

Public Administration and Constitutional Affairs Committee

Oral evidence: [An Effective Second Chamber? The Size and Composition of the House of Lords](#), HC 811

Tuesday 31 January 2017

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Members present: Bernard Jenkin (Chair); Paul Flynn; Marcus Fysh; Mrs Cheryl Gillan; Kelvin Hopkins; Dr Dan Poulter; Mr Andrew Turner.

Questions 1 - 93

Witnesses

I: Baroness D'Souza, former Lord Speaker, and Baroness Hayman, former Lord Speaker.

II: Lord Norton of Louth and Lord Steel of Aikwood.

Examination of witnesses

Witnesses: Baroness D'Souza and Baroness Hayman.

Q1 **Chair:** May I welcome our first two witnesses to this inquiry about the future of the House of Lords, and could I invite each of our witnesses to identify themselves for the record, please?

Baroness Hayman: Helene Hayman. I was the first elected Lord Speaker of the House of Lords.

Baroness D'Souza: Frances D'Souza. I followed on as Lord Speaker from Baroness Hayman.

Q2 **Chair:** We are very fortunate to have two such distinguished witnesses. We will ask short and crisp questions and if we can keep our answers quite short as well, that would be very helpful, or I might pull people up.

First, Lords reform is repeatedly being considered and attempted by successive Governments. What aspects of the House of Lords work well and what specific aspects require reform?



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Baroness Hayman: Shall I start?

Chair: Baroness Hayman.

Baroness Hayman: Thank you. I think most commentators would say that the detailed scrutiny of legislation, line by line, works well in the House of Lords and that the Lords has complemented the work of the Commons, particularly since the increased use of timetabling in the Commons and the fact that much legislation comes to us without having had detailed scrutiny. That complementarity works well.

I also think that the joint role in holding Government to account in slightly different ways—Select Committees working on different bases, but the questioning, the debates, the general calling Ministers to account—is done well in the Lords, as it is done well in the Commons.

I do not think that together as a Parliament our scrutiny of secondary legislation is as good as it could be. That needs to be improved and I think doing that should be a joint enterprise and that it may be brought into relief in the weeks, months and years to come.

Baroness D'Souza: I would simply add that there is a widespread recognition in the House of Lords that the House of Commons is the prime House and its will should be observed. There is quite a lot of restraint, although it may not always seem like that, on the part of lords when they are voting against Government legislation because the responsible opposition feels very strongly that we should not thwart the will of the elected House.

The other area that I would pick up on very briefly would be some of the post-legislative scrutiny that the House of Lords does, which I think has been quite useful. I think there is room for greater pre-legislative scrutiny, which would immeasurably ease the work of the House of Lords and possibly also the House of Commons.

You also asked what needs reform. Clearly, what we are at the moment deeply concerned about is the size of the House and the size of House for a number of reasons, first because it interferes with the proper execution of our duties; it limits very often the time available for questions; it introduces a lot of time restraint, which means that the Government cannot often, or perhaps as well, be held to account. What tends to happen in debates is that individuals who are speaking are very reluctant to take interventions because of the time limit, and what happens is that people are standing up and giving a sermon or a lecture, rather than there being a debate.

The other area that perhaps concerns us is the public perception of the size of the House, which gives rise to derision and distaste. The way in which people arrive at the House also gives rise to distaste. I feel very strongly that there is an undue burden on the taxpayer because of the size of the House, which I think time and again is demonstrated by the



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fact that it often is not very full, that it can very easily do its business with far fewer numbers in the House.

Q3 Chair: Very helpful comprehensive answers.

Lords reform has previously been secured by relatively small incremental steps, often implementing changes that have been called for over a long period of time and become a matter of consensus. We are trying to focus in this inquiry on what the next most obvious incremental steps for reform should be. What do you think they are?

Baroness Hayman: I welcome the end of eliding substituting an elected second chamber for the word "reform" because I do not think they are by any means the same thing. I consider myself a House of Lords reformer, although for reasons that you do not want to go into, Mr Chairman, I do not believe in an elected House. If I answer your direct question, the most important immediate reform to me is to put a cap on the size of the House, because if you put a cap on the size of the House you then have to deal with both reducing the numbers we have now and, what is an obstacle to doing that, reducing the flow of new members coming in. I do not believe you can do the one successfully without the other. For me, reducing the size of the House by having an overall cap on numbers is the most important thing because that implies—I am sure we will come on to this—and involves reducing the patronage and prerogative powers of the Prime Minister of the day and because—picking up on what Lady D'Souza said—I do think the reputational risk to the House, not only of size but of the method of entry of the political peers, is a serious issue. I also believe that increasing the role, responsibilities and transparency of the workings of the House of Lords Appointments Commission is important as a next step.

Chair: You have covered quite a broad waterfront. Baroness D'Souza?

Baroness D'Souza: Of course, I would agree with that.

You asked about incremental steps. There is evidence to show that incremental steps go down rather better than any sort of radical reform, which tends to get stymied one way or another. What we are talking about now in the House of Lords is this question of arriving at a resolution of the House, which demonstrates a degree of consensus in the House. Obviously, it is not binding, but the hope and the expectation is that if there is a resolution that has the support of the majority of the House then in due course it will become much more an accepted way of behaving, a sort of convention, which can then perhaps become more amenable to legislation of one sort or another. It seems to me that asking the House of Lords itself to say that it should be no larger than the House of Commons in its changed state is quite a modest request and it certainly is incremental, even though it has huge implications in terms of the royal prerogative and the power of patronage, but it is a modest, one-line proposal that the House should be no larger than the House of Commons.



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- Q4 **Paul Flynn:** Would you agree that there is an overarching priority for all politicians, in both Houses now, and that is the need to restore the reputation of politics because the alternative is someone like Trump and the people who might be getting into power in the rest of Europe and that we have to work on that to make sure that politicians cannot continue to be devalued, as your House has been for a long time, and that the public will lose faith? Isn't that more important than probably any other issue?

Baroness D'Souza: I think the two necessarily go together. The size of the House, as I said earlier, creates great derision and adverse comment, satire, from the outside world. It also, I think, reduces any confidence that the public might have in the House of Lords, which I believe does have quite a valuable function. Reducing the size—having wholesale political commitment to reducing the size of the House with very clear steps, but tiny steps forward—is something that would perhaps bolster some of the confidence that perhaps the House previously had. This question of confidence in politicians is an important one and one of the things that has been most detrimental has been the kinds of people that are being put into the House—this idea that people can come into the House who perhaps for a year or two are not able to contribute but are there for reasons of political patronage.

- Q5 **Paul Flynn:** I think there was a headline after David Cameron's list was appointed, and it says, "Meet the new Lords; expenses swindlers, millionaires, donors and lobbyists". While that is an accurate description of those political appointments—

Baroness D'Souza: Some of them.

Paul Flynn: Indeed, yes—it is a grossly unfair picture of the Lords as a whole, so how do we get there? The debate you had I thought was very encouraging—the need for reform and the acceptance of reform, apart from half a dozen members there—but how do we get to this reduced House of Lords? Is the appetite there to reform it now?

Baroness D'Souza: I am going to hand over to Lady Hayman, but it seems to me that what you are talking about is having some agreed mechanism for deciding on who should be appointed to the House and that necessarily brings in HOLAC, the independent House of Lords Appointments Commission, which some people feel should have a greater role.

Baroness Hayman: Yes, the sorts of criticisms of Members that you have just made, in the current system can be made against any of us because of the lack of transparency and of criteria against which people are appointed, so it can be made fairly or unfairly. Lady D'Souza and I each had five years of representing the House as its ambassador. Both of us, I think, came to the conclusion that before you could get on to a proper discussion about the role of the House and the value of what it did, you had to get through a lot of the cynicism and contempt for politics that you have described around the size of the House and the way in



which appointments were made. That is why, in terms of your original question about restoring some sort of trust and confidence in Parliament, I put so much stock on having the Appointments Commission being very transparent about the criteria against which it judges people and having the ability to apply those criteria to political appointments, which it does not have at the moment.

- Q6 **Paul Flynn:** There seemed to be one practical suggestion that came out of the debate, which was a valuable one, about the retirement of lords. It was an entirely justifiable suggestion; there should not be an arbitrary age because some people are too old at 42 and some people are still approaching the best of life at the age of 80. I am stating an interest in this, I am afraid, but there did seem to be a practical suggestion that there should possibly be an age at which most people retire, but there should be an appeal, or something that should be subjected to the judgment of the colleagues of the person and that someone who was over the age could get a dispensation to continue, if it was the will of the House of Lords.

Baroness D'Souza: When you say the will of the House of Lords, it is question of how that should be expressed. One point I would like to add to what Lady Hayman said is that in my outreach role during my time as Lord Speaker and acting as ambassador, I found it increasingly difficult to defend the House of Lords because of the adverse comment, indeed because of its size and because of some of the people that had been appointed.

This question of having some established criteria and having perhaps the House of Lords Appointments Commission apply those is quite a tricky issue because at present what the House of Lords Appointments Commission does is do a thorough examination of those it appoints as independents, which is about two a year, and it simply looks at propriety when looking at political appointees. If they were to undertake the role of looking in some depth at people's suitability for the House—the names put forward by Prime Ministers or leaders of the Opposition party—they would need to be much larger, much better resourced, and it would take much longer.

- Q7 **Paul Flynn:** What do you think is the best thing one could do to restore respect for the House of Lords? Would it be to get rid of the pantomime aspects, the ritual humiliation of signing in, where they are dressed up in ermine, and the question of the obviously potentially corrupting political awards, which are discredited, and a renaming of Members, because there does seem to be an attraction in people wanting to be called lords and ladies and baronesses, rather than senators, and so on? If we are going to have a full-scale reform—and I think our enthusiasm for democratic elections has been diminished recently by Brexit and Trump—I think it might be quite possible that it would be acceptable to go along the road of appointments by a committee that we can trust, as we can trust the Commission as it is now, for the main appointments. Which is



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the best thing we can do to get it going? When can we get started?

Baroness D'Souza: That is not an incremental move. That is pretty major, I think, what you are suggesting, to make people into senators. That would take a long time.

Baroness Hayman: I am not sure that everyone who puts on their ermine when they have their introduction does consider it ritual humiliation; perhaps they should.

I would love to get rid of the robes; I could go into all sorts of ways in which I would do state opening differently and all those things, but they are not the most important things here. One always has a balance between preserving the historical tradition and accessibility and reality; I think we can work our way through that and I would love to see a changed introduction system. I also would personally favour separating completely a peerage, as the summit of the honours system, and membership of the second Chamber as a parliamentarian. Those are things that it would be important to do. I think you would do that once you had settled some of these major issues that I know for some people, and I thought for yourself, still remained about whether you had elections or not. I go back to a situation, which I think your inquiry had posited, in which the role of the House remains pretty much the same and you are looking for practical things, not simple or uncomplicated things, to do, which are to restore some of the trust and make us function more effectively as a complementary Chamber to the Commons.

Q8 **Paul Flynn:** A final question, if I may. Much of the debate was taken up by the difficulty of starting any machinery for reform and the important point was made that the only reform that is taking place in the constitution that is going to happen soon is the reduction in the number of MPs, which has a political advantage for the Government. There are consequences of that, with the sizes of the two Chambers, with the effect of the fewer MPs from Wales we would have should there be more Members of the Assembly. Therefore, there does need to be an overall reform that is balanced because of the repercussions that changes in one place will have in the others. What do we do? Is it a constitutional convention? Is it, as was suggested, that some kind of Select Committee of both Houses should consider it? What is the best mechanism for going forward with reform?

Baroness D'Souza: One of the mechanisms is this; there is this Committee and, as you know, there is another Committee working on this in the Lords.

The essential thing is to deal with size. That is the essential thing. The next thing is composition. The two are together.

The third thing is to be able to expose, or explain to a wider public, the role of the House of Lords, because I think when people understand what is entailed in scrutiny and revision there is a feeling that this is a useful



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thing to do and that the House of Lords, if it were better constituted, would be a useful body to do it, though I do agree that there should be a separation between an honour and an appointment as a working peer.

Q9 Chair: On the question of the reduction in the size of the House of Commons, if the impetus is to try to fix the size of the House of Lords with reference to the size of the House of Commons, how popular in the House of Lords is the reduction in the House of Commons going to be?

Baroness Hayman: I do not think that will be any sort of obstacle because the split, such as there is, within the House of Lords, is not around 50 or so between 600 and 650; it is about whether you do it at all. Presentationally, it is very potent to say that it is ridiculous to have a House of Lords that does not have constituency responsibilities and that is larger than the House of Commons, but I think you should base the size of the House of Lords on the job it has to do and the number of people it needs to fulfil that job successfully. You should do it about form following function rather than simply about a comparator with the House of Commons.

Q10 Chair: Do you think the House of Lords is going to vote for the reduction if the House of Commons votes for it?

Baroness Hayman: You are asking us to speculate.

Baroness D'Souza: I do not think the Lords would see their role as attempting to thwart the Commons on this particular issue. It is after all to do very much with your House.

Baroness Hayman: We did have very long debates on it last time, I seem to remember.

Q11 Paul Flynn: The mood in your House on 5 December was to not have a piecemeal reform, but to have an overall one. A number of the Lords mentioned that; that seems to be the mood at the moment.

Baroness D'Souza: That was a way of thwarting the incremental change that the majority of the lords want, to go back to this idea of wholesale reform rather than piecemeal; we know that really does not work, which is why I think we are all pretty wedded to the idea of incremental change.

Baroness Hayman: That is not the message I received from that debate. I thought there was a very clear message from that debate that the House of Lords recognised the problem of size and wanted to solve it.

Q12 Chair: Before we move to Mr Turner, do you see any other big obstacles to your proposed reform?

Baroness D'Souza: The power of patronage; the royal prerogative.

Baroness Hayman: It will not be easy to get the formula for who goes if we are talking about 250 people, or whatever, going from the House of Lords. It will not be easy. Age has its difficulties; time, length of service,



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has its difficulties; voting within party groups has its difficulties; trying to find some way of assessing contribution has its difficulties. However, if we do have to do it, we will do it and we will work our way through to finding the way to do it.

Chair: Very good. I see two hands up. Kelvin.

- Q13 **Kelvin Hopkins:** As an outsider in a sense, as a Member of the Commons, as a citizen, just getting rid of the bishops, getting rid of the hereditaries, that would be a start. Most ordinary people would say, "Why are the bishops there when we have a multi-faith society and a very high proportion, millions, of our citizens are not religious at all anymore?" yet we still have bishops in the House of Lords. It is a complete anachronism. Having hereditary peers, again is an anachronism, which most people cannot grasp. Would it not be simple to get rid of those two categories for a start?

Baroness D'Souza: I don't think it would be simple. The hereditary principle is one that certainly should be looked at and, indeed, as you know, there is a Private Member's Bill to try to do exactly that, to get rid of the principle while perhaps maintaining those hereditary peers who make very often extremely good contributions to the work of the House, allowing them to remain as life peers.

On the question of the bishops, again that is not simple because it goes right back into history. It may be that it would be a very sensible thing to limit the number and if indeed there were a limit to the number of people in the House of Lords, by whatever mechanism we arrive at, then I think that the bishops obviously would be affected by that and that would need negotiation, but to get rid of them wholesale, again that is not an incremental change; that is pretty radical.

Baroness Hayman: It also does not make a huge difference to the numbers. You have to pick your battles here. I do think, from informal conversations, that it would not be difficult to achieve. You could reduce the number of bishops in the House of Lords quite straightforwardly in line with the overall reduction.

As far as hereditary peers' by-elections, I have the scars on my back from a private Member's Bill trying to do that; you are into legislation. We may come in later, Chairman, about whether we need legislation or not.

- Q14 **Mr Turner:** You may well have answered this. What are your thoughts on the questions in the current Lord Speaker's Committee on the size of the Chamber? Do you have anything to add to that?

Baroness D'Souza: No, except that what one is really hoping is that they will come up with clear recommendations. It seems to me that the synergistic effect of this Committee and the current Lord Speaker's Committee could have quite a profound effect on the will of both Houses that there should be a reduction. So, a clear recommendation, which



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becomes a resolution, and then perhaps, in due course, bite-sized pieces of legislation, which may or may not be needed.

Baroness Hayman: I think they are going about it in absolutely the right way. We often talk about consensus. There is not going to be unanimity in any of this, and it is not going to be pain free or without controversy, but I do believe that by taking that sort of approach we can make progress on that Committee. I do believe, though, that it is very important for your own House to have some views about the overall principles and the main issues of size and reputation and how people get there as part of how Parliament as a whole is viewed by the public and part of how Parliament as a whole does its job vis-à-vis the executive and scrutinising legislation.

Q15 **Mr Turner:** It seems to me that the most glaring problem is how we make the Lords representative, whoever it is meant to represent, given that there are a certain number of Conservatives and a certain number of Labour Party, Scot Nats, who are not represented at all almost, and Liberals who are here in vast numbers. How do we adjust those, or do we have to? I think Lord Blencathra says it is not necessary to worry about the representation.

Baroness Hayman: I will take a deep breath. I do think it is necessary to worry about the representation in the sense of looking at what I believe has now been elevated into convention that the Government of the day should not have an overall political majority in the House of Lords. Its political majority is in the House of Commons, where the ultimate say comes from. All we can do is ask the House of Commons to think again, and in order to do that you cannot build in an overall political majority in the House of Lords. Therefore, thinking about that sort of proportionality is important.

The issue of representativeness goes beyond simply the political parties. There is certainly consensus in the Lords, and I think in lots of proposals for reform, that you should have a tranche of independent peers who are not party-politically affiliated; 20% is what is suggested. However, one of the things I have always valued about the Lords is that because it is not just another set of elected politicians the political nominees often come from backgrounds that have not involved standing for office or long-term, detailed commitment to the political parties. Of course they have a political allegiance, but in the old days you used to see Ruth Rendell and P. D. James on opposite sides, sitting as political peers, in the House of Lords, and one of the ways you, I think, enrich the Lords, and thereby enrich the function of Parliament, is by the people who come in through a party way being representative of wider strands of the community and that applies not only, obviously, to the Cross-Benchers, where it is very explicit.

Baroness D'Souza: I absolutely agree with that. Form must follow function and you do have to deal with the present composition for all kinds of reasons but there are certain criteria that should apply to



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whatever mechanism is eventually agreed on, which is that there should be clear transparency. There should obviously be a limit on size. There also must be a possibility for each of the groupings to be able to renew from time to time. You cannot just cap the size and say there is no possibility of renewal. Any mechanism for reducing the size of the House must take that into account.

What I would add to that, apart from what Lady Hayman says, is that representation is often in areas of expertise rather than perhaps the geographical or even ethnic. What I think the House of Lords Appointments Committee should certainly be doing is looking to see where the gaps in expertise are. For a long time, for instance, we did not have any expertise in the House on, let's say, the built environment, or on nursing policy. That is now being seen to by the House of Lords Appointments Committee appointing people with that kind of expertise. That is probably more important than the kind of representation I think you were referring to.

Q16 Mr Turner: The existence of life peers and, for that matter, a small number of hereditaries, requires them automatically to be in the House of Lords. You suggested, I think, that people would be made non-House-of-Lords lords as well as House-of-Lords lords.

Baroness Hayman: That was probably me. I was talking about the Hayman grand plan, not necessarily the immediate thing to do. We have non-House-of-Lords lords now; all the hereditary peers who were expelled in 1999 keep their titles and people who retire keep their titles, so we already have that split.

Q17 Marcus Fysh: I represent a constituency where there are three politically appointed lords who are very active in the House of Lords, which some of my constituents find quite confusing, shall we say. I would totally agree that size is the place to start, but you have elaborated on how the composition is very important and I think addressing the issues of patronage and the royal prerogative are critical within that, and the partiality of the process—the composition—that comes out of that is really important. Is it really possible for us to make an incremental step that is about size without dealing with the composition issues at the same time? You have said a little bit about the criteria of how to develop potential balance in the appointment of the inflow. Would you be able to say a little bit more about what those criteria should be to attempt to square the circle of where the Prime Minister might sit in trying to make sure that there is a balance that is suitable for the legislative progress of the work of Parliament?

Baroness D'Souza: It might in the short term require a self-denying ordinance on the part of the Prime Minister of the day not to appoint at the end of each Parliament. This whole question of the royal prerogative is a tricky one. It goes way back, and indeed almost 300 years ago, there was an attempt to limit the size of the House and therefore the patronage of the Prime Minister of the day, which did not work too well, and I have



no illusions that it would work well if it were to go to legislation. However, on a self-denying ordinance, one of the ways in which one can perhaps encourage that is by having this resolution, a widespread consensus, not only within the two Houses, perhaps even outside, a public consensus, that it is not a good thing to do, to keep packing the House.

However, I wonder whether you were talking about the kind of mechanisms that one might employ in order to arrive at this.

Q18 **Marcus Fysh:** Yes. It seems to me that in order to try to create a political balance or a balance within a cap, we would need potentially to look at, say, a by-election system, which exists throughout the House, not just on the hereditary side. That would be one way of the lords regulating their own ability to sit, potentially on different subject-matter areas.

Baroness D'Souza: There have been many formulae put forward. Again, I think it is going to be the job of perhaps the Lord Speaker's Committee, to look at those. It probably will be a combination of several different mechanisms, perhaps the introduction of a retirement age over a period of time, with certain exceptions, so it is not quite as fixed and there is a degree of flexibility; it might also be that those people who have opted for leave of absence are required to say that they will be coming back and they will contribute; it might be devising some kind of mechanism for rating the contribution. There are several peers who believe that voting is the only contribution they need to make, but in a working House, a great deal more is required. Again, political leaders of the groupings and the convenor of the Cross-Benchers are going to have to agree on a mechanism whereby they reduce their numbers by a certain percentage over a period of time, and that formula is very sensitive and very difficult.

It is suggested by Philip Norton and Lord Cormack's Committee that those who have not attended more than 25% in a given Parliament over roughly a year should be asked to retire. There are all kinds of things that could be put together and agreed.

Baroness Hayman: There are two separate issues. One is how you reduce the current numbers and there is going to be an element of rough justice on that because no formula is going to guarantee that one really good person does not get thrown out in this process. We need some sensitivity and must try to get the best combination, but we will reduce.

On your issue of three lords from your own constituency—I am sorry, I don't know where it is—going forward and looking at new appointments, this is where the criteria for the Appointments Commission becomes really important. How those criteria are set is really important. Someone was talking about a joint committee of both Houses looking at those criteria—geographical spread, spread of expertise, representation of different communities and gender balance. There would have to be a very wide consultation all those issues. There are issues, like disability, on which we do extremely well at the moment in being a representative



Chamber. How do you marry those issues in with the right of the political parties to nominate people who they would like to see in the House of Lords but ensure they are then scrutinised both for ability to contribute, suitability, in the way that they are not at the moment and for a sort of broader parameter? For example, we have no one from the north-east who is interested in the economy—a bad example—but we have an over-representation of the south-east. The policy of the Appointments Commission could do a great deal about those sorts of issues over time.

Baroness D'Souza: The Appointments Commission could very usefully, in the near future, draw up a comprehensive list of criteria, which could in turn inform the party leaders, the groupings, as to what the requirements are.

Chair: Thank you, Marcus. Unfortunately, you have to leave us. We understand that, but a very useful question.

- Q19 **Kelvin Hopkins:** I have said this before: isn't there a case for getting rid entirely of the Prime Minister's role in appointments and having some other mechanism, whatever it might be, to have people appointed, or elected, to the second Chamber? It may not be true of the Conservative Party, but it is certainly true of my party, that Prime Ministers in the past, or even leaders but certainly Prime Ministers, have dangled an appointment to the House of Lords in front of an MP with a safe seat so they can slot in a favourite. In one case, where this happened, a prospect of being in the House of Lords was dangled in front of an MP; he then stood down, the prime ministerial favourite was put in and then the Prime Minister did not appoint him to the House of Lords and he was very bitter about it. All of that is corrupting. It affects the way that Members of Parliament operate because they are looking at advancement to the House of Lords and a nice comfortable life. Isn't there a case for getting rid of prime ministerial patronage all together?

Baroness Hayman: Anyone can make a case for doing that, as they can make a case for an elected Chamber, which would get rid of patronage. I don't think that it is politically likely that this will happen, and therefore that is why I am interested in putting in the hurdle of the House of Lords Appointments Commission because the MP in your example would then know not to rely totally on the words of the Prime Minister because they have to go through the scrutiny within the Appointments Commission. That is, if you like, my compromise on this. Whether in 50 years' time we will see absolutely no prerogative, but the parties will still have to, if we have party representation in the House of Lords—and I think you should because we do do the B-movie politics, so we do need to have an Opposition and a Government for the scrutiny of legislation—there will always be party nominations going through to the House of Lords Appointments Commission. I don't think you could put on them the job of deciding who would be the best Conservative peer. I don't think that is realistic.



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Baroness D'Souza: I think the Canadian example—the recent reforms in the Canadian Senate—are really interesting. It has 338 MPs and 105 Senators, and they are increasingly appointed by an independent advisory board for Senate appointments, which recommends individuals to the Prime Minister—seven so far and a further 20 about to be appointed—only when a vacancy arises. The Prime Minister does not really have a prerogative as such. Individuals are recommended to him and he says yea or nay. There is a very strong feeling that the Senate should represent regional and minority interests, and, before our eyes, it is becoming a much less partisan Senate and much more independent. That seems to me rather a good thing.

Q20 **Kelvin Hopkins:** My party at the last election recommended a wholly elected Senate of the nations and regions. Wouldn't that be a good way forward?

Baroness D'Souza: Yes, but again that is not incremental. It may well be that we want to work towards that—that is a strategic vision—but we are talking about what is possible here and now and how we can move forward.

Q21 **Kelvin Hopkins:** With great respect, you are talking about very marginal changes, which would not satisfy public disquiet about our constitution. If you put before most people a wholly elected second Chamber, many would support that. What we have at the moment, very few would support. Some, like myself, would support a unicameral Parliament. When we had the straw votes in the previous Parliament—we had five or six votes—the first was about unicameralism and about half of all Labour Back-Benchers voted for unicameralism.

Baroness Hayman: There are tranches of people who support completely different models. I have my own model, which is probably different from everybody else's. If I may say so, none of us knows exactly what the public wants on this and none of us knows exactly what would restore confidence. We can do our best. I was always very taken by the statistic where they had two opinion polls; one said, "Do you believe that the House of Lords should be wholly elected?" and I think about 85% of people said, "Absolutely." Then they said, "Would you support a House of Lords that had independent Members who were not in thrall to party politics and brought their own expertise, having been very successful in other areas of life, and 85% of people said, "Yes." These are very simplistic questions put to people in opinion polls. I am not saying that you should not listen to what people are interested in, but I do think there has to be very in-depth exploration of what the issues and the advantages and disadvantages of different systems are, and I think we are a bit in the dark on that.

Q22 **Kelvin Hopkins:** One quick question and then I will finish. One idea that has been floated is that a second Chamber should not have any legislative power at all but should be simply advisory, full of wise people from all parts of our society who come up with wise words on all sorts of



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issues but not actually have any power.

Baroness Hayman: What is our legislative power at the moment?

Baroness D'Souza: Other than on secondary legislation.

Baroness Hayman: Our legislative power at the moment is to stop the House of Commons extending its own life if we don't agree that it is wartime or whatever. Beyond that, our legislative power is one of limited delay, a year's delay. That is not power. Power on amendments lies with the House of Commons and that is absolutely right and as it should be. Our role is advisory. Our role is to say we think you should have a second look at this, and that is why, back to the Government not having an overall majority, we can't have that role unless it is possible for the Government to be defeated in the House of Lords. But being defeated in the House of Lords does not mean something is finished for ever. It is just the ability to ask the Commons to think again before taking a final decision.

Baroness D'Souza: I am reminded of several debates in the House of Lords on this over many years but one peer saying, "If we completely lose the ability to say no then we might as well all go home." We say no, but you may say yes, and eventually the House of Commons must win. I wondered whether you were perhaps referring to secondary legislation and the great hoo-ha that occurred last year. It is too long and too complicated to go into, but basically the responsible Opposition in the House of Lords asked the Government to think again on the basis of new evidence and then the Government reacted to that.

Q23 **Mrs Gillan:** You both have very distinguished careers, and I think, Baroness Hayman, you were one of the youngest female MPs in the House of Commons.

Baroness Hayman: Not even female. I was the youngest MP in the House of Commons, but that was many decades ago.

Q24 **Mrs Gillan:** Baroness D'Souza came through the House of Lords Appointments Commission, I believe.

Baroness D'Souza: Yes.

Q25 **Mrs Gillan:** You have both had different routes in, and listening to the line of questioning, I have to ask you the elephant in the room: why do we need the House of Lords at all? If you think about it, we have devolved primary legislative powers to the devolved Administrations and they manage without a revising Chamber. Why do we need the House of Lords?

Baroness D'Souza: It is a very good question. It seems to me that there is perhaps an avalanche of legislation with which the House of Commons has to deal. There is a timetabling programme motion. It is inevitably the case that a great deal of legislation comes to the House of Lords, which has not been scrutinised. That happens. The House of Lords



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takes as long as it takes. It looks at that and I think that by the time a draft Bill leaves the House of Commons it is in a very different shape and form.

I am not necessarily saying that you need a House of Lords, but you need some kind of a scrutinising mechanism that is, with any luck, composed of people who have an expertise in an area that is increasingly technical—we are dealing with scientific methods in Bills; we are dealing with climate change—who know what they are talking about and can look critically and make recommendations and changes. I think that is a very valuable function. Whether it should be lords and ladies or whether it should be Senators is another question, but you need a scrutinising Chamber.

Baroness Hayman: I think second Chambers are for second thoughts. Although the devolved Administrations don't have second Chambers, if you look at most of the major industrialised countries throughout the world, they do have second chambers. They are very different. They tend to be the products of either political history or political geography, but they are there. I believe that having a second Chamber in the UK allows, first of all, the UK Parliament to have a richer process of scrutiny of the Executive than it would otherwise have, which is what Parliament's role is. I believe that in our particular circumstances, given the pressures and the way in which the House of Commons works—and it could change how it works—at the moment the line-by-line scrutiny of legislation needs to be done and it needs to be done elsewhere than the House of Commons, as well as in the House of Commons. I think it improves the quality of our governance.

Q26 **Mrs Gillan:** Thank you. I happen to agree with you but I thought it was good to have it on the record. Once you have asked the questions about what is the role of the House of Lords and you start to say the extent of its power is questionable, then you do have to justify why it is there in the first place.

The House of Lords Appointments Commission has played an interesting role since its inception. We have established with the other questioning that it is size but that has to be related to expertise and if we are going to have an incremental change we have to find a mechanism for reducing the number of current Members of the House of Lords. We are also going to have this problem about what mechanisms we use. Do you think the House of Lords Appointments Commission can play a role in the appointment of political peers, for example?

Baroness D'Souza: Yes, I think it could but, as I said earlier, if it were to undertake the kind of scrutiny of would be Members of the House of Lords that it does for the independents, the ones that it appoints on its own, it would have to be considerably larger and better resourced. It is one thing to be able to call up the tax office and the police and check on the propriety of an individual and whether they pay taxes in this country, which is what happens with the political nominees, but it is quite another



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thing to be able to go in some depth into their background and their career to see whether they are able to contribute in meaningful ways and suitability. I think it would be a good idea, but you would have to think quite a lot about how you would resource that.

Baroness Hayman: I also think that we have one task, as I said before, which is reducing the current numbers, and we have to reach some agreement about the proportionate reduction in the groups within the House to do that that does not go coach and horses. For example, if you simply went on age, you would have a very disproportionate reduction in different groups in the House. We have to find some sort of accommodation on that, but going forward there is also the issue of what is the proportion and numbers of political peers who go in after a general election. I think the House of Lords Appointments Commission should have a role there in looking at the numbers and then going on to the suitability of candidates.

Q27 **Mrs Gillan:** Then how do you deal with the problem that the armed services have when they are instructed by the MoD to stop recruitment? What you then have is that hole moving through. If you reduce the size and have to stop recruitment, you are going to have a number of years where you are not adding people in and you have this great vacuum there before the next lot come in. How do you deal with that?

Baroness Hayman: I am not recommending a moratorium and my personal view is that you put a cap on the size of the House. I said earlier that we need to look at how many people are necessary to fulfil the functions. Some people have put that at 300, which I think is ridiculous because it is important that we are not a full-time political House—that people are from outside. Other people have said 450, 500 people. If you put a cap on the size of the House of 600—if we talk about the size of the House of Commons—and you reduce it to 550 by our reduction mechanism, you create some headroom. I think there has to be headroom, so that we do have the process of renewal. I happen to think that the Prime Minister being able to appoint Ministers and have them sit in the Lords is not an unreasonable thing to do, so you have to have some spaces for that. I would build in some flex, rather than simply putting that down. People die every year and people retire every year, so there is some movement.

Q28 **Mrs Gillan:** How successful has that retirement programme been?

Baroness Hayman: Not very.

Baroness D'Souza: Fifty-six so far since it came in. It is not enough and I think there ought to be some added enhancement to retirement, which means that people who take repeated leave of absence should be asked to retire. I think people who don't contribute should be asked to retire, so that could be enhanced.



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But going back to your question, the formula that is going to be arrived at is delicate and difficult, no question about it. I absolutely believe that there has to be a degree of flexibility and you do have that flexibility if you leave yourself some headroom. One of the suggestions, for instance, is that one person comes in for every two that go out once the overall size of the House has been agreed and capped. There is always the possibility for the Prime Minister of the day or some exceptional person to be able to come in. I was going to say if you wanted to achieve political balance according to the votes cast or the seats in the last three elections, it would be really tricky to do that and you would have to have a huge House before you actually got somewhere.

Q29 **Mrs Gillan:** Do you think that that is a possibility and that you might have to go for the larger House before it gets smaller?

Baroness D'Souza: No. I think that the mood at the moment, both in the House itself and outside, presumably has some impact on the Prime Minister.

Q30 **Mrs Gillan:** I do have to tell you that I don't get any correspondence from the general public about the House of Lords.

Baroness D'Souza: They are not in the least bit worried.

Mrs Gillan: Nobody is actually bothered about it. It seems to me it always the Government because they get defeated by the House of Lords, but I think that is what the House of Lords is there for from time to time as a revising Chamber to do. This is not at the forefront of the electorate's mind.

Baroness D'Souza: No, it isn't, but it is at the forefront of the press. I think that the public are being led by a perception that the House is ridiculous. I don't think that is very good for confidence in the House and, therefore, for the job that we do or are meant to do, and do do.

Q31 **Mrs Gillan:** You would not want to cut off, for example, hereditary peers just like that in bulk because so many of them do such a fantastic job. My own constituent, Earl Howe, is considered to be one of the most superior Ministers.

Baroness Hayman: I think it is the by-elections that have caused the problems with the hereditary peers, not the 92 who were elected after 1999, who, in my view, have made exactly the same contribution as the clapped-out old House of Commons politicians like myself.

Q32 **Mrs Gillan:** But you would agree that if we put in a report that preached revolution, it would not get anywhere? We should be putting in a report that is incremental, works towards reducing the size and has a mechanism to check on the expertise, perhaps by having two types of peers—the person who can get the title but does not have to come and do the work.



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Baroness D'Souza: It would be reducing the size, but I think the essential thing is that there should be a cap because otherwise reducing the size over time would vary too much.

Baroness Hayman: Just because something is incremental does not mean it is insignificant, and I think that some very targeted things that are not pulling up by the roots and completely changing the basis of the House could be highly significant. I don't think in 1958 anyone thought that the Life Peerages Act was going to make the changes that it has made in coming up for 60 years.

Q33 **Mrs Gillan:** Do you think that the devolved Administrations would benefit from having access to advising the Chamber?

Baroness Hayman: Personally, I regret that the SNP has not nominated to the House of Lords. We talked earlier about the concept of the nations and the regions being the second Chamber. Without again pulling everything up by its roots and starting again, there are ways in which we could recognise the changing shape of the United Kingdom and bolster. That would be something that if every year the House of Lords Appointments Commission consulted on its proposals for the next year, then those who felt that there was under-representation from regions or nations could make that point and it could be considered and taken through. I think there should be flexibility there to do that.

Q34 **Mrs Gillan:** I wondered whether there was room for groups of peers with expertise in the devolved areas to have a slightly different role but in relation to those devolved Administrations. Would that be throwing the baby out with the bathwater?

Baroness D'Souza: A sort of dual mandate, yes. I think Mr Fysh said that he had three quite active peers in his constituency and some confusion reigned. I wonder whether that would add confusion, I don't know. It is a possibility.

Q35 **Paul Flynn:** The most powerful case you have for pushing for appointments over election is the proportion of disabled people that you have there, and you briefly mentioned this. Isn't it true that the ones who are there make a unique contribution, a very valid contribution from their subjective experiences, and very few of them would have had a chance of getting through the hurly burly of elections and becoming elected to the House of Commons?

Baroness Hayman: I think it is a powerful point. The most powerful point for not having an elected second Chamber is that it should not challenge the primacy of the House of Commons.

Q36 **Dr Poulter:** I want to do a little bit more on a couple of the issues on the size of the House, but just to confirm very briefly that I think that both of you are in agreement that the current size of the House needs to be reduced. Is that right?



Baroness Hayman: Yes.

Baroness D'Souza: Yes.

Q37 **Dr Poulter:** There is an issue that you both touched upon in your previous answers about the balance between the size of the Lords Chamber and the Commons Chamber. I think Baroness D'Souza said that the primary issue was the size of the House. How do you feel specifically about that issue and the fact that the Lords has 200 more peers, roughly speaking, than the Commons has MPs?

Baroness D'Souza: I feel quite strongly about it for a number of reasons. It is unnecessary, as we pointed out. There have been several studies of this and some have said that the number should be about 300 or 350. I think we believe that is too low, but something between 450 and 500 would be a very good idea. The research has shown that if you were to have that number, even though we are a full-time House with part-time Members, that you could adequately fulfil all the functions, including all the Committee work, with that kind of number. I think that the reason why it is so important is partly because of the perception, as I have repeatedly said, but also it is a huge burden on the taxpayer. The overall cost of peers' expenses is £20.1 million per year; the average expenses is about £26,000 per peer. If you reduced that by a quarter, you would save £5 million, which is not to be sniffed at, I don't think. It is over-represented.

The fact that there are a number of people who feel that their contribution is simply to vote rather than any other contribution to Committee work or Chamber work or outreach work demonstrates that the House can very adequately manage with fewer numbers. It would not hurt the House; it would not hurt its work. In fact, it would enhance it because it would make it more effective certainly in holding the Government to account because there would be more space and time and debate about that.

Q38 **Dr Poulter:** You feel that some form of cap at the level of the number of MPs would be an appropriate measure to consider?

Baroness D'Souza: It seems to me quite sensible, logical, to say that the revising Chamber should not larger than the elected Chamber. If there is no need for it, why should it be?

Q39 **Dr Poulter:** Would you agree with that, Baroness Hayman?

Baroness Hayman: Yes, I think that is the top end of size, but it is important. It makes a statement about primacy and importance, and it reflects what we need to carry out our functions efficiently, and that is what I think should be the prime motivator.

Q40 **Dr Poulter:** Then there emerges the challenge of moving from the current situation to either reducing the number of peers to around 652, or perhaps around 600 if the current Constituencies Boundaries Bill



becomes law and there is a reduction in the number of MPs. I think it is very difficult in moving from one position to the other and reducing the number of peers by 200 or so not to consider the issue of composition in that. The two seem to be inherently intertwined in how you get from one to the other. I have been listening very carefully to the very considered remarks you have made today, but I am slightly at a loss as to a mechanism to achieve the reduction that you believe is desirable in an effective way. What would your suggestions be, if we were looking at a reduction that we think desirable of about 200 peers, about how we could get to that point?

Baroness Hayman: I think Lord Burns's Committee is going to be doing a lot of the heavy lifting on looking at how that reduction of 200 or so is made. As you point out, you could do it by putting a cap of the age of 80 on membership of the House. It is very clean, very simple and a very blunt instrument. It is blunt in two ways. It is blunt because it takes away some people who are making an extraordinary contribution and leaves in some people who are not. It is blunt in another way because it distorts the current balance, which you may or may not want to maintain, between the groupings within the House. It disproportionately affects the Conservatives and the Cross-Benchers.

I think you have to do two things, and this is the difficult task that Lord Burns is setting himself and his Committee. You have to look at how you get a scheme for reduction that, in my view, will end up being a number of different criteria in order both to satisfy leaving the best grouping of people that you can there, most able to undertake the tasks, and not completely upsetting the balance and those principles about 20% Cross-Benchers and the Government not having an overall majority. It might well be that what you need to do is get the leaders of the different groups in the House together to accept what are the numbers that they would need to contribute to an overall target of reduction of 200, if we are using that number. Then there might be different criteria within different groups as long as they delivered up their numbers. That might be a way of squaring some of these rather difficult circles.

Baroness D'Souza: It is a very delicate and difficult area, but it can be done. If you think about it, there are four main ways in which peers leave the House. They can die, retire or resign, or can be forced to leave because of non-attendance or expelled for criminal reasons. There is also a natural attrition rate. That is one way of leaving. But I think that this question of balance is something that can only be agreed on by the political leaders in conversation with one another. If the House as a whole agrees that numbers should be reduced to a certain level, how it is done is not for me to say; it is not for Helene to say; it is really for the leaders to agree upon it.

Q41 **Dr Poulter:** How realistic do you think that is? That is a clear suggestion you have come forward with. Do you think there would be scope for the political party leaderships to come forward and do you think that is



achievable?

Baroness D'Souza: I think so because, apart from anything else, there would be quite some political clout in it. If the leaders themselves, who clearly from the speeches they have made, or at least on the Opposition and the other groupings, say that the House is too large and the numbers should be reduced, there is, as I say, a certain political clout in applying and implementing the mood of the House and perhaps the mood of those outside the House as well.

Baroness Hayman: I have been banging on about this for 20 years or so. I think that I am most optimistic of something actually being done because things have got so much worse in the period that I have been banging on about it. That is a sort of mixed blessing. I am optimistic. I think it could be done. I do think that this end of the House has to be behind it. It is tremendously important that you spend all your time not in working out the formula and the exact numbers and who should go and who should stay, but on the endorsement of some of these principles about the size of the House, the reduction of current numbers, control over the flow coming and having scrutiny of the quality of people, their commitment and their suitability by the House of Lords Appointments Commission. Those broad principles coming from this end of this House are tremendously important.

Q42 **Dr Poulter:** You touched upon the interrelationship between the work we are doing here and Lord Burns's Committee and you had some very helpful suggestions and thoughts about that. How do you feel that we can complement or support some of the work that Lord Burns and the Committee is carrying out?

Baroness D'Souza: Are you in discussion with them?

Dr Poulter: I am not. I think the principle generally is that we conduct independent inquiries.

Baroness D'Souza: Informal discussion.

Dr Poulter: Not informally either, certainly not in my case. But there are other pieces of work going on and there is a general view that has been expressed by your evidence that there needs to be reform, and certainly that is what Lord Burns's Committee is looking at it. Perhaps I should rephrase the question. If you were advising us about how we could ensure that our report can be complementary or engage with that process effectively, how would you advise us to do it?

Baroness D'Souza: The intention was that the Burns report would come out possibly before your report.

Q43 **Chair:** I think we are looking forward to seeing what the House of Lords commission says before we finally give our own opinion.

Baroness Hayman: I think it would be tremendously helpful for you to scrutinise the recommendations and the proposals in Lord Burns's report.



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We have given you our views about the appetite of the House for reform and ways forward. This will be a much more considered piece of work and hopefully one that you feel that you could support in terms of the mechanisms being suggested. I go back to my earlier point that it is on some of the really tough, big political questions about whether there should be a cap, whether there should be control over prime ministerial appointments and whether the House should be made to bite the bullet and do the reductions—those really profound and important questions of principle—that your views and support from this end of the House will be very important.

- Q44 **Chair:** That is our intention. Can I clarify one thing? If the House of Lords itself is to accept an imposed cap, unless there is also agreement about how that cap is going to be maintained, how patronage is going to be limited if necessary and all the other questions, will the House of Lords agree to that cap anyway or are the two interlinked?

Baroness Hayman: Totally interlinked, in my view.

- Q45 **Chair:** Unless there is consensus about one, there will not be consensus about the other?

Baroness Hayman: I think it would be extremely difficult to achieve. If one thinks of it personally about volunteering to retire, which is the way at the moment, if it is part of a planned process and you know that the House is not going to simply creep up again to 800 then one thinks about doing it. If you are going to do it simply as an act of faith, knowing that any Prime Minister can go back to exactly where you were before, then you are not going to get that sort of support.

- Q46 **Chair:** So how much needs to be in legislation, or how much will be done by other means?

Baroness D'Souza: Again, going back to what we said right at the beginning, the start is to have overt consensus in the form of a resolution following on the Burns report. I think too that it would be worthwhile researching and publicising the way in which the royal prerogative has been sidestepped in recent years, over a number of issues. One of the sources of the Government's power is the royal prerogative, but it is responsible to Parliament, so I think if Parliament as the House of Commons and the House of Lords make it abundantly clear that they are in favour of a reduction of the size of the House of Lords then it would be quite difficult for any Prime Minister of the day to directly go against that. Again, what we are talking about is establishing a convention.

- Q47 **Chair:** It is up to Parliament to establish how the royal prerogative shall be exercised?

Baroness D'Souza: That has certainly worked in the past, has it not, over military matters? Yes.

Chair: There is a lot of discussion about that matter in these times.



Baroness Hayman: I think the cleanest and the most straightforward and reliable way is legislation. At the current time and based on history, the idea of having large amounts of legislation about the House of Lords going through is not on the cards. That means we have to try to do this by our own will and by goodwill. We need to have a Prime Minister who accepts the logic of this position and sets a precedent for others. That would be really important, as well as both Houses.

Chair: My Lords, thank you very much indeed. Unless you have anything further to add, we will move to our next pair of witnesses. Thank you very much.

Examination of witnesses

Witnesses: Lord Norton of Louth and Lord Steel of Aikwood.

Q48 **Chair:** Welcome to our two further witnesses? Could I ask each of you to identify yourself for the record, please?

Lord Norton: Philip Norton, Lord Norton of Louth.

Lord Steel: David Steel, Lord Steel of Aikwood.

Q49 **Chair:** Thank you very much, my Lords, for being with us. We are extremely grateful. We are going to cover exactly the same ground as we did with our previous witnesses. You may add or embellish, but I will start by asking a question. There have been endless attempts to reform the House of Lords. What aspects of the Lords work well and what specific aspects now need reform?

Lord Norton: I think the House of Lords works well in fulfilling the functions that are now ascribed to it, which is essentially determined by its relationship to the House of Commons. It complements the work of the Commons and the functions it fulfils on the whole are fairly well fulfilled, but there is more that can be done and there is more the House is doing, which it can do by its own practice, by reforming its own practice and procedures.

So within that, that is within the gift of the House. There are movements. It is trying to do a good job even better, but I think in order to fulfil its functions it does rest on trust, both of the Commons and of the public, and therefore perceptions are all important to facilitate the House in doing its job. There is a problem in terms of perception relating to three elements that you have touched upon this morning: size, composition and appointments. They are related, but they are also analytically distinct and I think each requires addressing in a particular way and addressing as a whole.



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My key point is it is how the House is seen that does affect its capacity to do its job. The practices, the structures, the procedures that we have in fulfilling our functions are there, but we could do more but that is within our gift and we are working on it.

Lord Steel: I think the functions are about right. I agree with Philip on that, but the one thing that I think is important is that because the Commons has moved to regular timetabling of Bills the function that we have, scrutinising Bills line by line, is extremely important and sometimes we are filling in gaps that have been left by the Commons. I have no comment on the functions.

There are two issues that I would like to talk about this morning. One is the question of size—the immediate issue that you have been just discussing—and the other is the longer-term reform of the whole Chamber, which clearly is not going to happen in the current Parliament.

Q50 **Chair:** To summarise, what are the most obvious incremental steps, do you think?

Lord Steel: The immediate issue is how do you get the size down? Although I agree with what Lady Hayman was saying about the age cut-off being a blunt instrument, I nonetheless think it is a very effective instrument and my own view is that at the end of each Parliament if you said everybody who had reached 80 and above had to leave, rather than doing it individually throughout the Parliament, that would create space for an incoming Government to redress the balance, make new appointments. In fact, if you had a cut-off at 80, which is very generous when you look at the age limits in other professions, 80 is much higher than anything else that exists. The only other one that even reaches it is lord lieutenants who are made to retire at 75, so 80 is extremely generous. I don't buy the argument that you would lose certain people. If this happened at the end of this Parliament, you would lose me, for example. I do not think that is a good argument against doing it. So a cut-off at 80 I think is quite reasonable, and if you did that at the end of this Parliament, you would lose 221 Members. It is a huge gap that would open up. If you added to those the ones who do not attend very much, the figures I have are 85 Members attended at the last Session of Parliament less than 10% of the sittings, and 51 for less than 5% of the sittings. So if you added those to the clear-out you could allow a much smaller House at the start of each Parliament, alongside the clear-out that inevitably happens in the House of Commons. It seems to me to make perfect sense. A blunt instrument, yes, but effective.

Lord Norton: Two points I would make. First of all in terms of where we need to be going, I would refer you to the original House of Lords Reform Bill, the Steel Bill, which was first introduced more than 10 years ago. That embodied many of the principles we are now enunciating about size and the principles that govern appointments. A good part of what was in that Bill has been achieved. It is what still remains to be achieved.



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In terms of addressing size and indeed the other elements I mentioned, I would focus particularly on attendance and put that within the overall scheme for reducing the size of the House, deciding the distribution among the political groupings within the House and then in order to achieve a reduction and a reduction within those numbers, or if it merits addition you have a process of dealing with those, but in terms of reduction you do it in terms of attendance. So if you say the House should be reduced to 600, no more than the size of the House of Commons, you then protect a certain percentage for the Cross-Bench peers, say 20%, a small percentage for the bishops, allocate the remainder after each election based on the average of votes and seats achieved by parties over, say, the past three elections. That will determine the numbers. Of the numbers that each party is then entitled to 90% should be determined on the basis of attendance, leaving 10% in the gift of the party leader. If a party is entitled to more than it already has then again that would be in the gift of the leader.

So if a party has to lose a certain percentage, basically those who go do it on the basis of attendance and it is those with the worst attendance record who are out. I think that is the fairest way of doing it. You protect a degree of patronage for the party leader. There will be more during the lifetime of a Parliament because of attrition, so if anybody dies or retires they are replaced by the party, and if you do it on the fundamental principle that those who go are those with the worst attendance record, I think that is fairer and it retains in membership those who contribute or at least turn up, so you have the active membership retained but distributed in terms of composition on the basis of an average of votes in seats for each party over, say, the last three elections.

Q51 **Chair:** If Parliament were to legislate simply to limit the size, does the rest follow?

Lord Norton: No, you would have to have some provision for that, as indeed the original Steel Bill did, in that it is giving greater weight to the appointments distribution.

Q52 **Chair:** So the legislation would have to specify how Members are to be retired?

Lord Norton: There would have to be a legislative framework. You might want to leave it to the Appointments Commission, but there would have to be something in there to ensure that that was achieved, because I do not think you are going to get agreement among party leaders in terms of distribution.

Q53 **Chair:** So the legislation has to take over the royal prerogative into legislation?

Lord Norton: Yes, there would have to be some limit on the appointments process.

Q54 **Chair:** So this is quite a big, complicated Bill?



Lord Norton: Not too complicated. The Steel Bill was not that long. It put the House of Lords Appointments Commission on a statutory basis and then stipulated the principles, the criteria, so that you would still have the party nominees, but according to the Bill, you would have the Commission checking them not just for propriety but for suitability and the criteria the Bill set would be conspicuous merit. The Bill would also set other things that needed to be taken into account, including the diversity of the United Kingdom.

Lord Steel: Philip is right to point out that the two bits of what I call the Steel and Byles Bill, which did not get through, were putting the Appointments Commission on a statutory basis, which I am still in favour of, and abolishing the hereditary by-elections—which are quite ludicrous really—and both of these would require legislation. My proposal for the age cut-off does not require legislation. Because the Bill already allows peers to retire, it simply could be done by resolution of the House, and that is an attractive proposition.

Lord Norton: I see it as a two-stage process, because we could move to that straight away and encourage anybody with, say, less than 20% attendance record to retire and hope the convention develops. It is always open for someone to break it, but longer-term I think legislation is required.

Q55 **Dr Poulter:** One follow-up on that, I think it is quite useful to have some proactive suggestions floated on how to deal with what is quite a sizeable problem if we want to reduce the size of the Lords by about 200. That is a practical suggestion, but in looking at that suggestion have you taken into account whether there is any disproportionate impact on certain groups within the Lords—Cross-Benchers, for example—or any disproportionate impact on any of the other groupings, party political or otherwise?

Lord Steel: Yes. The point was well made by Lady Hayman. It is disproportionate in impact, but that is why if we create a gap at the start of the new Parliament then whatever Government comes in can manipulate the figure, so make the appointments.

This is a very short-term measure that would be immediately effective and require no legislation, but it does have that drawback. I think it could be put right in the new Parliament by the new Government.

Lord Norton: If you do it on the criteria that I mention and it would have to be done by legislation then that would provide the numbers, but if you crunch the numbers—and I did it for the last election, but you could do it over three elections—perhaps the impact would not be so great on one party as it would be if you just took one election, but, yes, it would affect some groupings quite hard and others less so. If you did it on the basis of attendance, in other words you are taking out the non-active membership, then the impact on most parties isn't great. The biggest impact in terms of loss would be the Liberal Democrats and the



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beneficiaries of course would be people like the SNP who do not nominate peers at the moment but under this formula would be entitled to. In theory we would gain some UKIP members as well. If you average votes and seats, it stops one benefiting disproportionately from either, but there would be some beneficiaries and I think there would be a perfectly strong argument for that.

- Q56 **Paul Flynn:** Lord Steel, you were famously described as an elder statesman I believe at the age of 38 when you became leader of your party. I think you are not helping your case for an arbitrary age for retiring when you would be the one who retired. You are the only person who has made a substantial reform in the House of Lords ever in all these long years when people have been seeking reform. Wouldn't it be helpful if there was an age suggested, 80—and just remember there are only five people who are 80 in the Commons, slightly over-represented in your House, but there will be 6 million people in the population over 80 in 2037—but there is a need to have some kind of decision on which octogenarians retire and which, with their past glorious careers like yourself, should stay in the House in order to contribute, which was suggested in the debate on 5 December, and that there should be some vote by peers—

Lord Steel: I don't agree with that. I think if you want to make a quick, effective reduction in the House of Lords, you really cannot mess about picking and choosing certain people. After all, as I say in every other walk of life people are made to retire at a certain age. Eighty is exceptionally great compared with other walks of life and I do not see any reason why—

- Q57 **Paul Flynn:** There is a good, historic tradition for picking and choosing. When there was a cull of the hereditaries, there were a certain number that kept going and it has been suggested this morning that some of these hereditary peers make very valuable contributions, which they do. But so do hereditary bus conductors or hereditary waitresses. If you took some of those, they make a valuable contribution as well. One of the arguments I think for diversity is one of the hereditary peers was a former heroin addict and we do not have any former heroin addicts that we know of in the House of Commons. So if we have a reform, it must take care of the personalities involved and the diversity that we are all trying to create.

Lord Steel: I think that is very difficult. You are then going down the route of saying to each of the party groups that they have either some sort of internal elections or elections across the board. I am not suggesting that. A lot of people do support that, and you are not alone in arguing that case, but my solution is blunt, short, effective and quick, and I think that is why it is commendable.

- Q58 **Paul Flynn:** Okay, quick, but if we look at it, how do we do it? We know there are all kinds of reforms necessary in the constitution. We are reducing the number of MPs. In Wales, in particular, there needs to be a



compensating increase possibly in the number of Assembly Members. There is a whole range of constitutional changes that need to be complementary to any change, in the reduction in the House of Lords and all the rest of it. How could we practically do this with its effect particularly on the regional Assemblies and the Scottish Parliament without some kind of overall look at it? The criticism will be made that the Government are going piecemeal for the only section of reform that is going to affect them, which is reducing the number of MPs. Do we need a constitutional convention and is that the best practical step?

Lord Steel: Yes, you are leading on to the longer term of the House of Lords. I have two views. One is the immediate, which I have talked about, but the other is, and I think your Committee is looking at it, the long-term need to reform the House of Lords. I very much agree with what you are saying, because I remind you that after the Parliament Act 1911, Mr Asquith appointed a commission that sat like this and reported in 1918, I think it was, and it was very much opposed to election on a popular basis, because it said, and I have the quote here, "It was forcibly argued that a Chamber elected on the same franchise as the House of Commons would inevitably become a rival." The Attlee Government also had a shot at this. Their report said, and I have the quote, "A reformed Upper House should be complementary to and not a rival to the Lower House," and the problem therefore has been how do we solve this? The reason I was opposed to the coalition Bill was that it ran straight into this problem: it was trying to create a rival to the House of Commons. That is why when it came to the time of the motion, your dear colleagues said, "No, we won't have this," and this was foreseeable. So what I am in favour of is going back to the 1918 commission. It recommended that Members should be elected regionally by the House of Commons. But now we have these other institutions—the Scottish Parliament and the Assemblies in Wales and Northern Ireland—and I think there is a great opportunity in the long run to recast the upper Chamber. Call it, if you like, the federal Chamber of the United Kingdom and have it elected, not just by the House of Commons but by these three institutions. I have done some work on this and I can give you numbers as a follow-up, if you like.

Lord Norton: Just on the age, if you have an arbitrary age ready to go, 80, then that does not address the composition problem of the distribution among the different groupings of the House, and you would affect disproportionately the Cross-Benchers and the Conservatives. The Liberal Democrats would then benefit, if you like, even more disproportionately because they are a very young parliamentary party.

Q59 **Paul Flynn:** One of the problems that we have, having just suffered the latest Wales Bill—and Wales Bills are not for St David's Day, they are for life. They come along permanently and anyone who wants a long-term interest in politics should study Wales Bills and constitutional reform, but we blunder along with these incremental reforms. There is certainly a feeling in the Commons that Bills do not have to be perfect because the



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Lords will clear them up afterwards. I have had personal experience of that, having taken the Wales Bill through in a brief cameo appearance on the Front Bench, but it really is a system in which we are relying on the skills of the Lords to provide decent legislation, while we have a rather cavalier attitude to it. There were a number of useful suggestions from the debate you had. They were very generous to this Committee and to this House in the way they went about it, but what is the practical step? How do we go about it? If the constitutional convention is too large is a Committee of the two Houses going to produce some acceptable way forward in which the reforms can be put through, do you think?

Lord Steel: A reappointed Bryce Commission, which was the name of the commission in 1918, is probably the way forward. A constitutional convention of the kind I chaired in Scotland would be too large in the United Kingdom, I think, to be effective but a Joint Committee of both Houses would be good. I just do not think that in the long run, in this century, you can go on having an appointed upper House with everybody having to call themselves a lord even though they are not lords. It is just completely out-of-date and I think we ought to look at the way the constitution of this country has been developing. We now have a quasi-federal system in this country and we have made use of that, and I have been looking at the Bundesrat in Germany, which is the nearest equivalent to what I am suggesting, where the Länder Government appoints people to form the upper Chamber, and they do so on a proportional basis according to the different coalitions that exist in different parts of Germany. I think there is a good example there of how you could create an upper Chamber, but involving a more democratic element by allowing the Parliaments to elect people on a proportional basis.

Q60 **Paul Flynn:** Thank you. That is interesting. Where do you place the reputation of politicians in this? Both Houses have suffered. You had a chairman of your own Committee on Standards in Public Life, Lord Sewel, who had his own interesting, individual standards of what was acceptable behaviour. The reputations of politicians were down at rock bottom; they are now probably subterranean. The greatest danger of this is that there will be a collapse of trust in politics and what happens if it leads to the obscenity of a Trump being elected or any possible far right non-politicians elsewhere? Do you think our primary aim should be to restore faith in politicians? We are not helped by the rituals in the Lords, by the perception of the press and of the semi-corruption of political appointments—prime ministerial appointments. What are the main stumbling blocks to restoring faith in politicians?

Lord Steel: I am sorry; very quickly, I think that the present appointments system is abused; there is no question about that. We all know that, and we know it in every party. We are not pointing the finger at any individual. It is abused and we have people who are there because they have made substantial donations to a particular party and that does not help the image of Parliament.



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Lord Norton: I absolutely agree. I was just going to say on your point we need a distinction between politicians, between MPs, between peers, between House of Commons and the House of Lords. People perceive these differently. They see the House of Commons differently from how they see MPs, and they see the local MP differently from how they see MPs as a whole. On your principal point, you are absolutely right, it comes back to my opening point: perception is so important. So it is not just relying on us thinking we are doing a good job. It is how people perceive us in our behaviour—how we present ourselves—so we cannot absolve responsibility by saying, “Let’s make these structural changes or change this process.” It is about how we behave. The Members themselves have to be seen to be taking a lead, having very strict rules over behaviour and ensuring that how we present ourselves is, as far as one can make it, above reproach, whether or not we get there. But it is up to us, I think, to have rules in place for both Houses, but then make sure there is a culture of complying with those rules. It is okay having a code of conduct, but it is making sure Members know what it is and abiding by it. The Lords, when we take the oath each Parliament, we also have to sign the code of conduct, so we cannot say we do not know it. There is a lot, I think, we need to do, but that is so important. It is perception. However good we are at scrutinising legislation, if the public perception is people wearing robes at state opening, it does not do us any good at all. You are quite right; you just need the occasional corruption, just one Member, and people will generalise from one. So we really do have to—

Chair: We are going to have to speed up a little bit.

Q61 **Paul Flynn:** Just a final brief question, does the decision of the Supreme Court mean the death knell for the royal prerogative, the decision of eight to three, and saying that Parliament is supreme?

Lord Norton: No, it was a very specific point that was being addressed. I happen to think that Lord Reed’s dissenting judgment was outstanding—I would agree with him—but nonetheless it was on a very specific point.

Q62 **Chair:** Can I just pick up one or two of the points that arise from this? Is the implication that if you are a major donor to a political party then you cannot be in the House of Lords, or how are you going to police this question?

Lord Norton: I made the general point that if you implemented the Steel Bill this would address a good part of it in terms of the criteria that the Appointments Commission would apply. So achieving legislative change, I don’t think is that problematic if you look at the Steel Bill and what remains to be done. This covers an awful lot of the points. The problem with getting the Steel Bill through is not numbers; it is time. If Government provide us time in support, we could get the Bill through, but I think the Appointments Commission has a clear role.

Q63 **Chair:** Like a quality filter?



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Lord Norton: Yes, because, as I say, it is in the Steel Bill. The principal criteria for a recommendation for approach are, first, conspicuous merit and, secondly, a willingness and capacity to make a contribution to the work of the House of Lords.

Lord Steel: That second part is very important because the criticism is that some of these people make almost no contribution once they get here.

Q64 **Chair:** On this question raised by our two previous witnesses of separating the peerage from membership of the upper House, what is your view on that?

Lord Norton: On whether you separate it or at least have, as was suggested, two types, as mentioned, we already have non-elective peerage in terms of most hereditary peers. You could have the equivalent in terms of rewarding somebody for what they have done, so in other words it is retrospective, whereas for those who would be coming here, it would be prospective in terms of not only what they have done but what they can contribute. There is a distinction because we still have a slightly residual element of people feeling they come here on the basis that it is a reward and they do not need to contribute a great deal.

Lord Steel: In the long run, my proposal would mean that the future peerages would simply be part of the honours list system, nothing to do with the legislative process because you would have an elected Senate instead.

Q65 **Mr Turner:** What is the most difficult part of what both of you have prescribed? The most difficult thing to get through?

Lord Steel: My long-term proposals would require a substantial examination by a Joint Committee followed by legislation. It is not for this Parliament, I do not think.

Q66 **Chair:** I think our ambitions are rather more limited. I think Andrew's question is more focused on the incremental next steps.

Lord Steel: Incremental, as I have said, you could by resolution do the age thing right away, without any—

Q67 **Chair:** So what is the most difficult thing?

Lord Steel: The most difficult? I suppose getting the statutory Appointments Commission and the abolition of the hereditary peerages requires a Bill—as Lord Norton has said, not a complicated Bill. It is very simple really.

Lord Norton: Yes. Where the opposition would come from would vary depending on the provisions of the Bill. In the Lords, some hereditary peers would object to getting rid of the by-election provision. I think most now accept that it should go. The other objection would be political. If a



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party is going to miss out in terms of the numbers they may not take too kindly to it, so I think those would be the main areas of controversy.

Q68 **Mr Turner:** Can you foresee people remaining in the House of Commons, rather than taking a pitch on getting into the Lords?

Lord Norton: Yes. As mentioned by the previous witnesses, if you have the Appointments Commission responsible for suitability, requiring conspicuous merit, some Members of the Commons would obviously qualify. For others, it is possible they may not, so they would not necessarily be eyeing coming to the Lords end of the corridor. I do not regard that as a bad thing, as I see no reason why some Members should not continue contributing to the Commons. Age is not a bar to ability.

Lord Steel: I think on the hereditary by-elections my recollection is that during the passage of my Bill there were only two hereditary peers who were opposed to it, but because it was a private Members' Bill two effectively could scuttle the whole thing and that is why we had to drop that proposal. My dear colleague, John Thurso, was elected recently to the House of Lords by three votes to nil. It makes Old Sarum look really respectable. How can you defend someone being elected to Parliament by three votes to nil? It really cannot go on.

Q69 **Mr Turner:** I would have thought even in the case of Lord Thurso it is better, not worse, than Old Sarum because there were no votes at all in Old Sarum.

Lord Steel: No, he was elected unopposed by three people.

Mr Turner: Yes, but he had three people, unlike Old Sarum.

Lord Norton: The point that I make is that hereditaries think that will stop them coming into the Lords. My point is that if they are very able they will be offered life peerages, and when you look at after the 1999 Act, Labour only, I think, retained three under the provisions of the Act, but of something like 17 hereditary Labour peers, most came back to the Lords. They were given life peerages.

Q70 **Kelvin Hopkins:** You may have heard my comments in the earlier session about taking the Prime Minister entirely out of the process. I would like to go much further than that in terms of radical reform, but that is one point. When I was a student years ago, I read a book by F. W. G. Benamy called "The Elected Monarch" and we have this overweening power of Prime Ministers that is being abused in recent years, perhaps not for the present Prime Minister but certainly for the previous two. Is there not a case for taking away a lot of the patronage of the Prime Minister, making them much more a chairperson of the board rather than the dominating person that they are?

Lord Norton: I think one should certainly limit it. It comes back to my point that you cannot just focus on the output side for trying to get rid of Members without addressing the input side, the method by which they



are appointed. I think we really do need to stress that. As Professor Russell will remind you, the Ipsos MORI poll, which was probably about a decade ago, looked at what people thought were the most important criteria for trusting the House of Lords. The most important thing they placed the emphasis on was trust in the appointments process, so I think getting that right is absolutely important. Having an elected element came out at number 5, which was way down, so having a process that I think should be transparent, say, based on conspicuous merit is very important. You should certainly limit patronage. Now, whether you get rid of it is, I think, more problematic. That might be the ideal, but I do not think it is the political real. But there should be a limit and that was embodied in the proposal I mentioned, where you have a proportion that is at the gift of the party leader, perhaps up to each party as to how transparent they are in the method by which those are selected. So it limits the numbers; it caps it; it does not get rid of it, so the Prime Minister at the start of a Parliament would have some scope for appointments, up to them whether they would take up all the appointments, and given the number of peers we will lose during the course of a Parliament through death or now retirement there is scope for appointing more, but it limits the number. That I think is the key point, that there is at least a cap that would limit all party leaders.

Lord Steel: I am possibly the only person who has appeared before you who has appointed Members to the upper House, which I did when I was party leader. I do not defend the system. It is not a good system and I entirely concur with what Lord Norton has said.

Q71 **Kelvin Hopkins:** Going beyond that, you have the Scottish National party, which wants to abolish the House of Lords. People on the left like myself have been unicameralist as well, but we are talking particularly regarding the two previous witnesses, very respectable though they are, talking very marginal changes and very nervous even about changing the title from Lord to Senator, which I think would be a democratic step. Removing certain categories of peers like the bishops, like the hereditaries, and calling people Senators and then getting rid of prime ministerial patronage, people might accept the second Chamber more readily then, if that was done, and without going so far as the elections, which is what my party suggests.

Lord Norton: Right. Where to start? The key point, as was mentioned earlier, is that a lot depends on the question you put to the public in terms of their perception. It will vary according to how you put the question, as Baroness Hayman was pointing out. When you ask people if they think on democratic grounds that the second Chamber should be elected, I think that 72% said that. In the very same poll, the proportion who said to preserve the independence of the House it should be predominantly appointed, the proportion there was 75% and it was exactly the same poll. So I think it is up to us to show that we merit the confidence of the people.

You could make some changes to what the House does, but the key point



is to distinguish the point about what the functions of the House are and the membership, the composition. When you talk about Lords reform you are talking about composition. There is really no debate about functions, even when the Government has tried to reform it in terms of elected element, whether you are going back to the Parliament (No. 2) Bill, the House of Lords Reform Bill of 2012 that premised on the second Chamber carrying on and fulfilling its existing functions or the Government in 2012, when Nick Clegg was fairly explicit about that. The point is if you change the composition it does have likely consequences for how well you fulfil your function. If you want a complementary second Chamber, I think you need something like the existing membership because, if you start electing Members, the likelihood is first of all they could use existing powers that we do not use because we accept the primacy of the Commons. They are likely to demand more powers, not necessarily to be equal with the first Chamber—second Chambers generally are not co-equal—but certainly more powers than the existing House and feel they had the legitimacy to use those.

Once you get into that situation then you are not being very democratic because democracy is about how people choose to govern themselves, and under our system it is through elections to the House of Commons that people choose a Government, and that Government is not only chosen through elections to the House of Commons, it is then answerable to the electors through the next election of the House of Commons who have a core accountability in our system that an appointed second Chamber does not seek to challenge. We are focusing on means; the Commons determines the end. That could be under challenge if you have an assertive second Chamber that is elected with greater powers utilising those in relation to the first Chamber doing deals with the first Chamber that may completely lack transparency, producing outcomes for which electors do not then know who to hold to account. Electing a second Chamber can undermine the democratic element of the whole system, so I have a fundamental objection to going down that route.

I think we should work within the existing framework of a complementary second Chamber fulfilling functions that add value to the process because in effect it is taking up the slack that the Commons may not be able to do because of the sheer volume of work it has, and because the Commons is the political chamber, it is the grand debating arena of the nation. The parties fight it out and they will determine the end. We focus on the detail, on the means, not the end, so I think we work within that. We take the existing Chamber and seek to reform it.

- Q72 **Kelvin Hopkins:** Some Scandinavian countries and others have got rid of their second Chamber, and indeed I have heard Scandinavians who say that our Executive is too strong, Parliament is too weak. They are the other way around, perhaps. They have strong Parliament and weak Executives. Would it not be a way of moving forward, realising that we do have an Executive that is overweening really in the person of the Prime Minister? If we want a more democratic system we have to shift the balance towards the elected Members rather than just leave it with the



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elected monarch, as I call it.

Lord Norton: I feel the Chairman probably wants short answers. There are two issues. One is unicameralism. I do not think we can go down that route for the reason that has been mentioned. You are quite right. Quite a number of Members voted for it on the options, but it is notable that a large proportion of those who voted for abolition voted for an all-appointed Chamber, so for them it is either all-appointed or nothing. They opposed having a second Chamber that would challenge the primacy of the Commons. It was touched upon earlier. I do not think it is viable to go down the unicameral route given the size of the nation, so relative to Scandinavian countries, relative to Scotland and Wales, the sheer size of the United Kingdom I think therefore justifies the second Chamber.

The Government is not getting stronger in relation to Parliament if you look at the changes over recent times with Members particularly in the Commons becoming far more independent in the way they are going. There is a fragmentation of power to the devolved bodies. The courts are more assertive. Yes, so there are more limits on the Government from the Commons, not only just behaviourally but in terms of its structures and processes.

Chair: Lord Steel, you had a comment to add.

Lord Steel: I just think that an indirectly elected Chamber of the kind that I favour does not run into the problems that Lord Norton mentions. I think because the electorate is different they would know that they are there for a particular purpose. It would pull the different component parts of the United Kingdom together and it would carry on with the same functions as the present House of Lords.

Q73 **Chair:** Okay, but in the meantime, before we have this federalised utopia, we are going to rely on the House of Lords Appointments Commission to provide a quality check and sifting. How should they do that?

Lord Steel: The process of interview at the moment is very limited and I think that they would be entitled, under the terms of the Bill that did not get through, the clauses that did not get through, to scrutinise people and make them aware that they are expected to do a job of work for number one. Number two, make sure their contribution to public and political life was more than just having signed a cheque to the party leader.

Q74 **Chair:** When we talk about diversity and we want to maintain diversity the House of Lords has a good record of diversity on some measures. There are not very many Eurosceptics in the House of Lords. It is very unrepresentative of the nation on that particular spectrum. How do you stop the House of Lords Appointments Commission just maintaining a sort of centrist mush?



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Lord Steel: I do not think the job of the commission would ever be to quiz people about their political orientation.

Chair: How convenient.

Lord Steel: No. I mean, I do not think that is part of their function. Their function is to make sure that they are there to do a proper job of work and that they are there for a very good reason.

Lord Norton: Your point about political distribution would be taken up with my formula in terms of the distribution of the House. In terms of the Appointments Commissioner, it would be ensuring suitability, not just propriety, but also being more proactive. It is taking more of a role in identifying gaps in our knowledge where Members should come in to fill those gaps. I would like to see it with more resources, being more proactive, going out and finding people who could come in and reinforce the House.

Q75 **Chair:** There will be some people who will argue that this is removing the democratic accountability one further step from this process of appointment. At least the Prime Minister is the leader of the main political party in the House of Commons and is democratically accountable. Quis custodiet ipsos custodes? Who is going to hold the House of Lords Appointment Commission accountable for the decisions and judgments they make?

Lord Norton: The same body that holds the House of Lords accountable, and that is the House of Commons.

Q76 **Chair:** This implies some much more visible and ready accountability than we have at the moment.

Lord Norton: In respect of my point about perception, we have to earn trust and demonstrate our legitimacy. The House of Commons can largely take its legitimacy for granted because it is elected. We have to earn our legitimacy, which we aren't.

Q77 **Chair:** Would this mean putting the House of Lords Appointments Commission on to some different kind of statutory basis, more like the Electoral Commission or the Parliamentary Health Service Ombudsman, rather than just having it as another little quango tucked into the Cabinet Office?

Lord Steel: Yes. I am not against the Prime Minister and the other party leaders making recommendations, but the thing is they need to be properly scrutinised by an appointments commission, not just rubber stamped, as happens at the moment.

Q78 **Chair:** What about the constitutional significance, independence and accountability of the House of Lords Appointments Commission? How should that be expressed in statute?



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Lord Norton: In the way that it is embodied in the Steel Bill. We took that into account in drafting the Bill.

Chair: That shut me up.

- Q79 **Paul Flynn:** I think the evidence we have taken from the House of Lords Commission over the years has been very impressive. We have seen them as a body that is independent and producing, as mentioned, the number of disabled people who would not have a chance of getting in through the political system. The great weakness is it is possible, and the history has been it is possible, to buy a place in the Lords, and by all three main parties. We have all been doing it for years. That is the most corrupted part of the House of Lords.

Lord Norton: I agree.

Lord Steel: Yes.

- Q80 **Chair:** You will not have anxieties that the House of Lords Appointments Commission will somehow stifle some of the more creative appointments that do come in through the hereditary peerage, and they do come in through prime ministerial appointment?

Lord Norton: Under the scheme I mentioned, they could be brought in through the party route, not simply through attendance as well. You already have some Members of the House who have some of the features you have mentioned. They would stay because they are active Members, parties bring them in, and there is no reason why the Appointments Commission would not recognise them in terms of achieving what you have mentioned.

- Q81 **Dr Poulter:** I only have a couple of very brief questions. I wanted to pick up on the issue of the hereditaries, because when we were talking earlier about reducing the size of the House you alluded to the challenge of having agreement on this particular issue. I was wondering, how would you foresee, as part of incremental change, there being the potential of an agreement on reforming the role or even the place of hereditaries in the House of Lords?

Lord Steel: I do not think we are suggesting that the existing 100 should be abolished or replaced. We are talking short term here. It is the introduction of the by-elections that—just a reminder that that came about simply through an amendment when the original Bill was going through both Houses in 1997. It was an unfortunate amendment put in by people who wanted at that stage to say, “Until the House of Lords is reformed we want to keep up the numbers of hereditaries”. I can understand why it was done, but I think it was a mistake. All you would need to do is remove that little bit from the 1997 legislation. It is not difficult.

Lord Norton: Yes. Lord Steel is absolutely right, it is not removing the existing 92, because if you just close off the by-election option they



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become de facto life peers. The key point is they are not replaced when they die.

Q82 **Dr Poulter:** That could be brought through with, say, a private Members' Bill as the mechanism. Do you think that would be achievable?

Lord Norton: Yes. If the Government were to provide the time, if it was a Government Bill, it would get through. The actual provision, as mentioned, is not difficult. Basically, it is just a few lines in terms of closing off the by-election option.

Q83 **Dr Poulter:** Yes. I do not know if you have the figures with you today, how many hereditaries would that cull, effectively, on the basis of the age criteria?

Lord Steel: If we had not had the by-elections, we would have been down now to about 85, I think, instead of 100, just by natural wastage, so to speak.

Q84 **Dr Poulter:** Yes. Eventually this sort of historical issue of the fact that we are having a group of people sitting in the House of Lords just by dint of birth, that would be gradually eroded over time?

Lord Norton: Exactly.

Q85 **Dr Poulter:** That is an accepted principle?

Lord Norton: Yes. Do not forget at the moment they do not sit by right of birth. It is right of birth they are eligible to be allowed to come in, and there is no automatic coming in.

Q86 **Dr Poulter:** No. But a very small pool from which a selection may be made.

Lord Norton: Yes, exactly. Yes, that is the point. There is a small pool, and the method by which they are chosen to come in—my point is some in that pool are clearly very able. They are the ones who tend to be elected when there is a by-election, but if they are that able they would be eligible for life peerages anyway.

Q87 **Dr Poulter:** You feel that that is an achievable incremental change, introducing that change to legislation?

Lord Norton: Yes.

Lord Steel: It has clearly been supported in the Lords, and I assume in the Commons. Yes.

Lord Norton: Yes.

Q88 **Dr Poulter:** Final question from me is: from our perspective as a Committee—I put this to the previous two witnesses—we obviously are looking at the recommendations that Lord Burns makes, and how would you see it being helpful for this Committee to interact, or scrutinise, or complement the work of Lord Burns's Committee?



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Lord Steel: Lord Burns has been given a short-term mandate. I think that is the answer; his report will come out before yours and you take that into account, obviously, in future.

Q89 **Dr Poulter:** Indeed. You see our role as being scrutinising what Lords Burns says, to some extent, as well as making our own recommendations?

Lord Steel: I hope you are also taking a longer-term look at the upper Chamber, not just the issue of size, which is an immediate issue that we are trying to grapple with on our own in the Lords.

Q90 **Dr Poulter:** We are looking at a number of things, particularly what is potentially achievable in terms of incremental change. In that context, we would be very interested in what Lord Burns has to say, and about how potentially achievable that issue of size and addressing that issue of size can be dealt with. I think that is something we ought to take on board. That is why I asked the question about how quickly, perhaps, that can be achieved, but also how then our recommendations and our work can both scrutinise and also potentially complement, if appropriate, Lord Burns's Committee.

Lord Steel: I am assuming that Lord Burns's Committee is simply looking at what can be done by resolution of the House. I don't know.

Chair: We will wait and see, and we will wait with interest.

Lord Steel: Exactly.

Q91 **Paul Flynn:** Very briefly, did you squirm when you were greeted by the Chairman of this Committee as, "My Lords", rather than being greeted as Citizen Norton or Citizen Steel? Don't you think that this anachronistic, sycophantic litter that we have attached to the House of Lords does nothing but invite ridicule?

Lord Steel: I have never approved of the title "Lord" at all, because there are real lords in this country, and I am not one of them. I find it an embarrassment. I rather like the idea of being called a Senator. It was an issue that was left open in the coalition Bill, if you remember. We never got that far.

Lord Norton: I do not think names are that important. It is more, certainly, the references in the Chamber, a bit like the Commons, some of the terminology is not understandable. It is not so much titles, per se. I think it is more comprehension of those, or observing what we are doing and understanding. There are certain things in terms of terminology that gets in the way. State opening gets in the way, because that is very visual. Whenever you have a story about House of Lords reform, it is normally accompanied by a picture of state opening and peers in robes. A lack of understanding once led to *The Times* doing a story about the House of Lords reform with a picture of men in robes, and they were High Court judges. They just went, "They are robes, ergo they



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are lords". That annoys peers intensely, because it does get in the way. If we can get rid of things like that so we are just getting on and doing the sort of things we are good at in terms of our functions, such as the scrutiny role through Committee debate, in a manner that is comprehensible to anybody watching it, they would understand it. I think that is what we really should be focusing on.

Q92 Chair: Given that our constitutional institutions are rooted in our history, I do not think it does any harm to remind people of that and that they are all the stronger for it.

Paul Flynn: So is egalitarianism.

Chair: Indeed. Can I ask you a couple of very small supplementaries? Lord Steel, are you a bit disappointed that your Bill has not resulted in more voluntary retirements?

Lord Steel: No, I am quite pleased at the scale of retirement. I think it is up to about 60 now. If you remember, there was a committee under David Hunt that recommended that there should be some sort of giving of financial incentive, and in fact the Finance Director of the Lords worked out that if we had a modest incentive for people to retire we would save money in the first two years of doing it. But the Government have shied away from any such idea. It is verboten. It would go down badly in the press, they say, so it never happened. Actually, there is a perfectly good financial case for doing it and that would increase the numbers who would take voluntary retirement.

Q93 Chair: That brings us on to the final question: in order to make larger progress on the broader front, how much do we depend upon the Prime Minister showing some willingness to take on board what needs to be done?

Lord Steel: I come back to the point that a lot can be done by the House of Lords itself and there is a determination in the House at the moment that something should be done. It does not need the say-so of the Prime Minister, because it does not need legislation.

Lord Norton: It is an uphill task, as this Committee will be well aware, in terms of prime ministerial patronage. It is not just pointing Members to the Lords; it includes ministerial patronage, as this Committee is only too well aware. Ministerial patronage is used for political purposes; it is not for the functions of the Government.

Lord Steel: I just realised, I could have responded to Paul Flynn's comment about being greeted as Lords: we could refer to the Chairman as the Honourable Bernard Jenkin.

Chair: That would rather tiresome. On that happy note, thank you.