,” and they would have a suggestion. They would quite often bring forward an amendment of their own that sought to address some of the concerns raised.

A Minister said to me not that long ago, “It is not like the old days. We are not allowed to do that now”. There is less willingness to accept



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amendments. It is not some sort of wrestling match where one side is going to win. You want to get good legislation. The Lords will always look at the workability.

There are big political points. We all know that there is legislation, Rwanda being one example, where there are big political principles of fundamental disagreement. Within that and in a lot of other legislation, you are talking about workability, having good legislation and doing it well. That is a different order, where there should be much more discussion about getting things right.

**Earl of Kinnoull:** I want to make a very small point on top of that. The figures that I gave you are figures that it would be possible to find out in terms of the number of amendments considered and the number of amendments that were then passed.

The only other figures that I have are ones that were left over from a presentation that I used to give to schoolchildren when I was going around doing Peers in Schools in earlier Sessions maybe seven or eight years ago. That number has definitely increased. You might be able to look at that and see that, over time, both the number of amendments being considered and the number of amendments being accepted have gone up. That might be an indicator of the point that you are making.

Q62 **Jo Gideon:** How effective is the House of Lords at its current size, Baroness Smith?

**Baroness Smith of Basildon:** It is a difficult one. My own view is that the House of Lords is too big. Part of that is how appointments have been made alongside the hereditary by-elections and the appointment of Ministers on top of that.

When Labour left office after 12 years of Labour Government, we had 24 more peers than the Conservatives. After 14 years of Conservative Government, the Conservatives have over 100 more peers than Labour. That is a huge difference. Part of it is the accelerated appointments system. Part of it is hereditary by-elections. New people come in through those by-elections, but the parties also want to appoint new people to come in. You have double appointments in the two groups that have the most hereditary peers.

We have also seen a lot more of Ministers being appointed. Since I have been leader, since 2015, something like 27 or 28 Ministers have been appointed new to come in as Ministers. Some of them have not been Ministers very long. Some of them we do not see anymore, but they are still Members of the House of Lords.

The House of Lords brought in the ability to retire. When I first went in, you could not retire. You were stuck there. Whether you wanted to be there or not, you could not retire. You can retire now, but it is not in the consciousness of a number of people. In my own group, because we have



not had as many appointments, I have said to people, "If you turn up a couple of days a week, that is more than if you are not here at all".

It has got bigger. In some ways, the active membership is a bit bigger, though it is not much bigger on my side. The way you should look at this is, "What are the numbers required to fulfil the functions?" At some point, you have to look at both entrance and exit, and ask, "How do we get to a better number of peers who can fulfil the job that needs to be done?"

On paper, I have 172 colleagues on the Labour Benches. About 130-plus is the number who will be available to vote and come in regularly. The Conservative Benches have 277, but they are still having trouble getting the legislation through because people do not turn up. I would never say that everybody has to be there all day every day. Some people come in for their expertise, and we benefit from that, but the imbalance in numbers makes it more difficult. It is too big at the moment.

**Earl of Kinnoull:** We looked at this as a House with the Burns report in 2017 and in fact you wrote a very good report—David Jones was on the Committee then—shortly after that. We all—it was a unanimous vote—felt we were too big and we should reduce the size.

The Burns committee has carried on reporting in order to mark the card, as it were, and see what is going on. I have detected nobody on any Bench anywhere in the House who does not feel like that.

**Baroness Smith of Basildon:** It is the first time in history that the House of Lords has voted for reform and the Government have said no.

**Earl of Kinnoull:** That is a very good point.

Q63 **Jo Gideon:** What cap should there be, if any, on the size of the House of Lords?

**Baroness Smith of Basildon:** It is hard to know. You would have to work out the committees and that. There is a suggestion that it should not be larger than the House of Commons, which does not seem unreasonable. Should it be 400, 500 or 600? To be honest, I do not have a figure in mind. It should be a band. You would not have an absolute cap because you need to provide for refreshing people and people leaving.

It should probably be around or a bit smaller than the size of the House of Commons, but you would have to do a proper bit of analysis to say what a fair number would be.

**Earl of Kinnoull:** You can have a conventional cap, but the trouble is that the Prime Minister has three weapons available in order to whip the House of Lords in, which are the Salisbury convention, the Parliament Acts and the ability to create masses of peers. No Prime Minister would want to give up that third weapon, so you are left with that.



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You could have a conventional cap, which could be breached only in special circumstances, to bring it down. Then everyone would agree, "That is enough; the Lords should function with that number".

Q64 **Ronnie Cowan:** Baroness Smith, you said in your answer that you thought the House of Lords was too big, but you have also said, presuming that there is—I agree with you—a Labour Government on the horizon, you need to refresh your numbers in the House of Lords. "Refresh your numbers" presumably means "increase your numbers". Are you not just going to add to the situation here?

**Baroness Smith of Basildon:** I do not see any room for having a massive increase in the number of Labour peers. Every party wants to refresh its numbers, but on the last list of new peers that came in there were four Labour peers and eight Government peers, and there have been two new Ministers since then. Since I first heard that new ones were coming in, we have lost about seven, who have left the House of Lords. It is not just about who comes in; it is who goes out as well.

I do not want to see the House of Lords much bigger than it is now. If I am talking about the ideal—getting from A to B is not always easy—it would be to have roughly equal numbers between the Government and the major Opposition party. I do not want it to be about numbers. It is not the House of Commons. We should not try to replicate the House of Commons and say, "We have more people; we will win this".

It does not work for the Government. They would not have lost all those votes on Rwanda if the Tory peers had turned up. Because they did not like it, they did not turn up. There has to be a plan over time to get the numbers down a bit and a mechanism by which you can refresh your numbers and replace people to get new expertise and new experience to come in.

It has been put to me time and time again that a Labour Government would appoint hundreds of new peers. I can tell you that a Labour Government will not appoint hundreds of new peers.

Q65 **John Stevenson:** You made a very interesting point about the appointment of Ministers who then subsequently have nothing to do with the House of Lords. Is there an argument to suggest that you could have a situation where you appoint people who are Ministers as temporary peers, so they could perform their role as a Minister and then may or may not continue as an actual voting Member of the House of Lords?

**Baroness Smith of Basildon:** Yes, they may or may not. They keep the peerage for life, but on the membership of the House of Lords, yes, there is a case for that. There is nothing wrong with wanting to bring in expertise, if somebody can do a role as a Minister. It is difficult to walk straight into Parliament and be a Minister.

The thing that terrified me most when I first spoke at the Dispatch Box in the House of Lords—bear in mind that I had been a Minister in the House



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of Commons as well—was that, whatever issue you speak on, there are lots of people who know far more about it than you do. That can be a bit daunting at times.

There is an opportunity to say, “This is a temporary position.” It could depend on the length of time somebody is a Minister. Somebody might be a Minister for a long time and be really embedded in the work of the House or really engaged. You have to be a little bit careful. Somebody could be appointed to do a job as a Minister and then be sacked the next week. They have made a commitment, but their Government have not. It is worth looking at and exploring. That is what I would say to that.

**Q66** **Lloyd Russell-Moyle:** Lord Kinnoull, you mentioned the Burns committee. It recommended to reduce the size. One of the non-legislative options could be an agreement with the party leaders in the House of Lords to cull some of their own. I am not sure whether that is the word the committee used, but that is effectively what it said.

Has there been any move in the party leaderships in the House of Lords towards identifying or finding a way to fairly identify those peers without it being momentarily partisan within the party? If the cull had happened under Boris, it might be a very different cull than under Rishi. How would you identify that? Has there been any work on that so far?

**Earl of Kinnoull:** If you mean whether there is a particular work stream to do a particular thing to aim it down particularly at 600, the Burns committee has a structure in it where we are on a glide path.

Speaking for our own grouping, we are conscious of that. We are trying to explain to people whose career within the Lords has finished that you are there—this is from my writ of summons—to be personally present with us and give your counsel upon the affairs. If you are not able to do that for whatever reason, we are encouraging people to move down.

The average age of the House of Lords is currently 71. The average age of the Cross Bench is 73. You can see there are going to be some people who have got to the point where they wish to step back from the front line.

**Q67** **Lloyd Russell-Moyle:** There is no formal agreement or process of working out a joint agreement between the parties.

**Earl of Kinnoull:** As I am sure there is in your House—I will hand over to Angela in a second—there is constant discussion among us all in a usual channel-type arrangement. Certainly, I keep Angela and her colleagues fully apprised of what I am doing, as I do the other groupings, in an effort to make sure we have people who are willing to contribute to the work of the House turning up.

**Baroness Smith of Basildon:** There is no all-party agreement. You would have to get an all-party agreement that the House was too large. Unless you have that, you would not be able to move forward.



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The Burns committee is quite good at outlining what it would look like. It talks about two out, one in. Professor Meg Russell has looked at another method, which is to take three elections and look at how the relative strength of political parties over three elections in the House of Commons could be reflected in House of Lords membership. Then you would not have the highs and lows; it would be more evened out.

**Q68** **Lloyd Russell-Moyle:** Burns suggests that as well. Going forward, a third are appointed on 15-year terms according to the result of the last general election in a party list style.

**Baroness Smith of Basildon:** Yes. There are no formal discussions taking place. Within groups, you talk to your colleagues to say, "Retirement is open". Sometimes we do a disservice to some of our colleagues when somebody falls ill. There is not a formal retirement process. They can make a valedictory speech, but you do not say, "Thank you for your work", as if you were retiring from a workplace. They carry on until they can no longer do it. Given that I have over 100 fewer than the Conservative Party, I have not been too keen to see people leave.

**Q69** **Lloyd Russell-Moyle:** Is it a problem that you cannot reappoint when people leave? If there were a system where you could say, "Okay, there are two out, but I know I will be able to appoint one in", you could refresh within your numbers. At the moment, you do not know whether you will get the one in or when that will come around.

**Baroness Smith of Basildon:** Yes, absolutely.

**Earl of Kinnoull:** You can reappoint. You have to make someone a peer all over again.

**Baroness Smith of Basildon:** Yes, but you may only do so at the invitation of the Prime Minister to make appointments.

**Q70** **Lloyd Russell-Moyle:** Yes, exactly. That is not a problem for the governing party, but for the Opposition party there is no motivation to give up a number of seats because you do not know when your next appointment slot will come and it will be proportional to what the Prime Minister is currently appointing; it will not reflect how many of your peers have resigned.

**Baroness Smith of Basildon:** I touched on that in my early answer. I have a number of colleagues who would be quite happy to retire, but they are not seeing that they would be replaced by somebody who would be more able to do the job than they are or would do more than they can. There has been a reluctance to retire if all you are doing is removing one of your numbers. That is a fair comment.

**Q71** **Damien Moore:** Should there be a mandatory retirement age for Members of the House of Lords?

**Baroness Smith of Basildon:** There are different views on it. I work with Alf Dubs, who at 91 is pretty amazing and is still taking active part



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in the debate. It is quite hard. If it were 80, 11 years ago you would have had to say to him, "Bye, Alf. Thank you. You should go."

It is open to Members to retire, but not many choose it. I think my generation of Members will because it has been there for most of my time in the Lords. If you came in 20 years ago and it was not in your consciousness that you were going to retire, you are less likely to. In most places of work there is a mandatory retirement age. It is quite a difficult one to work through, but, if we are going to refresh numbers, we have to have those discussions about how you make appointments and how people leave. Those are the kinds of discussions that have to be had now.

**Earl of Kinnoull:** I note that in the 1980s a retirement age was imposed on the judiciary. It applied to all new appointments, but the existing appointments, Lord Denning and people, could carry on and they did. Some of them did not. They respected the retirement age and retired.

Particularly on the Cross Bench, we have some highly effective people, like Alf Dubs on your Benches, who are above any likely mandatory retirement age and yet they are really good. I would be in favour of putting something in for new Members.

**Baroness Smith of Basildon:** I disagree with that because you have to have all Members in a body on the same basis. You cannot have a different retirement age for those who are there and those who are not. These are the things that the Lords is going to have to grapple with. You will have to have either a retirement age or a length of service. One of those things will have to come into play at some point.

Q72 **Damien Moore:** Presumably, age is no factor when you look at the effectiveness of a Lord or Lady—you just mentioned Lord Dubs—or their attendance. Is it the fact that some of these people are very committed and still coming in, and some people who have not been there as long decide not to come in?

**Baroness Smith of Basildon:** Participation is a big issue more than attendance. People can come in, but, if people are participating and playing a role, their colleagues know it and they are welcomed. That is another factor in looking at the size of the House. Not everybody who is a Member of the House of Lords participates. The rules make it difficult for some people to retire. That has to be examined as well.

There is also a slightly ridiculous point about leave of absence. Some people go on a perpetual leave of absence and renew it regularly. Some people do that because they are doing valuable work outside the House, and they will come back and contribute; some will come back if they cannot find anything better to do. That is an abuse of the leave of absence system.



**Earl of Kinnoull:** I would agree completely with the leave of absence system points. We need to look at that. That is something that the Lords can look at on its own. Perhaps I should just leave it there because I know time is short.

**Chair:** My apologies, Ronnie. I should have come to you earlier.

Q73 **Ronnie Cowan:** That is okay, Chair. Taking a slight step backwards, I am a little bit conflicted, Baroness, because you mentioned earlier on that you did not think there would be a huge influx of Labour peers after a general election, but two or three times you have mentioned that you are 100 down. The numbers are obviously playing in your mind.

You said in your article on Politicshome, "There'll be something about House of Lords reform in the manifesto. It is most times. But I think we should be honest about what we can achieve and what we're ready to do". It was the last phrase that got me: "what we're ready to do". Can you enlarge on that?

**Baroness Smith of Basildon:** Not particularly, no. What is playing on my mind is that the appointment system has been galloping along without any constraint. That is why there is that difference of 100. I also said I would prefer to see roughly equal numbers between the Government and Opposition parties. It should be more about a deliberative process rather than who has the most people there to win a vote. That is how the House of Lords should operate.

Do I think we should appoint 100 to bring us up to the same number as the Conservatives? No, I do not. That is not where I am heading. As I have said two or three times now, the process has to look at how people come in and how people leave. There has to be a balance between those. You will need to have a transition period where you get to a better level of membership in the House.

How that is to be achieved is an open discussion. On some of these things, you may have to wait to see a Labour Party manifesto at the time of the next election to get a more detailed answer.

Q74 **Ronnie Cowan:** I am still confused by this phrase "what we are ready to do". Who is we?

**Baroness Smith of Basildon:** "We" is the Labour Party: what would the Labour Party be ready to do? I suppose there are two "wes" there. What the Labour Party is ready to do will be in the manifesto and there will be a timeline there. That is what we are ready to do.

The House of Lords can also do some things without needing legislation. The House of Lords itself would like to do that. There are two things here. The House of Lords has on many occasions voted to end the hereditary peers by-elections. Had they not been in place, over time the number of hereditary peers would have fallen. What is the total number of hereditary peers now? It is 92, is it not?





**Earl of Kinnoull:** It is 91.

**Baroness Smith of Basildon:** There would have been a reduction over time if the House of Lords had had its way. The House of Lords has to look at what it can do, and the Government of the day should look at what the Government should do.

Q75 **Mr Jones:** Baroness Smith, should there be a limit on the term that a Member may serve in the House of Lords? If so, what should it be?

**Baroness Smith of Basildon:** I am not necessarily opposed or immediately attracted to term limits. Various numbers have been suggested. I saw one figure of seven years. Burns says 15 years. I also accept that being in a position for life is a rather odd concept, if people do not take the opportunity to retire.

My concern about a fixed term is that some people might say, "That is my last 15 years of employment" and think it is a retirement post. It also might put off younger people, who will say, "I will be 60 at the end of that. What do I do then? What are my employment prospects?" You have to look at those cases on their merit.

I am not immediately attracted to this. I have been in the Lords—I came in in 2010—for coming up to 15 years. I would be off if it was a 15-year term. One of the roles of the Lords that is not looked at so much but plays a lot into our consideration of legislation is the role of the constitution. It sounds rather pompous to say you are custodians of the constitution, to be honest, but it does play into the Lords' consideration of legislation more so than perhaps in the Commons. I have been in Parliament for 25 years. I am still getting to grips with that.

It is quite hard sometimes to fulfil the role if you know there is an end. I am not against it, but, if that was being put forward as a proposal, I would like to see some discussions on what the level would be and the expectations of Members in that time. If you are talking about a seven-year term, a 10-year term or a 15-year term, is it a full-time paid post during that time or is it on the same basis as now? It alters the role significantly. We would have to work out how that would be managed. It would give you more certainty on refreshing numbers.

**Earl of Kinnoull:** The thing that I would like to hear discussed, which is not the same as saying that I am wholly behind this and it is my position, is a 15-year term with an additional 10 years available for people.

In fact, if you were to look at the management tier of the House of Lords, you would find that everyone is either at or close to 15 years. Those people are in their peak, in many ways. I would suggest 15 plus 10, along with something to deal with people who happen to join the Lords aged 68. It is more complicated than that.



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If there were a proper proposal that could be discussed in a White Paper in some way, it would be an interesting thing to discuss versus today's forever.

Q76 **Mr Jones:** We have touched on this, but you have mentioned that there are 91 hereditary peers. Should hereditary peers continue to have a place in the House of Lords, Lord Kinnoull?

**Earl of Kinnoull:** I have a conflict here because I am a hereditary peer so I am probably not a good person to answer that. The clue for me is that peers are peers. Whatever route they came in by, people are working in the same committed way to try to do a role for the same financial arrangements, with the same pass and in every way the same.

It is quite hard not to recognise that, because there are some other funnies as well. There are the bishops and there are a few Law Lords who came in through a strange process as well.

I believe the time has come to end the elections. This is quite likely to feature in Angela's manifesto, which she cannot talk about. I think it will happen. More radical approaches than that would be likely to take quite a long time, I would have thought.

Q77 **Mr Jones:** Could I explore that a bit more? You have said that you think the time has come to end elections.

**Earl of Kinnoull:** Yes.

Q78 **Mr Jones:** Presumably, you think the Lords should be open to hereditary peers, but they should arrive there by more orthodox routes than simply being born to go there.

**Earl of Kinnoull:** Yes, it seems rather odd that someone is born in some way, with two parents or something, and they have to go through a different door. It does not seem right.

Q79 **Mr Jones:** Baroness Smith, what are your views on that?

**Baroness Smith of Basildon:** It is hard to justify taking a place in the legislature on the basis of who your parents and grandparents were.

The current appointments system—I am not just going to comment on hereditary peers—needs changing as well. Charles says that the time has come to end hereditary by-elections. The time for that was long ago. It is a real shame that the Government have not accepted the offer to get rid of it. The Lords voted for it. They would not have had any problems with the House of Commons voting to end the by-elections. They were only supposed to be temporary. They should have been finished a long time ago.

What I would say is that, when you are working in the Lords, often you do not know who the hereditary peers are. This is the point I made earlier about having hybrid membership. I feel slightly uncomfortable



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with hybrid membership. People outside the House are more conscious of it. We do not know who they are most of the time. It is not a great route.

It is also causing an imbalance in the House, in that the two groups that have the most hereditary peers have also had their numbers refreshed. It is a double-whammy in two ways. That is why the numbers are so much greater. They have replaced the hereditary peers, often with people who are much younger, but they have had appointments as well. The whole issue of appointments has to be looked at.

Q80 **Mr Jones:** If you think hereditary peers should end—

**Baroness Smith of Basildon:** I did not say that. I said it is a hard thing to justify.

**Mr Jones:** Are you seeking to justify it?

**Baroness Smith of Basildon:** I am not seeking to justify it, no.

Q81 **Mr Jones:** I am assuming from that that you do not justify it. That being the case, as I infer, you are saying that the hereditary principle should end and that hereditary peers should be brought to an end. Should they be brought to an end immediately or should the elections simply be brought to an end?

**Baroness Smith of Basildon:** I still have an open mind. I have not reached a final conclusion on that myself yet.

Q82 **Lloyd Russell-Moyle:** I understand some of the caginess. It is perfectly understandable at this particular time in the cycle. I am a little confused, however.

We say that the Burns committee has produced something that was unanimously agreed. The detail of the Burns committee is 15-year terms. It is the ending of the hereditary peer elections and a phasing out of hereditary peers. It is one-third elected. It is still Cross-Bench. It is a seven-year term for judges because they will have already been a judge. It talks about proportionality according to the parties over a three-year cycle, effectively.

What I am a bit confused about is that in one sense we say we all support Burns, but when we are asked about any of the specific issues both Cross-Bench and Labour—I understand the caginess from a party that is about to go into Government because we still have to work out our policies—say, “I am still considering and contemplating”. You agree with the principle, but every time in practice you say, “I still want a lot more thinking about this”, which delays it into the long grass.

**Baroness Smith of Basildon:** You said that I support Burns, but I did not comment on Burns particularly.

**Lloyd Russell-Moyle:** Lord Kinnoull did, though.



**Baroness Smith of Basildon:** When most people look at Burns, from the discussions we have had about it, it is pretty much about the principles. We have to find a way of doing this better and reducing the size of the House. That is a principle that everybody would agree with.

When you get into detail, there is different views on the detail. Sometimes two people have three opinions on it. In the past that has made it difficult to get to reform, but we have to get over that and come up with concrete proposals to do so.

Q83 **Lloyd Russell-Moyle:** Burns has come up with concrete proposals to do so.

**Baroness Smith of Basildon:** Yes, and not everybody agrees with all the details.

**Lloyd Russell-Moyle:** Not everyone agrees with it.

**Baroness Smith of Basildon:** It is a basis.

Q84 **Lloyd Russell-Moyle:** Are we going to get caught up on not everyone agreeing with every single point or should we swallow the bigger bitter pill and say, "Burns is what we are all going to get behind"?

**Earl of Kinnoull:** We are missing one of the most important details. There are three unfairnesses around. There are the hereditaries and the bishops, but the biggest unfairness is the unlimited power of the Prime Minister to appoint peers. The Burns thing is a deal that includes that detail.

I agree with Angela. Burns was a thing where we said, "We would like some change. We would like to reduce the size of the House. We want to cater for some of the difficulties you have with people not turning up. We would like to do all of that. This is a very sensible proposition, but the Prime Minister will have to put his piece on the table as well".

**Lloyd Russell-Moyle:** It has to be a package.

**Earl of Kinnoull:** It must be a package. You could not reform two things and not the third.

Q85 **Lloyd Russell-Moyle:** The second thing on that list is the continuation of the Lords spiritual. We have heard evidence that the Lords spiritual themselves have offered to reduce their numbers in half or do a rotation system over a long period of time. Is that a feasible option or do we need to move away from the Lords spiritual entirely?

**Earl of Kinnoull:** That is news to me and I have not really thought about it, so I am not sure I could give you a sensible answer.

**Baroness Smith of Basildon:** I have spoken to some of them. If the size of the House reduces, the size of the Lords spiritual will reduce at the same time. Rather than removing faith, I would like to see more balance



of faith across the House. We used to have the Chief Rabbi in the House. If you have faith representatives, it should be faiths that are represented rather than just faith.

**Q86 Lloyd Russell-Moyle:** Is there a problem with faiths being represented? The Catholic Church bans ordained people from sitting in legislatures. You then have questions about which denominations you are recognising and which you are not. Do you recognise humanists as part of that faith family or not? Is it not better to say that there should be a role for them to apply via the Cross Benches or the independent appointment commission, and the appointment commission should consider these things, but there should not be a hard and fixed rule on it?

**Baroness Smith of Basildon:** There are lots of ways of looking at it. My sense is that there are lots of people of faith in both Houses. They are not necessarily representing their faith, but they bring their faith with them, and it informs their political views and their views on issues, which I am entirely comfortable with.

If you are looking at people, you look at the contribution that they can make to the work of the House rather than just what faith they come from. For me, the bottom line of any appointment should be, "What contribution can people make?"

On the bishops, there are certain things that I have had my own expectations of the House of Lords confounded on. One was that all Cross-Benchers were Tory. If you are a political animal, you find it hard that people are genuinely independent. I find that the Cross-Benchers are mostly genuinely independent of political views. It depends on the issues for them.

I assumed that most of the bishops would be rather Tory. They are not. Again, they are pretty independent. They do not all take part.

**John Stevenson:** We think they are all Labour.

**Baroness Smith of Basildon:** It is funny. There was a debate that took place where a Conservative peer had a real go at the Cross-Benchers saying that the reason the Government had to have lots more appointments was that all the Cross-Benchers were Labour. We are thinking, "Hang on". It is the perspective that you are taking it from.

I am not going to get into disestablishing the Church of England, but there is a role for faith in politics. There is also a role for not having faith in politics.

**Earl of Kinnoull:** I would only add that the Church of England brings so much about the schools that it runs. It has an extra case over and above some other faiths. I just add that for completeness, but I agree with that.



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HOLAC is a good organisation that has a great track record. It could expand itself and go into the faith business, and could advise a future House about such things, if it chose to.

**Lloyd Russell-Moyle:** If it went into the faith business more widely, that would be interesting, would it not? Thank you very much.

Q87 **John McDonnell:** Just on the hereditaries, I cannot help this, but the expression that was used was that it is hard to justify. The reality is that there is no justification for people being appointed on the basis of who their mum and dad were. Is there? Justify it.

**Earl of Kinnoull:** I do not think so. Nobody who was born a hereditary made all these rules up.

Q88 **John McDonnell:** There is no justification for them being there on the basis of who their mum and dad was or who their great-granny slept with years ago.

**Earl of Kinnoull:** Not in the modern world, no. We do not run any of our life like that now.

**John McDonnell:** That was just for the record.

**Mr Jones:** Before we move on, I should have declared an interest earlier on. I apologise. I chair the Council for Arab-British Understanding, which has made a submission on this point, although I have not played any part in that submission myself.

Q89 **Tom Randall:** Lord Kinnoull, you touched on HOLAC in your last answer. I want to ask some questions about the House of Lords Appointments Commission specifically, perhaps starting with you. Do you think HOLAC is carrying out its role effectively?

**Earl of Kinnoull:** I do. It has two roles. The first role is to find Cross-Bench peers who are going to be working peers. Over its life it has found just over 70 of those. I reviewed the list in preparing for today, and of course they are stars. It has done really well at finding very effective people who are well regarded by the House.

Its other role is to look at the propriety of people in general and to advise on that. In that role, I believe, it has done a good job.

**Baroness Smith of Basildon:** HOLAC may be quite frustrated by its role sometimes because it can look at the propriety of some appointments but not others, such as the hereditary peers who are coming in. There is no role on the bishops coming in; on political appointments, its role is limited.

Having said that, I am not 100% signed up to a fully statutory basis, but I would like to see a lot more transparency in what HOLAC is doing and what the expectations of HOLAC are. The Prime Minister could make that clearer.



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There has to be a role for the Prime Minister to make the appointments that they want, but it is quite difficult when a Prime Minister overrules HOLAC. It has looked at evidence and said, "This is not a suitable person". The Prime Minister of the moment can say, "Yes, they are".

You can get into how HOLAC is constituted; you can get into a number of areas there, but you could do some work with HOLAC to strengthen its role and look at some wider issues around appointments.

**Q90 Tom Randall:** Just on that, I was going to ask this at the end, but perhaps this is a good point to ask it. HOLAC has recently announced that it will be asking political parties to provide additional information and assurances about nominees to the House of Lords before carrying out vetting. Are the political leaders in the Lords happy with that sort of change?

**Baroness Smith of Basildon:** It is perfectly reasonable. If you get an OBE or an MBE, when it is announced it says the name and why they have got it. If someone is given a peerage, their name appears on a list from Downing Street, but there is no information. That adds to the opaqueness of it.

Political parties should do their own due diligence before putting names forward, but, if HOLAC were to say, "We want to look at these issues", that would not be an unhelpful way forward.

**Q91 Tom Randall:** You have touched on the power of the Prime Minister. The Prime Minister has substantial powers over the appointments process in terms of both the number of peerages created and who is nominated. Is it appropriate that those powers rest with the Prime Minister?

**Baroness Smith of Basildon:** You have to give the Prime Minister the right to appoint who they want. Where I have the biggest issues are, first, that there is no constraint on how many at all. David Cameron appointed more life peers than any other Prime Minister since 1945. He looks like an amateur, if you look at the appointments that have been made subsequently. The number of appointments has galloped along.

As I said, we have more than 100 fewer than the Conservatives. Why in the last lists were there eight Conservative appointments and new Ministers coming in, and only four Labour peers? I could do with some refreshments to help populate committees and things. It is done on the basis of, "Will we get our legislation through?" If the Government feel they are losing votes, they think, "We have to put more peers in the House of Lords so we can win a vote". It does not work that way. If that were the case, we would not have had the defeats that we had when so many Conservative peers did not vote on particular issues.

I would not completely fetter the Prime Minister, but complete freedom to do what you want does not get the best out of the House of Lords at all.



**Earl of Kinnoull:** In no other Western liberal democracy is there an example of such a power. It is a very substantial power indeed. I do not feel comfortable with the size of that power. I described it as an unfairness earlier on. I feel it needs some work to reduce it.

Equally, I said that the Prime Minister or the Government have three weapons with which to control the Lords. It must not be under-weaponised because the elected Government have to be able to get their legislation through.

**Baroness Smith of Basildon:** Just to add to that, Prime Ministers should not be appointing non-aligned or Cross-Bench peers unless they can make a strong justification for doing so. There may be cases where they want to, but you have to give a proper justification for it.

Q92 **Tom Randall:** Just finally from me, Baroness Smith, in your answer you touched on the fact that you are open-minded about putting HOLAC on a statutory footing. Do you have any views on the basis on which HOLAC should be founded, Lord Kinnoull?

**Earl of Kinnoull:** I am not attracted by trying to put it on a statutory basis. The trouble that I see with doing that, quite apart from the fact that it will take a very long time to debate exactly what it looks like, is that HOLAC would likely become extremely powerful. You then have the question of who is going to look at HOLAC and who is going to hold it to account.

I would prefer to have HOLAC beefed up but in some more formal way that stops short of a statutory basis. It occurred to me that one such way might be to have a resolution of both Houses or something setting out again HOLAC's duties in life. HOLAC was born in 2000. It is high time for a bit of a rethink, although I believe it has performed its two functions very well.

Q93 **Ronnie Cowan:** If we are going to reform HOLAC, should it be involved in the appointment of peers by the Prime Minister at any level whatsoever? The stats tell us that one in five peers appointed in the last 10 years have donated to political parties. That is 68 out of 284. In total, they have donated over £58 million. There are questions there. Are people buying themselves a position in the House of Lords? Is that a situation where HOLAC would want to get involved as part of a vetting process?

**Earl of Kinnoull:** I am not a political party so I am not in receipt of any of that money. I could not really comment.

Q94 **Ronnie Cowan:** You said you wanted to reform HOLAC. I was just asking whether this is a role for HOLAC.

**Earl of Kinnoull:** HOLAC is looking at propriety already. If someone has donated money, I would have thought that is something that needs to be—





Q95 **Ronnie Cowan:** Would you like to give HOLAC the teeth to say to any Prime Minister of any political party, “You cannot appoint that person because that person has donated £20 million”—or £5 million or £10 million, whatever the donation would be—“to your party”?

**Earl of Kinnoull:** As I said, these are matters for my beefed-up HOLAC. What you do with HOLAC from here is still being debated, but I would like it to have expanded powers. I would like it to look at suitability for new peers—I know that is possibly a minority view—which it does not do at the moment. I would like it to be on a basis that is a step short of statutory but has a fresh layer of formality to it.

**Chair:** I understand that we are expecting votes in the Lords very shortly so we need to wind things up.

**Baroness Smith of Basildon:** Being a donor should not be a qualification for membership in the House of Lords, but I would make a distinction. There are people who are Members who have put into the raffle, or have given £10 a month or £100. I am very relaxed about those people. When you are talking about the big money donors, that is not a qualification for membership, no.

**Ronnie Cowan:** Should HOLAC’s position—

**Baroness Smith of Basildon:** Whether it is HOLAC or the leaders of the political parties I do not know. It should not happen. HOLAC already asks for information on donors. I do not know—I do not know enough about this; that is partly why I am hesitating—whether it feeds back to say, “This person is unsuitable”. If someone is a significant donor, it should be saying to the nominating party that that is not suitable.

They might have other qualifications. If somebody has done a fantastic job, is a philanthropist and has qualifications, that can be useful. If the reason they are being put into the House of Lords is that they are a donor, it is just unacceptable.

Q96 **Chair:** You would expect that because it is part of HOLAC’s role, but it necessarily happens in a discreet way.

**Baroness Smith of Basildon:** They have to declare it.

**Chair:** Yes, exactly.

Q97 **John Stevenson:** On HOLAC, is there a danger that we perpetuate an elite by the appointment process?

**Earl of Kinnoull:** Clearly, that would be a danger. If HOLAC got it wrong, it would be doing that. If you have some knowledge of the types of people within the pool of potential talent that HOLAC has, it is terrific. It is very diverse indeed. HOLAC is only trying to put people into the Cross Bench. From the narrow issue of HOLAC’s role in providing 70 Cross-Bench peers in its 24 years, it is alert to that issue.



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Q98 **John Stevenson:** If a GP and an eminent surgeon both wanted to be a peer, would HOLAC be more likely to go with the eminent surgeon than the GP?

**Earl of Kinnoull:** I do not know whether that is true. I have no idea. I believe HOLAC is alert to such potential problems.

Q99 **Lloyd Russell-Moyle:** Baroness Smith talked about not wanting to fetter the power of the Prime Minister. Lord Kinnoull, you have talked about needing to do that.

**Baroness Smith of Basildon:** "Overly fetter", I said.

Q100 **Lloyd Russell-Moyle:** Lord Kinnoull, you talked about needing to reform that. The Prime Minister is using prerogative powers to do this. Many other appointments need to be passed by the House of Commons. Sometimes those appointments are nodded through in the House of Commons. When they are controversial—say HOLAC advice had not been followed—that allows the Commons, which is fundamentally giving the majority to the Prime Minister, to put the brakes on or at least to raise concerns.

Is there an argument for resolutions of appointment to the House of Lords—this would also mean that it is clearly subordinate to the House of Commons—to be approved by the House of Commons en bloc, like we do with other appointments? Would that be too much of a fettering of the Prime Minister's prerogative, bearing in mind that they still have the majority in the Commons in most cases?

**Earl of Kinnoull:** Is that a question for me or the Prime Minister?

Q101 **Lloyd Russell-Moyle:** Would that be a good compromise to provide a check against the Prime Minister's power but not remove their power completely?

**Baroness Smith of Basildon:** You would do away with HOLAC and have a House of Commons committee instead.

Q102 **Lloyd Russell-Moyle:** You can still have HOLAC. Where the Prime Minister appoints, once the HOLAC process is done, it then needs to be approved by a resolution of the Commons, just like when the commissioners are appointed for regulatory bodies. They need to be approved by a resolution of the Commons. A resolution of the Commons could say, "You ignored HOLAC so we are not going to grant this resolution", for example.

**Earl of Kinnoull:** In trying to find the balance between what Angela was saying about the necessity of the Prime Minister being able to retain the weapon I was describing and the desire of the House to go Burns, as it were, if you introduce a whole procedure that could throw up some difficulties and things, that might be something that a Prime Minister was not so keen on. For me, the bigger win is getting the size of the House



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down and beefing HOLAC up a bit. I do not think it would be possible to have that on top.

**Baroness Smith of Basildon:** It would be better to have a real robust HOLAC procedure where the Prime Minister cannot overrule HOLAC. If a Prime Minister wants to overrule HOLAC, they should have to be very clear.

I am deeply uncomfortable. I am trying to think of circumstances where it could be—

Q103 **Lloyd Russell-Moyle:** I was thinking about the circumstances where the Prime Minister would overrule HOLAC. The only way, surely, to do that is a statutory underpinning. Unless there is a statutory underpinning, the Prime Minister has the absolute prerogative to overrule HOLAC.

**Baroness Smith of Basildon:** Yes. You might be able to deal with it by transparency. I am unattracted to having to go through HOLAC and then go through another Commons or Lords hearing in a double process. Whether you would make the HOLAC process a bit more robust or transparent—

Q104 **Lloyd Russell-Moyle:** Would you allow HOLAC to call it in and to send it to someone else?

**Baroness Smith of Basildon:** It is worth looking at. At the first stage, it should send it back to the Prime Minister. If the Prime Minister thinks that is an appropriate appointment and wants to justify it, they would have to do so.

Q105 **Lloyd Russell-Moyle:** That communication needs to be in public.

**Baroness Smith of Basildon:** I am not sure about the whole publication. If you are going to reject somebody, there may be reasons why, legally, that could not be made completely public. I would like to see a little bit more transparency. I am trying to think of circumstances when it is appropriate for a Prime Minister to overrule HOLAC. I am struggling to find a circumstance where that would be appropriate.

Q106 **Chair:** It is worth noting that it has happened once for one individual.

**Baroness Smith of Basildon:** Possibly twice but definitely once, yes.

**Chair:** It all comes down to behaviour at the end of the day, does it not? Do any colleagues have any other questions? No. Are there any further points you would like to make?

**Baroness Smith of Basildon:** No. You have given us quite a run around the issues.

**Chair:** Thank you very much indeed. That has been incredibly useful for us. It does illustrate that, once you start grappling with these problems, the solutions are not straightforward. Thank you for your very thoughtful



contributions. If there is anything you want to follow up on in writing, by all means do so. We would be very keen to hear more from you.

We will now have a brief suspension as we move panels.

## Examination of witness

Witness: Lord True.

Q107 **Chair:** We now move on to the second panel of today's session where we are joined by the right hon. Lord True CBE, Lord Privy Seal and Leader of the House of Lords. Good afternoon, Lord True. Perhaps you could introduce yourself for the record.

**Lord True:** Yes, of course. My name is Nicholas True. As you say, I am Lord Privy Seal and Leader of the House of Lords.

The only thing I would say in preface is that it is an interesting role, both sides of which I take seriously. First, I am the leader of the Conservative Party in the House of Lords and I have a job to do for the Government. Secondly, I am Leader of the House of Lords and I have a job to do for the whole House. Sometimes that leads to different paths of reflection. I will be glad to assist you in whatever way I can.

Q108 **Chair:** Thank you very much indeed. The opening question is from me. Ministers have stated that House of Lords reform is not a priority in this Parliament. Perhaps you could tell us why not.

**Lord True:** We are getting quite late in this Parliament. That would be the preamble. I have spent a lot of my time campaigning in elections, paradoxically. It is not the greatest priority of the public to see radical constitutional change. I believe all political parties should be giving priority to address other questions. At the moment, the balance between the House of Lords and the House of Commons operates reasonably well. It is not a priority to change it.

Q109 **Chair:** We have had some pretty robust constitutional change in this Parliament. In the past the House of Lords has tended to be more of a focus for discussion, but we have moved on to other things. Is that a function of the fact that the Lords is broadly seen by the public as doing an acceptable job?

**Lord True:** It depends. Some opinion polls say it is and some say it is not. People like the House of Lords when it agrees with them and they do not like it when it disagrees with them. It can suddenly find itself the most heroic institution in the country. Usually it is the most ignored and sometimes it is the most reviled.

The important role of the Lords is to scrutinise Government, to improve or suggest improvements to legislation, and therefore to make law better for the public. Everything we do collectively as parliamentarians affects



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people in the streets. The Lords looks at every dot and comma of legislation. That is a critical role. It should stick to that central role and not become a great political sounding Chamber. There is another democratic House in Parliament for that.

Q110 **Chair:** One of the points that came out in the previous session—you were here for much of it—in respect of the role of the House of Lords and the Government’s attitude to it was that perhaps, on the one hand, Ministers in the House of Lords behaved as if it were a revising Chamber and tended to view it as being very deliberative, but at some points in exchanges with the Government, as the Executive, it was seen as an inconvenience.

You have alluded to that in your opening comments by saying that you have those two distinct roles. Perhaps “distinct” is not the right word, but you have those two complementary or perhaps competitive roles in terms of being the Leader of the House of Lords and the Conservative leader in the House of Lords.

**Lord True:** There is an institutional conflict. I have been in the House of Lords running the Opposition office for a long time under a Labour Government and I have been there under a Conservative Government. Members of Government in the House of Commons are always very impatient to get things done.

There was a famous old thing when the American constitution was formed. When Jefferson asked Washington, “Why are you creating a Senate?” he poured a cup of tea into a saucer and he said, “It is to cool it”. The House of Lords does have a cooling function on hasty things. It takes time.

Yes, the Executive get impatient. It sometimes takes weeks and months to get legislation through the House of Lords. I get people knocking on my door, as did my predecessor colleagues in Labour Governments. That is a good thing because no Government should have a majority in the House of Lords. That requires discussion, negotiation and listening.

It is sometimes a frustrating process for the Executive, but the Executive are not there to be pleased in everything. The Executive are there to be tested and challenged. That is what we are all here for as parliamentarians.

Q111 **Chair:** In that sense we are talking about good laws, are we not?

**Lord True:** Yes.

Q112 **Chair:** Do you find that you have to be robust in defence of the rights and privileges of the House of Lords in your dealings with Ministers?

**Lord True:** I would not put it that way. I have heard people in the past say that something should be done to the House of Lords. I have never found that problem of Executive intolerance: “Away with this Chamber”. The House of Commons could do that. It did it in 1649.



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Time is something that they get frustrated about, of course. We have conventions in the House. We have kept freer procedures in the House of Lords than the House of Commons now has. As leader—this Government's position is exactly the same as mine; we are absolutely congruent on this—the preservation of the free procedures of the House of Lords, which includes taking a reasonable amount of time to discuss legislation, is something to which we attach great importance. It is the best way, or a very good way, of avoiding bad and hasty law.

**Q113 John McDonnell:** There is quite a growing consensus about a bicameral process structure. Is it appropriate that the second Chamber is unelected and plays the role that it does in the legislative process?

**Lord True:** That is a matter for decision and discussion by the political parties collectively. The House of Commons is engaged in that. You were asking earlier, "What is the justification that hereditary peers are in the House of Lords at the moment?" The justification is that the House of Commons and the House of Lords assented to the 1999 Act, which put them there. I rather suspect, John, you probably voted for the Third Reading of that.

**John McDonnell:** What an accusation.

**Lord True:** I will now allow myself a personal view. I will give you this one, John. It will not necessarily please all my colleagues. If you were coming down from Mars and creating a new Parliament, in my judgment—I have said this in the Chamber over many years—the people should elect their Members. This is not the place where we find ourselves. We find ourselves in a parliamentary system that operates well, in my judgment. Any next step should be considered carefully and collectively.

**Q114 John McDonnell:** Your preference is for an elected Chamber.

**Lord True:** That is a personal view that I have expressed, yes. It is not the view of the Government.

**John McDonnell:** There is growing consensus.

**Q115 Mr Jones:** Lord True, you mentioned your dual role. You are the Leader of the Lords; you are also a Cabinet Minister and a Member of the Government. You therefore probably have a unique perspective. How do the Government view the relationship between the Lords and the Commons?

**Lord True:** There are niggles, as I was indicating in reply to the Chair, but most of my colleagues would see it as a very productive relationship. The kind of engagement that takes place on legislation in the House of Lords is something that, at the most senior level, my colleagues value and take very seriously.

Although the nominal number of defeats on Bills may be limited, though rather too high for my taste since my job is to get the stuff through, a lot



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of amendments are made. They are made by consent as a result of discussion, very often building on issues that have arisen in your House. The House of Lords has more time to get the precise word and details right. Overall, though, the Government would consider it a very constructive relationship.

**Q116 Mr Jones:** Would you agree that there is a significant tension between the two Houses, which may have increased considerably over recent years?

**Lord True:** That is a slightly different question. There are aspects of conflict. Here is some gentle advice that I would give to the House as Leader as well as rather more firm advice that I would give to it as the leader of the Conservative Party. The House of Lords, particularly the unelected Members—they are all unelected, but I mean the people who do not represent any political party—should be very careful in how far it takes its challenge to the House of Commons, however controversial the legislation.

On the last night of the Rwanda Bill I did say that, particularly in the case of Cross-Benchers, if I may say so, taking things back to the House of Commons three or four times after the elected House has made itself clear is not a place that is wise for an unelected House to go in the long term.

I note that in the ping-pong stage of the Rwanda Bill, for example, 11 Cross-Bench peers who had taken no part at all in the passage of the Bill, who had not spoken or voted, came down and voted against what the House of Commons had sent back to the House of Lords. That is slightly difficult territory. I am not making that charge particularly against Cross-Benchers.

I believe we need to reassert, reagree, and re-understand the conventions that apply between the House of Commons and the House of Lords. The fundamental convention is that the Government of the day with a mandate get the King's business in reasonable time.

There are points of conflict that break out and have done so under successive Governments. It is certainly true that the House of Lords has become more ready to go into ping-pong both quantitatively, in the number of times, and in length, with three or four iterations, than was the case 10 or 15 years ago.

**Q117 Mr Jones:** What is the cause of that?

**Lord True:** It is hard to say. Of course, my opponents would say this was uniquely terrible Government legislation. I would say it was a failure to understand the wisdom of that legislation.

In a strange sort of way—I do not like to say harsh things about the House of Lords—the House of Lords has become more confident, which is a good thing in many ways. I remember when I first went there. I do not



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want to worry John by saying that I want to hark back to that, but the hereditary-dominated House knew its limits. Apart from the famous case in the early 1990s, it would generally fold its cards.

This was something that was discussed at the time after the reforms of 1999, which I remember very well. Feeling more confident in itself and sometimes a little bit more pleased with itself, the House of Lords has become slightly more assertive.

What has definitely become much more assertive is the Cross Bench element, again against the Government. Since 2017, 73% of the Cross-Benchers' 25,000 votes have been cast against the Government. That is a shift. There are reasons for that, but it is a fact that that is an element of it.

**Q118 Mr Jones:** You were here when the previous panel discussed the detailed scrutiny that the House of Lords applies to legislation. Have the Government become overly reliant on the Lords to carry out that sort of scrutiny?

**Lord True:** That is a very difficult thing. I did come in just at that point. I am sorry I arrived early. I did not want to inhibit anything. I was not quite sure what the timing was.

Lord Kinnoull said very tactfully that he did not want to imply any defect in the House of Commons. That is an absolutely fundamental principle that should be observed.

I will put it this way. If the House of Lords ceased to exist tomorrow, the House of Commons would have to find a mechanism better than now exists to do the role of scrutiny. It would not necessarily be the House of Lords as it currently exists.

There is an expectation: "We will clear that up in the second House". There is—it is happened under successive Governments—a lazy habit that happens, which I do not think is a good habit as a matter of fact, that things are added on to legislation in the second House, which the House of Commons only gets to see when it gets back there. The House of Lords has certainly become convenient, but I do not want to impute any fault to the House of Commons in saying that.

**Q119 Mr Jones:** Just to repeat the question, I am inferring from what you are saying that you think the Government have become overly reliant upon the Lords to carry out that scrutiny.

**Lord True:** No, the lawmaking system places a great strain on the technical expertise and time of the House of Lords. That is not just Government as the Executive. The system as a whole has come to depend tremendously on the very important revising role of the Lords, which it adopted by accident after stupidly challenging the House of Commons over the budget in Edwardian times.





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Q120 **Lloyd Russell-Moyle:** Lord True, you said we should reassert the precedents that existed and the understanding of the primacy of the House of Commons, et cetera. You used Rwanda as the example. I just wanted to be clear on what precedent existed that would have meant that the Lords would not have ping-ponged that.

**Lord True:** I mean practice. The Lords is a House of convention.

Q121 **Lloyd Russell-Moyle:** What convention existed on non-manifesto pledges? In fact, it goes against the manifesto of the Conservative Party. The manifesto of the Conservative Party said that it would continue to welcome asylum seekers and it would make sure they could be returned to their home countries when it was safe to do so. It said nothing about exporting people to other countries. It goes against the manifesto pledge.

How is it against convention that the House of Lords should hold out to the nth degree on an issue that the Government are breaking their own manifesto on?

**Lord True:** That is a slightly loaded way of putting it, if I may say so politely.

Q122 **Lloyd Russell-Moyle:** You used that example. If you used a different example, I would maybe not be so loaded.

**Lord True:** No, I used an example of something being sent back to the House of Commons three to four times. I happened to choose the Rwanda Bill. It is not the only one. You are absolutely right. Could I complete the answer, if I may?

You are right to say there is not any sort of convention on paper that says the House of Lords should not send something back more than once. The question is custom and practice over time. Custom and practice over time flows from the respect and understanding between the two Houses.

Fundamentally, the most important thing in the House of Lords, in terms of making the House of Lords function, is the understanding exemplified in the original Salisbury-Addison convention, which came into being at a time when Labour was outnumbered 10 to one. The purpose was to allow the Attlee Government to enable radical social change without challenge from the House of Lords. That convention was re-examined by the Cunningham committee in 2006.

Q123 **Lloyd Russell-Moyle:** It is not a convention that was really held in the last Labour Government. The banning of fox hunting was in Labour's policy position since 1910, but it was required to use the Parliament Act to force that through. The equalisation of homosexuality was in Labour's policy positions for 25 years, but it still required the Parliament Act to force it through.

When Labour is in, it seems to be fine for the Lords to fetter the will of Government, but suddenly Conservatives complain when even a meeker version of the Lords does its job. Does that not seem slightly hypocritical?



**Lord True:** No, it does not seem hypocritical at all. You misinterpret, if you think this should only apply to a Conservative Government. I was respectfully submitting to the Committee that it would be to the benefit of the House of Commons and the House of Lords if we reassessed the conventions. That is some of the useful work that your Committee may be looking at: the conventions and how they operate.

Q124 **Chair:** Can I perhaps put Lloyd's question slightly differently? We have seen over this period, the period that you have been in the House of Lords, an increasing amount of timetabling in the Commons. I wonder whether less deliberation taking place on the Floor of the House of Commons and whipped committees, where not all MPs are paying attention or scrutinising, have led to a greater burden on the House of Lords in terms of deliberation.

Is that leading to more ping-pong between the Commons and the Lords?  
Is the fault with the Commons more than the Lords?

**Lord True:** That may be so, but I am not going to comment on that. There is certainly a burden on the House of Lords. The two things are related, but there is a distinction.

It is very important that the Government should not override the protection of time, for example, or the usual intervals in the House of Lords. It is only a convention that time is given for the Opposition and all parties to assess legislation before each stage.

My submission is that, if we had a look at where we are on conventions overall, we could get an understanding between the two Houses, which would also be an understanding between the main Opposition party and the main Government party. The way the House of Lords operates has nothing to do with numbers, about which there has been a lot of discussion. The fundamental position is the convention between the two major parties that the King's Government generally is allowed to be carried on.

The hunting thing, for some people, was a conscience issue, but I do not really want to go back on that. I hear it is coming our way again, if you manage to persuade the electorate of your merits.

Q125 **Ronnie Cowan:** I want to repeat some of the previous questions on the number of Members in the House of Lords. Our predecessor committee, the Burns committee and the man on the street are all saying that the numbers are huge. A figure of 600 has been mooted. Do the Government agree with that?

**Lord True:** The Government do not agree with that, no. The Government do not accept the limit on the size of the House. There are difficulties with a limit. The first and obvious one is that in an appointed House, which is a subject that in the future will have to be debated but is not on the Floor at the moment, if you had a limit on the size of the House, the House



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could not be coerced except through the Parliament Act, which is a great blunderbuss instrument.

As Lord Kinnoull was saying, you would always have to have the safeguard of being able to increase the numbers over a limit. That was done in the early 18th century to get the treaty of Utrecht through. It was threatened on various occasions on the House of Lords by the House of Commons to get various pieces of legislation through.

As far as the numbers are concerned, I do not obsess over the numbers. We need to think about the balance. The balance in the House is not right at the moment. I have said that on the Floor so I am not saying anything my colleagues in Government would be surprised to hear.

The reality is that since the 1999 reform there have only ever been two votes in the House of Lords where over 600 have voted. We have just discussed the Rwanda Bill. We did not get above 500 voting on this most debated piece of legislation. You never need sharp elbows to get a seat in the House of Lords.

Q126 **Ronnie Cowan:** Excuse me, but is that not an argument for reducing the number in the first place? There are 200 who cannot even turn out for something like the Rwanda vote. What are those 200 doing?

**Lord True:** They have other roles that they fulfil. They may not be interested in that piece of legislation. The House of Lords—Lords do not like being described like this because many of them work full-time or more than full-time—is not a professional political House. There are people who take interest in certain pieces of legislation and not in others.

If it is going to be a professional political House, that would very much change the character of the House. There are people who say that it should be more like the House of Commons and that people should give an undertaking to be there every day. First, it would become more expensive. Secondly, it would become more like the House of Commons. The House of Lords, if it has any merit, should be different from the House of Commons. It should bring different perspectives and different approaches.

If it is not a full-time House of professional politicians, it has to be larger than the House of Commons in order to find people to fulfil the roles. I kid you not. Some parties find it difficult to stock committees in the House of Lords at the moment.

Q127 **Ronnie Cowan:** You would not consider any cap at all. I am pre-empting Lloyd, but we are looking at a Labour Government coming in. There is a potential that they can load any number of Labour peers in there. The fact is that there is no cap there whatsoever.

**Lord True:** The House of Lords is smaller than it was when the Burns committee reported, as a matter of fact. It was 823 when Burns reported and it is fewer now. It has an average age of 71, as we have heard,



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which imposes a natural cap. You are looking at the average age, but we tend to die out.

The problem with a formal cap is that, if the House of Lords suddenly turns rogue and says, “We are going to stop the House of Commons doing something”—you might not think that such a constitutional crisis would arise, but we have seen some funny things in recent years—it would not be a good place to go.

Before 1999 there were well over 1,000 Members of the House of Lords, but the effective number was much fewer. We should obsess a little bit less about the nominal numbers and concentrate a little bit more on the real numbers. The average number of Members voting in Divisions in 2023 was 353.

By the way, I would love to see some SNP peers in the House. We are waiting for them.

**Chair:** There we are. Stop complaining, Ronnie.

**Ronnie Cowan:** You do not join something that you do not agree with.

**Lord True:** I recognise that Scotland’s Parliament was always unicameral, but we would love to see some of you guys.

Q128 **Ronnie Cowan:** That is because the committee system works differently in the Scottish Parliament. What I am taking from your answer is that there is no chance of the Conservative Government or the incoming Labour Government agreeing on some sort of capping system.

**Lord True:** Not on a formal statutory cap, no, for the reasons I have given.

Q129 **Ronnie Cowan:** What about allocating appointments, then? Could there be some sort of agreement on allocating appointments?

**Lord True:** On allocating appointments, there has to be some understanding between the parties. The Labour Party has a case at the moment, which you have heard Angela put. We have 51 peers over 80, believe it or not. The Labour Party has 56 peers over 80. It is clear that there needs to be a restocking. Angela has made that point perfectly fairly.

Overall since the Burns committee, despite the apparent increases, the House is smaller. What has happened is that there are a lot more Conservatives. That is a point on which you can have very legitimate debate.

*Sitting suspended for a Division in the House.*

*On resuming—*

Q130 **Damien Moore:** Lord True, would you be in favour of a mandatory



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retirement age for members of the House of Lords?

**Lord True:** It is a very difficult one. If people are really obsessing about numbers—as I have indicated, I do not—clearly it would be a very quick and easy piece of legislation to impose a retirement age. There are about 130-odd people over 80 in there, for example. That would be rough, but, as I say, I do not obsess about the numbers.

The problem with a retirement age is, as others have said, that some people make an enormous contribution to the House. Angela mentioned Alf Dubs, who is an amazing active Member. I remember James Mackay on our benches, who was hugely respected into his 90s. It is not always the case. This is something that would need to be thought about very carefully. The House of Commons does not have such a rule.

If, in an emergency action, you wanted to reduce the numbers, it is something you could do. Personally, I would not be in a hurry to go there. It would have to be thrown in. If there were a general debate about what the House of Lords really should be like rather than a bit of ad hoc action, it clearly would have to be something that could be discussed.

Q131 **Damien Moore:** The other thing, as well as absolute numbers, is effectiveness and participation. That is not based on age. There might be quite a substantial group of peers from across the House of Lords who are very active into older age, whereas there are some who are not quite as old or who do not have quite as much life experience who do not turn up and participate as much, and are not part of the process as they maybe should be.

**Lord True:** That is true. Again, by its nature, it is very weird. Let us face it: the House of Lords is a very unusual survival, but most people judge it to be a survival with some great continuing use.

Participation does vary enormously. I was in the House yesterday. A former president of the Royal Society came down and asked a question. He is not there every day, but I would not expect him to be. It is difficult.

It is not like being in a Whip's Office. Of course, in the Whip's Office, we count the numbers of Conservative peers and we want them to be there, but overall it is slightly different from the House of Commons in that respect. We would go down a dangerous alley if we said that those who do not turn up very much do not necessarily contribute. You would need to look very carefully at the quality-quantity quotient again.

Q132 **Damien Moore:** What about the idea of setting a term limit for Members of the House of Lords? How do you feel about that?

**Lord True:** Equally, this is a thing that the Burns committee did talk about. Again, it raises the question of what it is, how long it should be, and how you position yourself in a career, particularly those who are political members of the House. It will always probably be the way of



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things that, if you have an appointments commission, it will tend to look at appointing more experienced people rather than taking a chance on a 200:1 outsider who is 23 years old.

Is it a place where, after you have had 15 years in politics as a spad, you do a spell in the House of Lords and then aspire to be in the House of Commons when you are 40? You would therefore reduce the House of Lords to a kind of anteroom. Is it a place you do not want to go to until you are sure of your retirement path and you do not go there until you are 55 or whatever?

There may be unintended consequences that one would have to think through. I would be out next year if there were a 15-year limit. My wife would be quite pleased about that; she might see a bit more of me. It has to be thought through.

It is an idea on the table, but this is one of the fundamental reasons why the Government say you should not do things piecemeal. You have to look at what sort of House of Lords we want to have. If the country in the 21st century wants to persist with an all-appointed House of Lords made up of people who are known by successive Prime Ministers and the unknown people who sit on the House of Lords Appointments Commission, that is all well and good. If that is the way that we want to go forward, if, in the 1999 parlance, that is the actual stage 2, some of the various ideas that you are throwing about would have to be put on the table and considered.

**Q133 Damien Moore:** We heard before about the 15 years. It was suggested that you could add an extra 10 years or whatever. It is making that equal to everyone that causes the problem. Those who come in, contribute and do all the right things would perhaps unfairly be thrown out at the same time as someone who has never turned up.

**Lord True:** It is the old "who decides?" thing. I do not want to upset members of the Garrick Club, which I have virtually never been to, but who decides who are the elect who stay on after 15 years?

It is an idea. I personally think it would be very difficult to implement and might have unintended consequences, but, if Parliament in the future decided that we wanted to deposit for the next century the second Chamber as an appointed House, clearly some of those things would have to be looked at.

**Q134 Lloyd Russell-Moyle:** The evidence received in this inquiry indicates there is pretty widespread support, including in the Lords itself, to abolish the elections of hereditary peers. I am not necessarily saying at this point that we should abolish the hereditary peers who are in situ, although that might be a personal preference, but the widespread support seems to be coming from people who are saying that we should just not have these by-elections anymore. Why are the Government dragging their heels on this?



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**Lord True:** Once you abolish the by-elections, whether you leave the deposit of hereditary peers there, which would cause far less turbulence in the House, you would throw out an enormous amount of experience. If you threw out all hereditary peers, you would be throwing out former leaders and the guy who has just been in.

We abolished the membership of the Irish peerage in the House of Lords in 1922. The last Member, Lord Kilmorey, died in 1961. It slowly went away. The ineluctable result of stopping the by-elections is that the hereditary peers, whose average age now is just under 70, would die out and you would be left with an all-appointed House by accident.

The rationale for what happened in 1999, which I was intimately involved with and which Derry Irvine described at the time as a compromise that did not please everybody, was that leaving the hereditary peers there was not something that the Labour Party would be able to endure forever and there would have to be an agreement on what stage 2 would be.

No one in 1999 envisaged that hereditary peers would be there after 2005. If you were to ask most hereditary peers, they would not fight to stay forever. It does pose the question of what follows. What follows, in terms of a House of Parliament with enormous power in our constitution, should be something that is decided.

That is the reason why the Government have held to the deal. The understanding that was made was that the 92 should stay there until such time as the two Houses of Parliament agreed on a permanent stage 2 reform of the House. That has not happened yet.

Q135 **Lloyd Russell-Moyle:** The reason is that they are irritant to cause further reform.

**Lord True:** The sand in the shoe, as Lord Salisbury said at the time, yes.

Q136 **Lloyd Russell-Moyle:** The constitutional settlement in this country has never been one of large revolutions; it has always been of incremental change. If there is clearly no agreement on incremental change to get rid of this particular irritant—there are still other irritants that exist, such as the Lords spiritual, et cetera—why can the Government not do something that the majority of the House of Lords wants?

**Lord True:** I will say two things. First, a lot is made of this motion when 191 people voted. I was present. It was a *nemine dissentiente*. It was a take note motion. They tell you it was unanimously agreed. It was not unanimously agreed. It was just that no vote was forced.

If we allow that fiction to continue, it is certainly true that the majority of the House of Lords would find it a convenience, for various reasons, if the by-elections did not continue, whether they find it an embarrassment or—

Q137 **Lloyd Russell-Moyle:** Apart from the Government wanting it to be an



irritant for future Labour Governments, why on earth would this Government not want to have a final settlement of no hereditary peers but an appointed House?

**Lord True:** We have had attempts over successive Governments. We had the attempt with the Wakeham commission; we had the attempt with the coalition to reform the House of Lords. The Government's view is that there should not be piecemeal reform and we should arrive, at a certain point, at an agreed end result.

**Lloyd Russell-Moyle:** That sounds very ambitious.

**Lord True:** If you are advocating from the point of view of the Labour Party that the end result in the 21st century is permanently an appointed House, that is fine, but advocate that. Do not say, "Let us get rid of these by-elections" to get an appointed House by stealth.

Q138 **Lloyd Russell-Moyle:** I am advocating a very British approach, which is incremental change. It might lead to abolition; it might not. It might lead to continuation; it might not. We should take each step at a time. It seems to me that the Conservative Party seems to be taking the very un-British approach that it wants everything or not.

We have the Lords spiritual. We have heard from a number of witnesses that there might even be an agreement from the Lords spiritual themselves that they could reduce their number. They very rarely attend in whole numbers anyway. Would the Government consider taking action to reduce or remove the Lords spiritual?

**Lord True:** No, that is not the Government's position.

**Lloyd Russell-Moyle:** Even if the Lords spiritual themselves would like it.

**Lord True:** I have sought to explain that the Government thinks that there should be at some point the overall consideration, not incremental reform.

So far as the presence of the bishops is concerned, that has implications for the role of the Church in society as a whole. The Government are not advocating change there at the moment. Since I am trying to help this Committee in its spirit of inquiry, it is certainly the case that when the Conservative Party, in a previous avatar, advocated an elected senate in 2000—an 80-20 senate with representatives from the regions—members of the Church came forward and said privately they would be ready to see their numbers reduced.

That is a historic comment. The position in 2024 would be entirely a matter for the church. It is not somewhere that the Government are planning to go.

Q139 **Chair:** Just following up on that, deciding to go to a wholly appointed Chamber is quite a big constitutional change, in fairness. I can





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understand why we are still hobbling on with the system of hereditaries. To turn that on its head, the discussion that we had in the previous session about the idea of having a partly elected, partly appointed or wholly elected second Chamber raises questions about a challenge to primacy of the House of Commons, if it is overly elected. To what extent have these questions been considered since the last time we looked at that under the coalition?

**Lord True:** There has been no appetite to look at that in recent years, frankly. Most major attempts to reform my House have perished in the House of Commons. The House of Commons, uniquely among Chambers in bicameral Parliaments across the world, does not seem to be very willing to tolerate the prospect of an elected Chamber down the corridor.

Having failed in the coalition years to make progress with the legislation—there were difficulties with timetabling that arose in the Commons—there has not been an appetite to go back there. If at some point in 2027 or 2028, whenever it might be, someone said, “We have to try again what was tried with the Wakeham commission and was tried in 2010; we have to have a look at this overall”, clearly one could go through those hoops all over again.

That is not somewhere that the Government have sought to go. The Government were scarred by having tried to introduce what they thought was a reform that had relatively wide consent. Back to your original question, spending hours and hours of legislative time trying to get through a major reform is not something that many Governments find congenial.

**Chair:** No, indeed.

Q140 **Tom Randall:** Lord True, when we had the first panel up, I put it to them that the Prime Minister has substantial powers over the appointment process in terms of both the number of peers created and the candidates nominated. Lord Kinnoull noted that there is no other western democracy where the head of Government has such wide power to appoint members of the legislature. Is it appropriate for such power to rest with the Prime Minister?

**Lord True:** It is effectively a prerogative power, is it not? Comparing with other legislatures is a slightly false comparison in a sense because there is no other legislature like this. If you have appointments and someone says, “True, you can go to the House of Lords,” someone should be accountable.

The great way of achieving accountability in our democratic system is in this great and I hope immortal House of Commons, where the public send their representatives and to which the Prime Minister is responsible.

A Prime Minister is a very public figure. Prime Ministers have damaged their reputation by misuse of patronage. The example of Lloyd George



always used to be quoted. There have been more recent Prime Ministers of different parties who get criticised for it. It is in the open.

The constitutionally correct principle, in my submission and in the Government's submission, is that the monarch's principal adviser must be the person who advises the monarch, who is the fount of all honour under our system, whom to appoint to a House of Parliament. The Prime Minister, as the King's principal adviser, is the fulcrum point of that and the point of accountability.

**Q141 Tom Randall:** There is a House of Lords Appointments Commission, but there are different appointments processes for non-party political peers nominated by HOLAC than for peers appointed by party leaders. Is it right that there is such a distinction?

**Lord True:** The creation of HOLAC was an attempt to bring some deliberative independent role into the appointing of some though not all Cross-Benchers. There are still Cross-Benchers who are appointed on Prime Ministerial advice only.

HOLAC in general does its work extremely well. The problem with some of the propositions for a statutory HOLAC with perhaps broader powers, indeed intruding beyond propriety into political appointments, goes back to the problem of accountability and transparency. One criticism of the Prime Ministerial exercise of patronage is that it is not transparent enough, but the HOLAC process is not very transparent either.

I did make a rather impish speech in the Lords a few months ago about this to the people who were saying they wanted it to be statutory. It is something that we have to consider, but I do not favour it myself and the Government do not believe it is the right path. At least you know who Rishi Sunak is. Name me one of the members of the appointments commission. I could do it, but could the person in the Dog and Duck? Yet these are the people who are appointing people who can make their laws and change their lives.

It works well. It was regrettable that the Government took as much time as they did to replace an independent member. I apologise for that. They are recruiting two more. The role of HOLAC is an important one and we should support it.

**Q142 Tom Randall:** My next question was going to be whether the Government have confidence in HOLAC carrying out its role. I presume from that answer that the answer is yes.

**Lord True:** Generally, we do, yes.

**Q143 Tom Randall:** There is one final question from me. HOLAC has recently announced that it will be asking political parties to provide additional information and assurances about their nominees to the House of Lords before carrying out vetting. Are the Government happy to comply with those changes?



**Lord True:** In a sense, it is a matter for HOLAC to ask for the information it wants. There are issues about the information that can be made available to HOLAC that have caused some issues in the past relating to data protection and so on. That is not in relation to what might be said by political parties.

It is reasonable—I may be annoying the chairman of the Conservative Party and whoever the counterpart in the Labour Party is—that HOLAC should seek information about individuals. It has a role in relation to propriety. If it thinks there is any issue of propriety, we should assist it, yes. That is a personal view. If you had the chief executives of various parties, they may say that the Leader of the House of Lords misspoke. I would be advised on the matter.

Q144 **Chair:** Just continuing on HOLAC, as you have explained, ultimately the Prime Minister is the person who submits the names to the monarch and then peerages are approved or not. We know HOLAC has advised on the resignation honours of the two previous Prime Ministers and the conclusions that it drew.

In a previous hearing that we had with HOLAC, there was some discussion about the recommendations that had not been followed, or one particular one, and about whether HOLAC would be free to proffer advice to the Prime Minister if there were a presumption that it would not be approved. Certainly another nominee may have been subject to that.

There is nothing in statute that obliges a Prime Minister to. Clearly, it is transparent when the Prime Minister has not accepted its recommendations and the public can form a judgment. Is that enough?

**Lord True:** It is certainly important. Let us name names. A lot of people keep going on about my noble friend Lord Cruddas, who is the case in point. He takes a lot of incoming and he is not necessarily popular with people around the show because he is quite an active tweeter and so on and so forth. He is a very active and supportive Member of the House of Lords. In that particular case, the then Prime Minister took a view. The Government were transparent at the time, as you say, Chair, and published the Prime Minister's letter to the HOLAC chair.

These would be rare occasions. Any Prime Minister should consider HOLAC advice very carefully, but ultimately, repeating what I said, the Prime Minister is democratically accountable.

Turning it on its head, we have heard that the Labour Party wishes to restock its Benches. Say there were a change of Government, which I do not anticipate and I am fighting night and day to prevent, and the Labour Prime Minister said, "We have to have X number of people" and HOLAC said, "You cannot have A, B and C". This is a very difficult place to go to. Who is HOLAC accountable to? The new Prime Minister has just been elected by the British people. It can give advice. You should have that relatively transparent dialogue, but ultimately it should stay with the Prime Minister.



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Q145 **Chair:** Does anyone have any final questions? No. Thank you very much, Lord True. If there is anything else you would like to share with us on reflection, please do put it in writing.

**Lord True:** I have probably said far too much and I will be told off by my officials.

**Chair:** That makes you a very good witness for us.

**Lord True:** The balance between the Houses is a really important question. There is only one thing I would say finally, to conclude what I was saying when I was interrupted and went off. In my submission, the conventions are more important than the numbers, in a way.

There is a very great convention, which is the respect and understanding between the two political parties that can propose and block, which is the main Opposition party, whichever it is, and the main Government party. We have huge numbers in the House of Lords, but we have lost 73% of the Divisions in this session. We stopped losing them when the Labour Party decided that it was probably time to let the legislation go through. It is ultimately on that conventional understanding that the House must operate.

Anyway, that may seem odd to you, but we are a funny old lot. Thank you. It is a great honour to be down in the democratic House. I have fought enough elections to know how tough it is.

**Chair:** Thank you.