

HOUSE OF LORDS
HOUSE OF COMMONS

SESSION 2002–03
2nd REPORT

JOINT COMMITTEE ON
HOUSE OF LORDS REFORM

HOUSE OF LORDS REFORM:
SECOND REPORT

*Ordered by The House of Lords to be
printed 29 April 2003*

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JOINT COMMITTEE ON HOUSE OF LORDS REFORM

The Joint Committee was first appointed in July 2002:

- (1) to consider issues relating to House of Lords reform, including the composition and powers of the Second Chamber and its role and authority within the context of Parliament as a whole, having regard in particular to the impact which any proposed changes would have on the existing pre-eminence of the House of Commons, such consideration to include the implications of a House composed of more than one “category” of member and the experience and expertise which the House of Lords in its present form brings to its function as the revising Chamber; and
- (2) having regard to paragraph (1) above, to report on options for the composition and powers of the House of Lords and to define and present to both Houses options for composition, including a fully nominated and fully elected House, and intermediate options;

and to consider and report on—

- (a) any changes to the relationship between the two Houses which may be necessary to ensure the proper functioning of Parliament as a whole in the context of a reformed Second Chamber, and in particular, any new procedures for resolving conflict between the two Houses; and
- (b) the most appropriate and effective legal and constitutional means to give effect to any new Parliamentary settlement;

and in all the foregoing considerations, to have regard to—

- (i) the Report of the Royal Commission on House of Lords Reform (Cm 4534);
- (ii) the White Paper *The House of Lords—Completing the Reform* (Cm 5291), and the responses received thereto;
- (iii) debates and votes in both Houses of Parliament on House of Lords reform; and
- (iv) the House of Commons Public Administration Select Committee report *The Second Chamber: Continuing the Reform*, including its consultation of the House of Commons, and any other relevant select committee reports.

The twelve Lords members, appointed on 4 July 2002, are:

Lord Archer of Sandwell	Lord Goodhart
Viscount Bledisloe	Lord Howe of Aberavon
Lord Brooke of Alverthorpe	Lord Oakeshott of Seagrove Bay
Lord Carter	Baroness O’Cathain
Lord Forsyth of Drumlean	The Earl of Selborne
Baroness Gibson of Market Rasen	Lord Weatherill

The twelve Commons members, appointed on 19 June 2002, are:

Janet Anderson	Mr Stephen McCabe
Mr James Arbuthnot	Joyce Quin
Mr Chris Bryant	Mr Terry Rooney
Mr Kenneth Clarke	Mr Clive Soley
Dr Jack Cunningham	Mr Paul Stinchcombe
Mr William Hague	Mr Paul Tyler

At its first meeting, on 9 July 2002, the Committee elected Dr Jack Cunningham as its Chairman.

On 16 July 2002 the Committee made a Special Report (HL Paper 151, HC 1109 of Session 2001–02).

The Committee was reappointed with the same membership at the start of Session 2002–03. It made its First Report on 9 December 2002 (HL Paper 17, HC 171)

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SECOND REPORT

29 APRIL 2003

The Joint Committee on House of Lords Reform has agreed to the following Report:

HOUSE OF LORDS REFORM: SECOND REPORT

INTRODUCTION

1. In December 2002 we said in our First Report that although the re-balancing of parliamentary institutions is something that can only evolve over time, we believed that there was an historic opportunity to enact reform of the House of Lords based on the need for a second Chamber which would continue to play an important and complementary role to the Commons.¹ However, for the present at least, the scale and nature of that opportunity has now changed.

2. For not only has there been predictable disagreement between the two Houses. There has also been the lack of decision on the matter of composition in the House of Commons – and indeed, at a late stage, the absence of a clear lead from the Government itself. The effect of these decisions (or lack of them) has been to reduce the pressure for change in any direction. Even if the engines have not actually fallen off the train, their thrust has been diminished.

3. Even so, this Committee remains unanimous in its view that simply to maintain the status quo is undesirable. The differences between us as to the long-term future structure of the second Chamber inevitably reflect those in Parliament and Government alike. Some of us may have been tempted to believe that the best way to promote the case for radical change is to leave things as they are – and thus exposed to continuing criticism. Others could have been tempted, in the opposite direction, to regard “no change” as an acceptable prescription for an enduring quiet life. Collectively, however, we do not accept either of these views.

4. Whatever may or may not be decided later – perhaps some considerable time ahead, perhaps not – about the long-term composition of the second Chamber, there are possible changes affecting the effectiveness, representative quality and credibility of the House that can and should be considered and decided now. Things should not simply be left as they are. So in this Report we emphasise the importance of reasserting the case for reform and for regaining at least some part of the momentum, which was recognised by the Commons Public Administration Select Committee in its Report². And we seek from Government, and subsequently from Parliament, a clear response to this Report.

PART 1: THE PRESENT POSITION

5. Our first remit as a Joint Committee was to examine the composition and powers of the Second Chamber in the context of Parliament as a whole and to put forward, for

¹ House of Lords Reform: First Report (HL Paper 17, HC 171), paragraph 2.

² House of Commons Public Administration Select Committee Fifth Report Session 2001–02 (HC 494–I).

consideration of both Houses, a set of options on composition ranging from a fully appointed to a fully elected House.

6. We decided early in our deliberations that it was essential to establish the nature of the roles, functions and powers of a reformed House and how it operated in respect of the Commons, before we went on to the matter of composition. Accordingly in our First Report we considered what a reformed House should do as well as setting out our conclusions about the kind of membership that was most desirable. That analysis was based on a clear understanding of how the present House performs its roles and functions and how the best and most successful features of it might be continued in a newly constituted Chamber. We then identified other important matters – such as tenure, appointment methods, methods of election – as issues we would have to return to once we had had decisions on composition from the Houses.

7. We put seven options before the Houses, suggesting that a wide debate on a take-note motion should precede any vote on them. When it came to the method of voting on the options, we recommended a departure from the usual practice of putting questions so that questions could be put successively on each option and Members could vote on any number of options they wished to. We stressed that the same procedure should be followed in each House.

8. Our recommendation on having a separate debate prior to a vote on the options was followed in each House. We consider that the contributions to the debates in both Houses benefited from that process since it allowed time for reflection and it made it possible for Members to read the debate in the other House before proceeding to vote in their own House. In the Lords, the initial debate was on a take-note motion; in the Commons the motion was to adjourn.³

The votes on the seven Options

9. The votes on the options on 4 February provided no endorsement of any one option in the Commons and a clear endorsement of appointment rather than election in the Lords.

10. The votes on the options did not follow an identical pattern in each House. In the Commons a reasoned Amendment to the first option, on a fully appointed House, was put to the vote. The Amendment, which declined to approve the option because “it does not accord with the principle of a unicameral Parliament”, was negatived by 390 to 172 votes. The first option itself was then defeated by 323 votes to 245. No other option out of the remaining six was agreed to. Three were disagreed to without a division.

11. In the Lords the first option, for a fully appointed House, was agreed to by 335 votes to 110. All the other six options were disagreed to. The voting figures in both Houses are set out in the following table. The options were:

Option 1	Fully appointed
Option 2	Fully elected
Option 3	80% appointed, 20% elected
Option 4	80% elected, 20% appointed
Option 5	60% appointed, 40% elected
Option 6	60% elected, 40% appointed
Option 7	50% appointed, 50% elected

³ The Lords debate took place on 21 and 22 January 2003 and the Commons debate on 21 January 2003.

	Amendment	Option 1	Option 2	Option 3	Option 4	Option 5	Option 6	Option 7
Lords								
For		335	106	39	93	60	91	84
Against		110	329	375	338	358	317	322
Commons								
For	172	245	272		281		253	
Against	390	323	289		284		316	

12. In our Special Report to both Houses we recognised the possibility of differences in outcome in the votes in the two Houses and understood that we would need to consider the differences that existed between the two Houses and the means by which they might be brought closer together.⁴ One way in which we had considered that that might be done, and a way forward thus found, was to take stock of what was actually agreed by Members of both Houses across a broad front. But we acknowledge that the lack of a vote, in the House of Commons, in favour of any of the options for composition requires the reform process to be given more time and consideration.

13. We also note that support for unicameralism turned out to be greater than expected, although of the 172 Commons Members who supported that amendment 160 went on to vote for one or more of the options.

PART 2: PROGRESS ON REFORM: A NEW CONSENSUS

14. We consider that, if it is the wish of the Houses, it would be possible for the Committee to contribute to the progress of the reform process by investigating and reporting on certain specific issues, which will have to be resolved as part of an overall reform. This should facilitate future decisions on these matters and it would be possible, if thought desirable, to bring into effect some specific changes on the road to overall reform. Our conclusion that further progress can be made is based on the much wider acceptance than at any previous time, of the roles, functions and powers that a reformed House should have and of the kind of qualities desirable in it. The debates in both Houses on our First Report have reinforced our view on this matter.

Roles and Conventions

15. In our First Report we identified a number of significant roles that a reformed House does and could in future fulfil.⁵ In the case of some of these roles, for example in its role in relation to the Commons, we believe that the way forward is to recognise the existing conventions that govern how the Lords conducts its business and behaves towards the Commons, and examine ways of defining them in a new constitutional settlement between the Houses. In the debate in the House of Commons, the Leader of the House rightly said that these conventions “buttress the relative status of each House”.⁶ The two most important conventions, both of a self-restraining nature, are the recognition on the part of the House of Lords that the Commons should eventually have its way, and its acceptance that the Government of the day is entitled to have its business considered

⁴ Special Report (HL Paper 151, HC 1109, Session 2001–02), paragraph 6.

⁵ House of Lords Reform: First Report, paragraphs 9 to 17.

⁶ House of Commons Official Report, 21 January 2003, column 200.

without undue delay. We noted in our First Report that the House of Lords could depart from these conventions at any time since they have no basis in law.⁷ A reformed House might look upon its relations with the Commons with a fresh, more assertive stance. We therefore consider that the manner of maintaining these conventions requires careful attention and could form one part of the continuing programme of reform.

Constitutional Long-stop

16. A second important role, already performed by the Lords, is that of a constitutional long-stop or check on the ability of the Commons to make constitutional changes without full debate and an awareness of the consequences. This role was well understood by the Royal Commission in its report.⁸ The House of Lords has accepted the Royal Commission proposal that a Constitution Committee should be established; the Committee was appointed in February 2001. The exact significance of the constitutional role of the Lords needs to be carefully assessed in the further programme of reform.

Representativeness

17. Other roles which we identified in our First Report, in respect of the public on the one hand and the regions and nations of the UK on the other, are areas in which the substantial work already done by the Royal Commission needs to be carried forward. As one Member in the Lords debate put it, “this House is seen as too male, too old and too much from the south-east of England, with insufficient ethnic diversity”.⁹ In these areas, it is not so much a matter of consolidation of what the present House does, but of thinking afresh and in the overall context of parliamentary activity. On the one hand, there is a need to consider how the Lords can be made more legitimate, more directly representative of social groups (gender-wise, racially and in respect of religions) without significantly affecting its relations with the Commons. On the other, there is a need to work out what role a reformed House should have in relation to the nations and regions of the UK and how that might be achieved.

Functions

18. We also identified, in our First Report, functions at present performed by the Lords which need to continue and be enhanced in a reformed House.¹⁰ These include the overridingly important function of the House as a legislative body in which some Government business can be initiated and the task of revision taken on in a serious manner. Up to one-third of public bills are actually introduced into the Lords. Recent Governments of all political complexions would not have been able to achieve their legislative programmes without this facility. The Lords’ revising role is widely acknowledged and attested to by the levels of activity in amending legislation over a long period, with well known results. We emphasised in our First Report that co-ordination of legislative loads between the Houses would be an important part of any new constitutional settlement, something already noted by the Commons Modernisation Committee.¹¹

⁷ House of Lords Reform: First Report, paragraph 12.

⁸ Royal Commission on Reform of the House of Lords, *A House for the Future* (Cm 4534, January 2000) Chapter 5, Protecting the Constitution.

⁹ House of Lords Official Report, 22 January 2003, column 761.

¹⁰ House of Lords Reform: First Report, paragraphs 19 to 25.

¹¹ *Ibid.* paragraph 20.

Scrutiny

19. Other functions of the Lords include its important scrutiny function – carried out in the House and through select committees. There are issues here, for example, to do with the effectiveness of the select committees which need to be looked at carefully so that the present, already significant, scrutiny role can be expanded and enhanced.

Judicial function

20. The judicial function of the Lords is a uniquely important area of its own. There is still the need for a full, public discussion about whether there should be a separate Supreme Court and that might best arise from the work of an independent inquiry which can call on expert advice and evidence. We have heard nothing in the debates in both Houses to change our view that this is a separate matter that needs an inquiry of its own.¹²

Powers

21. We did not envisage any significant change in the powers of the Lords as defined in the Parliament Acts, although we reserved our position on the matter of powers in the area of secondary legislation and we expressed concern at the use of carry-over provisions for public bills.¹³

The Five Desirable Qualities

22. In putting forward our views on reform of the House of Lords, we identified five qualities which we consider essential to a reformed House.¹⁴ The five qualities are tests to be applied to the composition of a House which is to perform its role effectively.

23. The five qualities are:

- legitimacy
- representativeness
- no domination by one party
- independence
- expertise

24. We do not want to rehearse here in detail our discussion of these matters in our First Report but we stress that we were unanimous in agreeing to their importance. Nor has anything which has been said in the debates in both Houses seriously challenged this conclusion. Many Members emphasised the need for lack of domination by one party and worry was expressed about the degree of political patronage in the existing system of appointments. In his remarks on the second day of the debate in the House of Lords, the Lord Chancellor said that reform of the Lords should produce a House which was not “a rival nor a pale imitation’ of the Commons and one that is not ‘dominated by the political parties either collectively or singly; that brings to its deliberations distinctive expertise and experience’”.¹⁵ The five qualities we have enumerated and discussed in our First Report are designed to produce exactly that.

¹² *Ibid.* paragraph 25.

¹³ *Ibid.* paragraphs 22 and 23 and 26 to 29.

¹⁴ *Ibid.* paragraphs 30 to 43.

¹⁵ House of Lords Official Report, 22 January 2003, column 832.

25. In both Houses, the need for a strong independent element in a reformed second chamber was voiced by supporters of every position on composition.

PART 3: WHAT IS THE WAY FORWARD?

26. We have already noted (paragraphs 2–4 above) the absence of common ground on which to found proposals for change in the long-term composition of the second chamber. There is, however, a range of inter-related matters which need to be examined carefully if the case for reform is to be taken forward. Progress can be made and has been made already on an incremental basis. Further consideration of these matters does not in any way entrench the present composition of the House since they would have had to be examined even if there were no proposals to reform the composition of the House. The matters we highlight in this Report would have had to be the object of detailed scrutiny whatever the outcome of the votes on composition in the two Houses. We made these issues quite clear in our First Report, including among them the question of the size of a reformed House, tenure, the appointments system, the position of the law lords and the bishops and the financial consequences of reform. On many of these questions, the way ahead has been foreshadowed in the Royal Commission Report and subsequent documents. At least some parts of this agenda can, moreover, be carried forward without the need for primary legislation.

Size/Tenure

27. Our views on the size of the House and on tenure were challenged in the debates preceding the votes on the seven options, particularly in the House of Commons. There was a broad opinion that a House of six hundred Members, with an appreciably larger House during the transitional period, was too high. The Leader of the House of Commons urged us to “think more boldly about the eventual reduction in size of the second chamber”.¹⁶ Other Members also spoke in favour of a smaller House. The question of size must be linked to that of tenure, frequency of attendance as well as to the need for flexibility to secure appropriate political “balance” and an independent “base” as we said in our First Report. Nevertheless we would enter the second phase of our deliberations with an awareness that a reduction in size (from 600 as the eventual number) is widely considered desirable. However, the question of size is inevitably linked to decisions as to whether existing life peers should be subject to compulsory retirement, what proposals should be made for voluntary retirement, whether members should regard membership as a full-time commitment, consequent provisions relating to remuneration, and procedural reforms such as the degree of delegation to committees.

28. The matter of the length of tenure was raised in debate, when it was suggested that the 12-year term proposed in our First Report might be too long. This was one of only two matters on which the Committee divided, an amendment to allow an 8-year term, once renewable, being defeated. This is another matter to which the Committee can return in its further deliberations.

Appointment

29. There was less criticism of our stance on the important matter of the Appointments Commission (which would be necessary for every possible future prospect, save that of an 100 per cent elected House). The importance that we attached to getting the right

¹⁶ House of Commons Official Report, 21 January 2003, column 206.

balance between allowing for *some* nominations to be made by the Prime Minister of the day and others by party leaders and otherwise delivering an open and fair system of appointment was not seriously challenged in the debates in either House although disquiet about patronage was expressed. The need for independence and integrity of the appointments system was recognised by the Royal Commission in its Report.¹⁷ We agree with the Royal Commission that much the best way of achieving this is to reformulate the existing Commission and put it on a statutory basis. But much work needs to be done on exactly what is needed to produce a widely respected and viable method of appointment.

30. Meantime, and in the possible absence of primary legislation, this is not an issue that can be neglected for long. Two years have passed since the appointment of the last group of new life peers. There is, therefore, a growing need to top up the stock of expertise and of younger members. In order to handle this problem, consideration should, therefore, be given to the appointment of a new and manifestly independent Appointments Commission, and endorsed – as an interim alternative to primary legislation – by an Order in Council, approved by both Houses.

Bishops and the representation of other denominations and faiths

31. We have already indicated in our First Report that the position of the Church of England bishops would need to be considered in a reformed House. We believe that such reforms, aimed at making the House more representative of British society as a whole, must entail examining the merits of religious representation. We would wish to consider that matter carefully, on the basis of evidence from various religious and spiritual communities.

Financial matters

32. The financial consequences of reform are something that should be costed. Parliament should not consider itself above an exercise that would be routinely part of inquiry into changing the structure of any other organisation in the land. There are implications here about the requirements which Members of a reformed House would demand. They include accommodation, secretarial services and research support. The size and composition of the reformed House will be decisive in setting figures on these demands but in any case they merit serious inquiry. There would also need to be a review of the present system of offering no remuneration to Members but only reimbursing expenses within daily limits.

Two remaining issues

33. There are two remaining issues of particular importance which we now consider need to be tackled. The first is that of the position of the remaining 92 hereditary peers; the second is whether we should begin to examine systems of indirect election to a reformed House.

The Hereditaries

34. The 92 hereditary peers (including *ex officio* Members) have continued to participate effectively in the affairs of the House. The Government White Paper

¹⁷ Royal Commission on Reform of the House of Lords, *A House for the Future*, Chapter 13, The Appointments Commission.

Completing the Reform confirmed the Government's intention that the remaining 92 hereditary peers would leave the House as part of the next stage of reform.¹⁸

An indirectly elected House?

35. We note the view expressed by a number of Members of the House of Commons that the possibility of indirect elections to the House of Lords should be considered. Various possibilities exist for moving towards an indirectly elected House. The main problem so far identified is the lack of a regional structure, especially in England, from which to draw membership. Nevertheless things are developing in this direction – the Government remains committed to taking forward measures to introduce regional assemblies.¹⁹ Members of a reformed House could be indirectly elected by these new bodies together with the Scottish Parliament and the Welsh Assembly. Another possible approach involves a “secondary mandate” whereby votes in elections to the House of Commons are also used to elect Members of the House of Lords using a regional list system.²⁰ These are complex matters which would need careful scrutiny in an ongoing programme of reform.

Response from the Government

36. We have identified in this report the area of consensus that has been achieved in the matter of reform. So far as recognition of the roles, functions and powers of a reformed House are concerned, that consensus is considerable. It is accepted by almost all Members of the House of Commons who spoke including the unicameralists who, once their preferred option had been defeated, divided almost equally into supporters of a fully appointed and a fully elected House. It is also a view shared by almost all Members of the House of Lords who spoke in the debates.

37. Agreement about those matters is, in our view, a strong basis for continuing the reform. We have identified areas where work needs to be done – namely in respect of the issues of the hereditary peers, the appointments system and such matters as the size and conditions of tenure of the House. As a longer-term matter there is the possibility of indirect election to the House. If these reforms can be carried through in a sustainable way, then the fundamental issue will remain to be resolved, namely whether the Lords should be wholly appointed, wholly or partly directly elected or wholly or partly indirectly elected. We look forward to a reply from Government within the customary two months and then acceptance by both Houses that our work should continue on the lines we have set out.

¹⁸ Government White Paper *The House of Lords: Completing the Reform* (Cm 5291, November 2001), paragraph 89.

¹⁹ The Regional Assemblies (Preparations) Bill has completed its Commons stages and is now awaiting report stage in the Lords.

²⁰ See, for example, the submission by Billy Bragg in response to *Completing the Reform*. (http://www.lcd.gov.uk/constitution/holref/holrefresp/ex/bragg_billy.pdf)

**PROCEEDINGS OF THE COMMITTEE RELATING TO THE REPORT
SESSION 2002–03**

DIE MARTIS, 25° FEBRUARII 2003

Present:

Lord Archer of Sandwell	Mr James Arbuthnot
Viscount Bledisloe	Mr Chris Bryant
Lord Brooke of Alverthorpe	Mr Kenneth Clarke
Lord Carter	Dr Jack Cunningham
Lord Goodhart	Mr William Hague
Lord Howe of Aberavon	Joyce Quin
Lord Oakeshott of Seagrove Bay	Mr Clive Soley
Baroness O’Cathain	Mr Paul Stinchcombe
The Earl of Selborne	Mr Paul Tyler
Lord Weatherill	

The Joint Committee deliberate.

Ordered, That the Joint Committee be adjourned to Tuesday 1 April at Ten o’clock.

DIE MARTIS, 1° APRILIS 2003

Present:

Lord Archer of Sandwell	Janet Anderson
Viscount Bledisloe	Mr James Arbuthnot
Lord Brooke of Alverthorpe	Mr Chris Bryant
Lord Carter	Dr Jack Cunningham
Lord Forsyth of Drumlean	Mr William Hague
Baroness Gibson of Market Rasen	Mr Stephen McCabe
Lord Goodhart	Joyce Quin
Lord Howe of Aberavon	Mr Terry Rooney
Lord Oakeshott of Seagrove Bay	Mr Clive Soley
Baroness O’Cathain	Mr Paul Stinchcombe
The Earl of Selborne	Mr Paul Tyler
Lord Weatherill	

Dr Jack Cunningham, in the Chair.

The Order of Adjournment is read.

The Proceedings of Tuesday 25 February are read.

The Joint Committee deliberate.

Ordered, That the Joint Committee be adjourned to Tuesday 29 April at Ten o’clock.

DIE MARTIS, 29° APRILIS 2003

Present:

Lord Archer of Sandwell	Janet Anderson
Viscount Bledisloe	Mr James Arbuthnot
Lord Brooke of Alverthorpe	Mr Chris Bryant
Lord Carter	Mr Kenneth Clarke
Lord Forsyth of Drumlean	Dr Jack Cunningham
Baroness Gibson of Market Rasen	Mr William Hague
Lord Goodhart	Mr Stephen McCabe
Lord Howe of Aberavon	Joyce Quin
Lord Oakeshott of Seagrove Bay	Mr Terry Rooney
Baroness O’Cathain	Mr Clive Soley
The Earl of Selborne	Mr Paul Stinchcombe
Lord Weatherill	Mr Paul Tyler

Dr Jack Cunningham, in the Chair.

The Order of Adjournment is read.

The Proceedings of Tuesday 1 April are read.

A draft Report is proposed by the Chairman, brought up and read.

A draft Report is proposed by Mr Paul Stinchcombe, brought up and read as follows:

“PART ONE : HOW TO RESPOND TO THE VOTES OF 4TH FEBRUARY 2003

Introduction

1. We began our First Report by reminding ourselves why, over the past century, all attempts at reform of the House of Lords have failed – it was because of the lack of agreement on what was needed to replace the existing House. We went on, however, to state our firm resolve to play our part in avoiding the repetition of that history:

‘... (W)e believe that there is now an historic opportunity to enact a reform which will enable the second chamber to continue to play an important and complementary role to the Commons, with its future at last secure.’

2. And yet despite our early optimistic protestations to the contrary, history is clearly in danger of repeating itself.

3. In particular, by our First Report this Committee put before the Houses of Parliament seven options for the composition of a reformed House of Lords ranging from an all-appointed second chamber to one which was all-elected, with intermediate possibilities of a hybrid House of Lords part-elected, part-appointed in different proportions.

4. On 4th February 2003, however, the House of Commons rejected each and every one of the options that was put before them. The votes were as follows:

1. Fully appointed	Rejected by 323 votes to 245
2. Fully elected	Rejected by 289 votes to 272
3. 80 per cent appointed/20 per cent elected	No division
4. 80 per cent elected/20 per cent appointed	Rejected by 284 votes to 281
5. 60 per cent appointed/40 per cent elected	No division
6. 60 per cent elected/40 per cent appointed	Rejected by 316 votes to 253
7. 50 per cent appointed/50 per cent elected	No division.

5. So it is that, despite our early optimism, despairing voices have urged this Committee to give in and give up.

6. There is, however, a serious inhibition on the powers of the Joint Committee to dissolve itself by its own motion. In particular, the reform of the House of Lords is a matter for Parliament, not for the Joint Committee (and not for the Executive either). Through resolutions of both Houses, it was Parliament that established the Joint Committee as the vehicle to report to it on models of potential reform of the second chamber. Having created the Joint Committee by resolution, neither House of Parliament has yet resolved to wind it up.

7. The Joint Committee firmly believes that it does not have the capacity to wind itself up. The Committee was established by the Houses of Parliament and not by itself. Accordingly, it is not for us but for the Houses of Parliament to determine the Committee's fate.

The options: wind-up the Joint Committee or give it a renewed mandate

8. There are two options for the future of the Joint Committee which Parliament could decide upon – winding the Joint Committee up or asking it to continue and complete its work.

Four reasons for giving the Joint Committee a renewed mandate

9. For the following four reasons we believe that if Parliament were to accede to counsels of despair and dissolve the Joint Committee, that would amount to a lamentable failure of Parliamentary resolve. Indeed, it would mean that Parliament had either colluded with – or surrendered to – a divided executive and an obstructionist House of Lords to prevent the latter's reform, when its reform was the sole purpose for which Parliament actually established the Joint Committee.

1. Restoring the credibility of Parliament

10. Commentators have already noted the unusual voting patterns of certain Honourable and Right Honourable Members as highlighted by Early Day Motions 686 and 689. As those Early Day Motions reveal, several Honourable and Right Honourable Members of the House of Commons appear to have voted in an inconsistent fashion, leading – perhaps – to a contrived rejection by the Commons of certain democratic models put before them on 4th February. In addition, commentators have also noted the fact that some Right Honourable Members of our own Joint Committee spoke powerfully in debate in the House of Commons in favour of a largely elected second chamber and then conspicuously failed to vote for it.

11. Such behaviour inevitably adds to the political cynicism in the country, to the growing belief that there never was a firm intention on the part of Parliament to take the reform of the House of Lords remotely seriously.

12. If Parliament were to confirm this impression by resolving to wind the Joint Committee up, the credibility of Parliament itself would be seriously undermined. Moreover, there could not be a worse time for Parliament to play so dangerous a game with the public's confidence in our democratic processes – the people's disengagement with politics is already such that mayoral candidates have been elected on joke platforms. Turnout is at an all-time low – down from 77.7% in the 1992 General Election to 59.4% in 2001, a loss of some 7 million voters in under a decade. Turnout in other elections is already far lower. The risk must be very real that turnout at the next General Election will be less than 50%. If it is, the legitimacy of democratic government itself will be in

question. The opportunity for reforming the House of Lords is one which could reverse that trend, and to opt instead to undermine yet further the public's confidence in Parliament would be an act of monumental folly.

13. The first reason for Parliament asking the Joint Committee to continue its work is that to do otherwise would reinforce the cynicism that the public already feels in our Parliamentary processes. Indeed, if Parliament were to vote to wind the Joint Committee up it would undermine the credibility of Parliament itself. That would be a very grave mistake to make.

2. Filling the leadership void

14. As earlier indicated, the reform of the House of Lords is a matter for Parliament not the executive. Nonetheless the Joint Committee cannot help but note that despite the governing party's manifesto commitment at the last General Election,

'to completing the House of Lords reform and make it more representative and democratic, while maintaining the House of Commons' primacy',

the votes on 4th February – and the comments made in the run-up to the debate – reveal that the cabinet itself is deeply divided as to the best way forward.

15. In addition, analysis of the votes cast in the House of Commons on 4th February reveals that these divisions run right through both the governing party and the official opposition.

16. The second reason for Parliament asking the Joint Committee to continue its work is that with the executive split, with the major political parties deeply divided, and with the governing party thereby in danger of not being able to deliver on a firm manifesto commitment, there is an absence of political leadership on the issue of the reform of the House of Lords. This is a void that only the Joint Committee is positioned to fill. We believe that if the Joint Committee were to fail to fill that void it would be abdicating the responsibilities vested in it by Parliament.

3. Preventing an unacceptable constitutional settlement

17. The Joint Committee is – as stated immediately above – the only vehicle by which the reform of the House of Lords can currently be progressed. If it were wound-up by Parliament that vehicle for reform would thereby be abolished. We would then be left with the status quo – a hybrid second chamber whose membership was very largely appointed but in smaller part there by accident of birth. This model is universally condemned and has been made to look even absurd of the recent election by the second chamber of a replacement hereditary peer from a candidate list of 81 former hereditary peers. It was precisely because the status quo was thought repugnant that the Houses of Parliament established the Joint Committee to preside over its reform, and to allow the status quo to stay by default will serve only to bring the second chamber into further disrepute.

18. The third reason for Parliament asking the Joint Committee to continue its work is that the Joint Committee believes that to surrender our responsibilities now would leave the nations and regions of the United Kingdom with a constitutional status quo which is not remotely acceptable – a hybrid second chamber with the majority there only through the exercise of patronage and the minority there only by reason of the accident of their birth. The Joint Committee does not believe that it should condemn the constitution of the United Kingdom to such a settlement.

4. *Fulfilling the original mandate*

19. The Joint Committee notes, also, that it has not yet fulfilled the mandate it was originally given. In particular, the Joint Committee was established by the Houses of Parliament:

'... to report on options for the composition and powers of the House of Lords and to define and present to both Houses options for composition, including a fully nominated and fully elected House, and intermediate options'.

In purported fulfillment of the above, the Joint Committee has – so far – presented to both Houses certain options. As we have noted above, none of these have commanded the support of the House of Commons. There are other options – however – which the Joint Committee has not yet even considered nor allowed either House of Parliament to vote upon. In particular, we have not given any consideration whatsoever to any option of either indirect election or election by secondary mandate.

20. In the premises it is evident that the remit for which Parliament first established the Joint Committee has not yet been fulfilled. In these circumstances it would be obviously premature to dissolve the Joint Committee.

21. The fourth reason for Parliament asking the Joint Committee to continue its work is that despite the breadth of our remit 'to report on options for composition... of the House of Lords', we have conspicuously failed to report to either House in respect of any option of indirect election or election by secondary mandate.

Conclusions on the options for the Joint Committee

22. For all of these reasons, the Joint Committee invites the Houses of Parliament not to wind the Joint Committee up but to give it instead a renewed mandate to continue to consider options for the reform of the House of Lords which might reconcile the differences of opinion which the recent votes in the House of Commons dramatically exposed.

PART TWO : THE PREFERRED NATURE OF THE RENEWED MANDATE

The options: minor revision or radical reform

23. The Joint Committee appreciates, however, that the votes on 4th February 2003 in the House of Commons indicate the scale of the task that now confronts it. If all past attempts at reform of the House of Lords have been broken by the failure to agree on its replacement, the rejection by the House of Commons of every single option for reform that we proposed by our First Report shows that disagreement still continues.

24. Indeed, the scale of the apparent disagreement inevitably tempts us to ask the Houses of Parliament to invite the Joint Committee to consider first those areas in which the recent debates indicate the disagreements to be less serious – removing the remaining hereditary peers, improving the current system of appointment, considering the size of the second chamber, the age at which Lords might retire, and whether they should be remunerated.

Three reasons for favouring radical reform

25. However, the Joint Committee believes that – for the following three reasons – it would be a grave mistake for the Joint Committee to continue to meet only to tinker with minimalist measures, not properly to debate radical reform.

1. *Legitimising the illegitimate*

26. **The first reason is that any Bill which simply addressed issues of peripheral concern would run the risk of legitimising the illegitimate, leading to the greater longevity of the Lords as it is currently and unacceptably composed. Whilst perfection should never be the enemy of the good, it must always be the enemy of the bad.**

2. *Practical difficulties*

27. **The second reason is that there would be real difficulties in getting a minimalist Bill through either House of Parliament. The Commons would likely reject the reforms as insufficient and the Lords reject any Bill that expelled the remaining hereditary peers. Moreover, even if such a Bill could be enacted a real question has to be asked as to whether it would be worth the Parliamentary time taken to pass it.**

3. *Fulfilling the original mandate*

28. **The third, and perhaps most important, reason is that minor tinkering with the more obvious failings of the status quo would not remotely address our wholesale failure to fulfill our original mandate properly to consider and report upon the options for potential reform of the House of Lords – not the least of which are the models of indirect election or election by secondary mandate which we have thus far ignored.**

The Joint Committee's responsibility for past failure

29. The Joint Committee accepts its share of responsibility for the current state of affairs. In our First Report we should have addressed the principled objections which Honourable and Right Honourable Members held against direct election, appointment and hybridity and endeavoured to develop constitutional models which might meet those concerns. We avoided that entire debate. Rather than attempt to reconcile the differences of Honourable and Right Honourable Members, we simply afforded them the opportunity to restate their previous positions.

30. We were wrong to narrow the debate as we did, reducing a complex series of constitutional issues to the two alternatives of an all-elected and all-appointed second chamber (which we were obliged to present in any event) and a baffling series of arbitrary arithmetic options in-between. The Houses of Parliament should have been asked to debate not numbers but principles – legitimacy, primacy, expertise and, above all, participation. We needed to give Parliament the chance to do more than choose between *varying proportions* of members elected and members appointed, we needed to afford them the opportunity to consider the potential *means* of election to the second chamber. We failed to do so.

31. We accept that our First Report will have left many Honourable and Right Honourable Members confused when they addressed those options on 4th February. In particular, through failing in our First Report to deal explicitly or at all with the issue of indirect election or election by secondary mandate, the Joint Committee denied those who supported such options any chance to vote for them. Moreover, some in this position – perhaps many – voted for an appointed second chamber instead of one which was elected, either in the mistaken belief that indirect election and/or election by secondary mandate was in fact a method of appointment; or because they feared that a vote for an elected chamber might yield a *directly* elected chamber with which they strongly disagreed. We

accept that we should not have put Honourable and Right Honourable Members in so invidious a position.

The way forward

32. For all of the above reasons, the Joint Committee believes that Parliament should give it a fresh mandate to do the job it should have done first time – to report on options for the reformed composition of the House of Lords which have not thus far been considered, including the options of indirect election and election by secondary mandate.

PART THREE : THE OBJECTIONS IN PRINCIPLE TO APPOINTMENT, DIRECT ELECTION AND HYBRIDITY

The context for further consideration: the objections to past options

33. The context within which the Joint Committee must proceed to consider the options of indirect election and election by secondary mandate is necessarily provided by the objections in principle which were raised by Honourable and Right Honourable Members against the options which previously we reported to the House.

34. The Joint Committee accepts, therefore, that it must take proper cognisance of the votes of the House of Commons on 4th February when it conducts its future work. In particular, the Joint Committee acknowledges that the options of 100% direct election, 100% appointment, and the range of hybrid chambers in-between have all been rejected.

35. The Joint Committee believes that – in the light of those votes – it must investigate the detailed reasons why the House of Commons rejected all of the above options and consider whether, and if so how, those objections might best be accommodated. After all, it is those objections which lie behind the position we are in. Even if – as individuals – we do not agree with all of those objections, it is incumbent upon us at least to understand them. Otherwise we will never bridge the divisions of principle which separate us, so to achieve a broad consensus on reform.

1. The objections to direct election

36. Those Honourable and Right Honourable Members who object to a directly elected second chamber do so – principally – because they believe that a directly elected second chamber would fundamentally undermine our bicameral system of Parliament, one which only works if one House has primacy over the other.

37. In particular, they note that for centuries the Lords had primacy over the Commons because the landed aristocracy were perceived to be superior to the lower social orders. They note – further – that it was only with the advent of democracy that the Commons attained its primacy. They therefore conclude that democracy conferred upon the Commons a legitimacy with which the unelected Lords could never compete, and that this democratic legitimacy was the source of primacy. From this analytical premise they argue that history compels the view that if the second chamber was to be directly elected it would have legitimacy equal to that of the Commons and would one day assert itself against the Commons, challenging its primacy.

2. The objections to appointment

38. Those Honourable and Right Honourable Members who object to an appointed second chamber also believe that it is democracy which brings legitimacy. However, they argue that this cannot possibly justify a second chamber being composed by appointment

for that would make the second chamber illegitimate by design – a constitutional settlement which is absurd. They assert, moreover, that an appointed second chamber will be illegitimate however expert its members and however they are appointed: if the power of appointment is placed in the hands of an Independent Appointments Commission we will have patronage by the great and the good; if that power is placed in the hands of political parties we will have cronyism.

39. They argue – moreover – that there is no point in reforming the House of Lords unless it is to make it more democratic: it was because the hereditary peers were an affront to democracy that they were removed; and we now have to deal with the equally undemocratic life peers. They accept that democracy does not equal legitimacy but assert that it does confer it, that it affords two vital constitutional protections – government by consent and government by representatives. They conclude that in the democratic age it is simply inconceivable that we should now turn away from democracy and embrace patronage instead.

3. *The objections to hybridity*

40. Those Honourable and Right Honourable Members who object to a hybrid chamber – part-directly elected, part-appointed – do so because they consider that constitutional stability demands that all members have the same standing, that none is more legitimate than others.

41. They point to the fact that, at present, all members of the House of Lords owe their presence to patronage – their mandate is by appointment, not one peer has the legitimacy which democratic election confers. They therefore argue that introducing a directly elected element into the second chamber will create a chamber of conflicting mandates and that such a chamber would be fatally unstable.

Summary of objections

42. **In summary, it has been argued that all three of the principal options are objectionable in principle – that direct election will threaten the supremacy of the House of Commons; that appointment will not be a democratic expression of the will of the people; and that a hybrid House will be a fudged compromise which is constitutionally unstable.** Moreover, the votes cast in the House of Commons – whereby all of the options were rejected – indicate that a majority of that House attribute real weight to all of these objections.

PART FOUR : WIDENING THE DEBATE – INDIRECT ELECTION AND ELECTION BY SECONDARY MANDATE

Responding to the objections by widening the debate

43. **The Joint Committee considers that in the light of these objections and their reflections in the votes cast on 4th February, we must now recast this entire debate. Our purpose must be to wrestle with the objections to the past options we have put forward and endeavour to devise an electoral model which meets them – one which is democratic, which will lead to a membership which will make it both effective and legitimate, but which will ensure that the second chamber neither duplicates the composition of the Commons nor receives a mandate from the electorate which allows it to challenge the Commons' primacy.** This – indeed – is the course of action we expressly anticipated in paragraph 3 of our First Report:

'Once both Houses have had the opportunity to debate and vote on the options which we set out here, we shall... need to consider such differences as may exist between the

expressed views of the two Houses and the means by which, and the extent to which, they might be brought closer together.'

44. In order to take this bold agenda forward the Joint Committee will – firstly – need to look to models of indirect election to the second chamber and/or of election by secondary mandate, models which – as we have already noted – are not even canvassed in our First Report.

45. Moreover, in reporting to the Houses of Parliament on the possible models of indirect election or election by secondary mandate, we must continue to be guided by the five qualities which the Joint Committee has always considered to be desirable in a reformed second chamber:

- **Legitimacy**
- **Representativeness**
- **No domination by any one party**
- **Independence**
- **Expertise**

46. In addition, however, the Joint Committee must also bear in mind the need to re-engage the electorate so that they not only participate in our democracy more fully but begin once more to trust it, own it, and even cherish it. In particular, at a time of falling voter turnout the Joint Committee believes that Lords reform is the only issue presently before Parliament which has the ability to re-engage the public in our democratic process. We must take full advantage of the opportunity this affords us.

Models of indirect election and of election by secondary mandate

47. There are at least three models of indirect election and election by secondary mandate which the Joint Committee could consider: functional constituencies; indirect regional elections; and election by secondary mandate. We briefly describe those models below.

1. Functional constituencies

48. Under the functional constituency model, members would be elected to the second chamber by discrete representative groups (Local Authorities, TUC, CBI, small business, banks, doctors, teachers, lawyers, environmentalists, the disabled, ethnic minorities, faith groups, etc.) so ensuring democratically elected members in the second chamber with real expertise (and a greater likelihood of independence) covering the range of departmental responsibilities.

2. Indirect regional elections

49. Under the indirect regional election model, members would be elected by those already elected to Local Authorities and Regional Assemblies so that the second chamber would have democratic roots and be geographically representative, but with members who would not have the prime mandate of directly elected MPs.

3. Election by secondary mandate

50. Under the model of election to the second chamber by secondary mandate, MPs would continue to be elected by the first past the post system but each vote cast at the general election would carry with it a secondary mandate for the second chamber, adding additional weight to the votes cast at those elections. Members would then be elected to

the second chamber according to regional lists and in proportion to the votes cast within each of the 12 regions and nations of the United Kingdom.¹

Preliminary thoughts on the models of indirect election

51. The first two of the above three options have already been criticised in some quarters, including in the debates on 4th February. In particular, it has been argued that the functional constituency model would narrow the electoral base to the vested interests so that we would create a Parliament of lobbyists. Likewise, the model of indirect regional elections has been criticised because the regional agenda is too undeveloped and because – again – it does not encourage participation on the part of the electorate.

52. Notwithstanding the evident strength of the objections to the first two of the options, we believe they should not be dismissed out of hand and that the Joint Committee should at least be invited to consider whether they merit more detailed analysis.

Preliminary thoughts on the model of election by secondary mandate

53. We also believe that the Joint Committee should consider the merits of the alternative option of election by secondary mandate. Indeed, our preliminary view is that this model passes successfully and comprehensively our guiding tests of legitimacy, representativeness, no domination by any one party, independence and expertise.

54. In particular:

- **Legitimacy** – Since the second chamber would be elected by a genuine expression of the will of the people, it would be legitimate. However, its legitimacy would be one step removed from that conferred by the direct election of MPs so that the primacy of the Commons would be preserved.
- **Representativeness** – Members elected by secondary mandate would be elected by regional lists and would therefore be geographically representative.
- **No domination by any one party** – As the secondary mandate would be proportional, the Government of the day would not be able to command a majority in both Houses of Parliament.
- **Independence** – Since the secondary mandate would be proportional, smaller parties would be able to secure election to the second chamber. In addition, and as we canvassed in our First Report, independence could further be secured by regulating such matters as the ability to stand for re-election either to the Commons or the Lords, length of tenure, and the capacity of members of the Lords to be made a Minister.
- **Expertise** – Experts, often unwilling to stand for direct election, would be far more likely to stand if they could be elected from Regional Lists and pursuant to a secondary mandate. Depending upon the rules of the various political parties, they could be voted onto lists by party activists in local primaries.

55. Moreover, the model of election by secondary mandate carries with it the possibility of reinvigorating our democracy – by adding weight to the votes we already cast instead of imposing another tier of elections on an electorate already

¹ See, for example, the pamphlet by Billy Bragg *A Genuine Expression of the Will of the People – a viable method of democratic Lords reform*.

suffering from election fatigue. Currently, the only votes that count in the General Election are those that are cast for the winning candidate. Under the secondary mandate system all votes would count. That could be a critical advantage in times of rapidly declining electoral turnout and falling public confidence in the democratic process. **In addition, it also addresses – and in terms – the critical issue: how to maintain the primacy of the Commons whilst ensuring the democratic legitimacy of the Lords.**

56. **We note – moreover – that we have received a letter expressly asking the Joint Committee to put this option before Parliament for debate – alongside other methods of indirect election – from a number of individuals and think tanks with a long-standing interest in constitutional reform:** Billy Bragg; Karen Bartlett (Director, Charter 88); Matthew Taylor (Director, IPPR, in a personal capacity); Will Hutton, Chief Executive, The Work Foundation; Tom Bentley (Demos); Karen Chouhan (Director, 1990 Trust); Nicholas Boles (Director, Policy Exchange); Anthony Rowlands (Chief Executive, Centre for Reform); Martin McIvor (Director, Catalyst, in a personal capacity); Ed Mayo (New Economics Foundation); Anthony Barnett (Open Democracy, in a personal capacity); and Dan Plesch.²

Incremental radicalism

57. **We note – finally – that although this solution would amount to a radical reform of the existing constitution, it is incremental in its radicalism. In particular, it requires no new elections to be held. Indeed, it would be possible to re-establish the House of Lords within a very short period of time according to this model since we already know the results from the last General Election and, therefore, the proportions of votes cast in favour of each of the political parties in each of the regions and nations of the United Kingdom.**

PART FIVE : CONCLUSIONS

The opportunity that remains

58. **For all of the above reasons the Joint Committee believes that – despite the inevitable cloud of pessimism cast by the votes on 4th February – it may yet be possible to agree a broad consensus on the best way forward.** In particular, it is conceivable that we might meet the concerns of those who fear a challenge to the supremacy of this House by making sure that the second chamber does not have the mandate to make that challenge; meet the concerns of those opposed to patronage by ensuring that places in the second chamber derive from votes cast by the electorate; and meet the concerns of those opposed to a hybrid House by indirectly electing the entire membership of the second chamber or by electing them all by secondary mandate.

59. **There remains before us an historic opportunity to enact a reform which will enable the second chamber to continue to play an important and complementary role to the Commons, with its future at last secure. Parliament can – if it has the will – rescue reform of the House of Lords from the long grass. Moreover, for so long as this is possible and options for reform remain which have not yet been considered and which might command support, the Joint Committee must be ready to consider and report upon them.**

60. **Parliament – and especially the democratically elected Commons which is supreme – must now assert itself against the unworthy coalition of those who would not reform the House of Lords at all. History will not look kindly upon our efforts if**

² See, Appendix 1

we fail that test of our resolve. Rather, we will appear willing players in a pathetic Parliamentary farce. That is an outcome we must do everything in our power to avoid.

61. We therefore ask the Houses of Parliament to give us a renewed mandate, so that the reform of the House of Lords might finally be completed.

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

PART ONE : HOW TO RESPOND TO THE VOTES OF 4TH FEBRUARY 2003

(i) The Joint Committee firmly believes that it does not have the capacity to wind itself up. The Committee was established by the Houses of Parliament and not by itself. Accordingly, it is not for us but for the Houses of Parliament to determine the Committee's fate.

(ii) There are two options for the future of the Joint Committee which Parliament could decide upon – winding the Joint Committee up or asking it to continue and complete its work.

(iii) For the following four reasons we believe that if Parliament were to accede to counsels of despair and dissolve the Joint Committee, that would amount to a lamentable failure of Parliamentary resolve. Indeed, it would mean that Parliament had either colluded with – or surrendered to – a divided executive and an obstructionist House of Lords to prevent the latter's reform, when its reform was the sole purpose for which Parliament actually established the Joint Committee.

(iv) The first reason for Parliament asking the Joint Committee to continue its work is that to do otherwise would reinforce the cynicism that the public already feels in our Parliamentary processes. Indeed, if Parliament were vote to wind the Joint Committee up it would undermine the credibility of Parliament itself. That would be a very grave mistake to make.

(v) The second reason for Parliament asking the Joint Committee to continue its work is that with the executive split, with the major political parties deeply divided, and with the governing party thereby in danger of not being able to deliver on a firm manifesto commitment, there is an absence of political leadership on the issue of the reform of the House of Lords. This is a void that only the Joint Committee is positioned to fill. We believe that if the Joint Committee were to fail to fill that void it would be abdicating the responsibilities vested in it by Parliament.

(vi) The third reason for Parliament asking the Joint Committee to continue its work is that the Joint Committee believes that to surrender our responsibilities now would leave the nations and regions of the United Kingdom with a constitutional status quo which is not remotely acceptable – a hybrid second chamber with the majority there only through the exercise of patronage and the minority there only by reason of the accident of their birth. The Joint Committee does not believe that it should condemn the constitution of the United Kingdom to such a settlement.

(vii) The fourth reason for Parliament asking the Joint Committee to continue its work is that despite the breadth of our remit 'to report on options for composition... of the House of Lords', we have conspicuously failed to report to either House in respect of any option of indirect election or of election by secondary mandate.

(viii) For all of these reasons, the Joint Committee invites the Houses of Parliament not to wind the Joint Committee up but to give it instead a renewed mandate to continue to

consider options for the reform of the House of Lords which might reconcile the differences of opinion which the recent votes in the House of Commons dramatically exposed.

PART TWO : THE PREFERRED NATURE OF THE RENEWED MANDATE

(ix) The Joint Committee appreciates, however, that the votes on 4th February 2003 in the House of Commons indicate the scale of the task that now confronts it.

(x) Indeed, the scale of the apparent disagreement inevitably tempts us to ask the Houses of Parliament to invite the Joint Committee to consider first those areas in which the recent debates indicate the disagreements to be less serious – removing the remaining hereditary peers, improving the current system of appointment, considering the size of the second chamber, the age at which Lords might retire, and whether they should be remunerated.

(xi) However, the Joint Committee believes that – for the following three reasons – it would be a grave mistake for the Joint Committee to continue to meet only to tinker with minimalist measures, not properly to debate radical reform.

(xii) The first reason is that any Bill which simply addressed issues of peripheral concern would run the risk of legitimising the illegitimate, leading to the greater longevity of the Lords as it is currently and unacceptably composed. Whilst perfection should never be the enemy of the good, it must always be the enemy of the bad.

(xiii) The second reason is that there would be real difficulties in getting a minimalist Bill through either House of Parliament. The Commons would likely reject the reforms as insufficient and the Lords reject any Bill that expelled the remaining hereditary peers. Moreover, even if such a Bill could be enacted a real question has to be asked as to whether it would be worth the Parliamentary time taken to pass it.

(xiv) The third, and perhaps most important, reason is that minor tinkering with the more obvious failings of the status quo would not remotely address our wholesale failure to fulfill our original mandate properly to consider and report upon the options for potential reform of the House of Lords – not the least of which are the models of indirect election or election by secondary mandate.

(xv) For all of the above reasons, the Joint Committee believes that Parliament should give it a fresh mandate to do the job it should have done first time – to report on options for the reformed composition of the House of Lords which have not thus far been considered, including the options of indirect election and election by secondary mandate which we have thus far ignored.

PART THREE : THE OBJECTIONS IN PRINCIPLE TO APPOINTMENT, DIRECT ELECTION AND HYBRIDITY

(xvi) The context within which the Joint Committee must proceed to consider the options of indirect election and election by secondary mandate is necessarily provided by the objections in principle which were raised by Honourable and Right Honourable Members against the options which previously we reported to the House.

(xvii) In summary, it has been argued that all three of the principal options are objectionable in principle – that direct election will threaten the supremacy of the House of Commons; that appointment will not be a democratic expression of the will of the people; and that a hybrid House will be a fudged compromise which is constitutionally unstable.

PART FOUR : WIDENING THE DEBATE – INDIRECT ELECTION AND ELECTION BY SECONDARY MANDATE

(xviii) The Joint Committee considers that in the light of these objections and their reflections in the votes cast on 4th February, we must now recast this entire debate. Our purpose must be to wrestle with the objections to the past options we have put forward and endeavour to devise an electoral model which meets them – one which is democratic, which will lead to a membership which will make it both effective and legitimate, but which will ensure that the second chamber neither duplicates the composition of the Commons nor receives a mandate from the electorate which allows it to challenge the Commons' primacy.

(xix) In order to take this bold agenda forward the Joint Committee will – firstly – need to look to models of indirect election to the second chamber and/or of election by secondary mandate, models which – as we have already noted – are not even canvassed in our First Report.

(xx) Moreover, in reporting to the Houses of Parliament on the possible models of indirect election or election by secondary mandate, we must continue to be guided by the five qualities which the Joint Committee has always considered to be desirable in a reformed second chamber:

- Legitimacy
- Representativeness
- No domination by any one party
- Independence
- Expertise

(xxi) There are at least three models of indirect election and election by secondary mandate which the Joint Committee could consider: functional constituencies; indirect regional elections; and election by secondary mandate.

(xxii) The first two of the above three options have already been criticised in some quarters, including in the debates on 4th February.

(xxiii) Notwithstanding the evident strength of the objections to the first two of the options, we believe they should not be dismissed out of hand and that the Joint Committee should at least be invited to consider whether they merit more detailed analysis.

(xxiv) We also believe that the Joint Committee should consider the merits of the alternative option of election by secondary mandate. Indeed, our preliminary view is that this model successfully and comprehensively passes our guiding tests of legitimacy, representativeness, no domination by any one party, independence and expertise.

(xxv) Moreover, the model of election by secondary mandate carries with it the possibility of reinvigorating our democracy – by adding weight to the votes we already cast instead of imposing another tier of elections on an electorate already suffering from election fatigue. In addition, it also addresses – and in terms – the critical issue: how to maintain the primacy of the Commons whilst ensuring the democratic legitimacy of the Lords.

(xxvi) We note – moreover – that we have received a letter expressly asking the Joint Committee to put this option before Parliament for debate – alongside other methods of

indirect election – from a number of individuals and think tanks with a long-standing interest in constitutional reform.

(xxvii) We note – finally – that although this solution would amount to a radical reform of the existing constitution, it is incremental in its radicalism. In particular, it requires no new elections to be held. Indeed, it would be possible to re-establish the House of Lords within a very short period of time according to this model since we already know the results from the last General Election and, therefore, the proportions of votes cast in favour of each of the political parties in each of the regions and nations of the United Kingdom.

PART FIVE : CONCLUSIONS

(xxviii) For all of the above reasons the Joint Committee believes that – despite the inevitable cloud of pessimism cast by the votes on 4th February – it may yet be possible to agree a broad consensus on the best way forward.

(xxix) There remains before us an historic opportunity to enact a reform which will enable the second chamber to continue to play an important and complementary role to the Commons, with its future at last secure. Parliament can – if it has the will – rescue reform of the House of Lords from the long grass. Moreover, for so long as this is possible and options for reform remain which have not yet been considered and which might command support, the Joint Committee must be ready to consider and report upon them.

(xxx) Parliament – and especially the democratically elected Commons which is supreme – must now assert itself against the unworthy coalition of those who would not reform the House of Lords at all. History will not look kindly upon our efforts if we fail that test of our resolve. Rather, we will appear willing players in a pathetic Parliamentary farce. That is an outcome we must do everything in our power to avoid.

(xxxi) We therefore ask the Houses of Parliament to give us a renewed mandate, so that the reform of the House of Lords might finally be completed.

APPENDIX 1

Letter sent to members of the Joint Committee by Billy Bragg and others

We, the undersigned, call upon the Joint Committee on House of Lords Reform to give further consideration to methods of composition, specifically indirect election by secondary mandate.

This model, recommended by the Royal Commission of the House of Lords (Recommendation 76, paragraph 12.26, 12.27, 12.28), involves counting all of the votes cast for every candidate in the first past the post contest for seats in the Commons and accumulating them at regional level. Parties would secure the number of seats in the second chamber in proportion to their share of the vote, drawing names from a previously published regional list.

In its first report dated 11th December 2002, the joint committee stated the five qualities it considered to be desirable in the makeup of a reformed second chamber:

- legitimacy
- representativeness
- no domination by any one party
- independence
- expertise

We believe that the secondary mandate deserves to be considered because:

As a genuine expression of the will of the people, it is legitimate, yet its legitimacy is one step removed from that conferred by the direct election of MPs and so the primacy of the Commons is preserved.

Members elected by secondary mandate will be representative of the regions and nations of the UK.

As the secondary mandate is proportional, the government of the day will not be able to command a majority in both chambers.

Fixed single terms and an absence of ministers in the second chamber will encourage independence.

Experts, often unwilling to stand for election, can be voted onto lists by party activists in local primaries.

At a time of falling voter turnout, we believe that Lords reform is the only issue presently before parliament which has the ability to engage the public in our democratic process. Significantly, the secondary mandate actively encourages participation in the General Election and it is for this reason that we call upon the joint committee to put this option before parliament for debate, alongside other methods of indirect election.

Signatories:

Billy Bragg

Karen Bartlett, Director, Charter 88

Matthew Taylor, Director, IPPR (personal capacity)

Will Hutton, Chief Executive, The Work Foundation

Tom Bentley, Demos

Karen Chouhan, Director, 1990 Trust

Nicholas Boles, Director, Policy Exchange

Anthony Rowlands, Chief Executive, Centre for Reform

Martin McIvor, Director, Catalyst (personal capacity)

Ed Mayo, New Economics Foundation

Anthony Barnett, Open Democracy (personal capacity)

Dan Plesch

18th March 2003

It was moved by the Chairman, That the Chairman's draft Report be read a second time, paragraph by paragraph.

It was moved by Mr Paul Stinchcombe, as an amendment to the motion, to leave out the words "Chairman's draft Report" and insert the words "draft Report prepared by Mr Paul Stinchcombe".

Which being objected to, the question was put thereupon, and the Committee divided:

<i>Contents</i>	<i>1</i>	<i>Not-Contents</i>	<i>19</i>
Mr Paul Stinchcombe		Janet Anderson Mr James Arbuthnot Lord Archer of Sandwell Viscount Bledisloe Lord Brooke of Alverthorpe Lord Carter Mr Kenneth Clarke Dr Jack Cunningham Baroness Gibson of Market Rasen Lord Goodhart Mr William Hague Lord Howe of Aberavon Mr Stephen McCabe Lord Oakeshott of Seagrove Bay Baroness O’Cathain Mr Terry Rooney The Earl of Selborne Mr Clive Soley Mr Paul Tyler	

The amendment was disagreed to.

Then the main Question was put and agreed to.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraph 1 was read as follows:

“1. In December 2002 we said in our First Report that although the re-balancing of parliamentary institutions is something that can only evolve over time, we believed that there was an historic opportunity to enact reform of the House of Lords based on the need for a second Chamber which would continue to play an important and complementary role to the Commons. Our opinion has not changed, although we recognise that the lack of decision on the matter of composition in the House of Commons needs to be resolved. The Committee was unanimous that the status quo is undesirable. Things should not be left as they are; in this Report we emphasise the importance of reasserting the case for reform and regaining the momentum which was recognised by the Commons Public Administration Select Committee in its Report but we also seek a view from the Government about the way forward.”

It was moved by Lord Howe of Aberavon to leave out paragraph 1 and insert:

“Introduction

1. In December 2002 we said in our First Report that although the re-balancing of parliamentary institutions is something that can only evolve over time, we believed that there was an historic opportunity to enact reform of the House of Lords based on the need for a second Chamber which would continue to play an important and complementary role to the Commons. However, for the present at least, the scale and nature of that opportunity has now changed.

1A. For not only has there been predictable disagreement between the two Houses. There has also been the lack of decision on the matter of composition in the House of Commons

– and indeed, at a late stage, the absence of a clear lead from the Government itself. The effect of these decisions (or lack of them) has been to reduce the pressure for change in any direction. Even if the engines have not actually fallen off the train, their thrust has been diminished.

1B. Even so, this Committee remains unanimous in its view that simply to maintain the status quo is undesirable. The differences between us as to the long-term future structure of the second Chamber inevitably reflect those in Parliament and Government alike. Some of us may have been tempted to believe that the best way to promote the case for radical change is to leave things as they are – and thus exposed to continuing criticism. Others could have been tempted, in the opposite direction, to regard “no change” as an acceptable prescription for an enduring quiet life. Collectively, however, we do not accept either of these views.

1C. Whatever may or may not be decided later – perhaps some considerable time ahead, perhaps not – about the long-term composition of the second Chamber, there are possible changes affecting the effectiveness, representative quality and credibility of the House that can and should be considered and decided now. Things should not simply be left as they are. So in this Report we emphasise the importance of reasserting the case for reform and for regaining at least some part of the momentum, which was recognised by the Commons Public Administration Select Committee in its Report. And we seek from Government a clear response to this Report.”

Which being objected to, the question was put thereupon, and the Committee divided:

<i>Contents</i>	<i>14</i>	<i>Not-Contents</i>	<i>8</i>
Janet Anderson		Mr James Arbuthnot	
Lord Archer of Sandwell		Mr Chris Bryant	
Viscount Bledisloe		Mr Kenneth Clarke	
Lord Brooke of Alverthorpe		Lord Goodhart	
Lord Carter		Mr William Hague	
Dr Jack Cunningham		Lord Oakeshott of Seagrove Bay	
Lord Forsyth of Drumlean		The Earl of Selborne	
Baroness Gibson of Market Rasen		Mr Paul Tyler	
Lord Howe of Aberavon			
Mr Stephen McCabe			
Baroness O’Cathain			
Mr Terry Rooney			
Mr Clive Soley			
Mr Paul Stinchcombe			

The amendment was agreed to.

Paragraph 1C (*now 4*) was amended.

Paragraphs 2 to 8 (*now 5 to 11*) were read and agreed to.

Paragraph 9 (*now 12*) was read.

It was moved by Mr Paul Tyler to leave out paragraph 9 and insert:

“We note that a total of 332 MPs (more than half the House of Commons) voted for a directly elected component of some sort. 299 voted for one or other of the so called “hybrid” options (i.e. a mixed composition of elected and appointed membership). In any

case, we consider that it would be a direct negation of the will of the predominant House now to develop proposals to give effect to a fully appointed Second Chamber.”

Which being objected to, the question was put thereupon, and the Committee divided:

<i>Contents</i>	<i>6</i>	<i>Not-Contents</i>	<i>15</i>
Mr James Arbuthnot		Janet Anderson	
Mr Kenneth Clarke		Lord Archer of Sandwell	
Lord Goodhart		Viscount Bledisloe	
Mr William Hague		Lord Brooke of Alverthorpe	
Lord Oakeshott of Seagrove Bay		Mr Chris Bryant	
Mr Paul Tyler		Lord Carter	
		Lord Forsyth of Drumlean	
		Baroness Gibson of Market Rasen	
		Lord Howe of Aberavon	
		Mr Stephen McCabe	
		Baroness O’Cathain	
		Mr Terry Rooney	
		The Earl of Selborne	
		Mr Clive Soley	
		Mr Paul Stinchcombe	

The amendment was disagreed to.

Paragraph 9 was agreed to with amendments.

Paragraph 10 (*now 13*) was read and amended.

It was moved by Mr Chris Bryant, at the end of paragraph 10, to insert “and that support for a fully elected Second Chamber in the House of Lords was also higher than expected, at 106 or one in four of voting members.”

Which being objected to, the question was put thereupon, and the Committee divided:

<i>Contents</i>	<i>9</i>	<i>Not-Contents</i>	<i>12</i>
Mr James Arbuthnot		Janet Anderson	
Mr Chris Bryant		Lord Archer of Sandwell	
Mr Kenneth Clarke		Viscount Bledisloe	
Lord Forsyth of Drumlean		Lord Brooke of Alverthorpe	
Lord Goodhart		Lord Carter	
Mr William Hague		Baroness Gibson of Market Rasen	
Lord Oakeshott of Seagrove Bay		Lord Howe of Aberavon	
The Earl of Selborne		Mr Stephen McCabe	
Mr Paul Tyler		Baroness O’Cathain	
		Mr Terry Rooney	
		Mr Clive Soley	
		Mr Paul Stinchcombe	

The amendment was disagreed to.

Paragraph 10 was agreed to as amended.

Paragraph 11 (*now 14*) was read.

It was moved by Viscount Bledisloe to leave out the first sentence (“Since we are arguing in this Report for the continuation of the reform process, we consider it necessary to spell out the basis on which this can be taken forward.”) and insert “We consider that, if it is

the wish of the Houses, it would be possible for the Committee to contribute to the progress of the reform process by investigating and reporting on certain specific issues, which will have to be resolved as part of an overall reform. This should facilitate future decisions on these matters and it would be possible, if thought desirable, to bring into effect some specific changes on the road to overall reform.”

Which being objected to, the question was put thereupon, and the Committee divided:

<i>Contents</i>	<i>13</i>	<i>Not-Contents</i>	<i>7</i>
Janet Anderson		Mr James Arbuthnot	
Lord Archer of Sandwell		Mr Kenneth Clarke	
Viscount Bledisloe		Lord Goodhart	
Lord Brooke of Alverthorpe		Mr William Hague	
Lord Carter		Lord Oakeshott of Seagrove Bay	
Lord Forsyth of Drumlean		The Earl of Selborne	
Baroness Gibson of Market Rasen		Mr Paul Tyler	
Lord Howe of Aberavon			
Mr Stephen McCabe			
Baroness O’Cathain			
Mr Terry Rooney			
Mr Clive Soley			
Mr Paul Stinchcombe			

The amendment was agreed to.

Paragraph 11 was further amended and agreed to.

Paragraph 12 (*now 15*) was read and amended.

It was moved by Mr Chris Bryant, at the end of paragraph 12, to insert “We recognise that more work may need to be done on how those conventions might need to be codified in, for instance, a new Parliament Act.”

Which being objected to, the question was put thereupon, and the Committee divided:

<i>Contents</i>	<i>6</i>	<i>Not-Contents</i>	<i>15</i>
Mr Chris Bryant		Janet Anderson	
Mr Kenneth Clarke		Mr James Arbuthnot	
Lord Goodhart		Lord Archer of Sandwell	
Lord Oakeshott of Seagrove Bay		Viscount Bledisloe	
Mr Paul Stinchcombe		Lord Brooke of Alverthorpe	
Mr Paul Tyler		Lord Carter	
		Lord Forsyth of Drumlean	
		Baroness Gibson of Market Rasen	
		Mr William Hague	
		Lord Howe of Aberavon	
		Mr Stephen McCabe	
		Baroness O’Cathain	
		Mr Terry Rooney	
		The Earl of Selborne	
		Mr Clive Soley	

The amendment was disagreed to.

Paragraph 12 was agreed to as amended.

Paragraphs 13 to 21 (*now 16 to 24*) were read and agreed to with amendments.

Paragraph 22 (*now 25*) was read and amended.

It was moved by Mr Paul Tyler to leave out all after the first sentence (“Even the Member moving the amendment to support the principle of unicameralism, Mr George Howarth, acknowledged that some of the deficiencies he detected in the House of Commons arose from its inability to hold the executive to proper account or to ‘scrutinise legislation well enough’ because of the very lack of qualities we are saying are essential in a reformed House of Lords. In the Lords debate the link was made by Lord Winston between the expertise that could be brought to their scrutinising tasks and Members’ outside experience, in his own case, of medicine. The matter of expertise by independent Members is also addressed by the five qualities we have identified. We read these suggestions and others made in the debates as bolstering us in a view that reform of the Lords must be undertaken to improve overall parliamentary scrutiny of the executive.”).

Which being objected to, the question was put thereupon, and the Committee divided:

<i>Contents</i>	<i>12</i>	<i>Not-Contents</i>	<i>10</i>
Mr James Arbuthnot		Janet Anderson	
Viscount Bledisloe		Lord Archer of Sandwell	
Mr Chris Bryant		Lord Brooke of Alverthorpe	
Mr Kenneth Clarke		Lord Carter	
Lord Forsyth of Drumlean		Baroness Gibson of Market Rasen	
Lord Goodhart		Lord Howe of Aberavon	
Mr William Hague		Mr Stephen McCabe	
Lord Oakeshott of Seagrove Bay		Mr Terry Rooney	
Baroness O’Cathain		The Earl of Selborne	
Mr Paul Stinchcombe		Mr Clive Soley	
Mr Paul Tyler			
Lord Weatherill			

The amendment was agreed to.

Paragraph 22 as amended was agreed to.

Paragraph 23 (*now 26*) was read and amended.

It was moved by Lord Goodhart, at the end of paragraph 23 to insert “However, the absence of any consensus on the future composition of a reformed House of Lords makes it impracticable for us to make further progress at this time on these issues because of the extent to which they are inextricably linked to the composition of the House. We would need a fresh mandate before we could proceed further on resolving these issues.”

Which being objected to, the question was put thereupon, and the Committee divided:

<i>Contents</i>	<i>7</i>	<i>Not-Contents</i>	<i>16</i>
Mr James Arbuthnot		Janet Anderson	
Mr Kenneth Clarke		Lord Archer of Sandwell	
Lord Goodhart		Viscount Bledisloe	
Mr William Hague		Lord Brooke of Alverthorpe	
Lord Oakeshott of Seagrove Bay		Mr Chris Bryant	
The Earl of Selborne		Lord Carter	
Mr Paul Tyler		Lord Forsyth of Drumlean	
		Baroness Gibson of Market Rasen	
		Lord Howe of Aberavon	
		Mr Stephen McCabe	
		Baroness O’Cathain	
		Joyce Quin	
		Mr Terry Rooney	
		Mr Clive Soley	
		Mr Paul Stinchcombe	
		Lord Weatherill	

The amendment was disagreed to.

Paragraph 23 was further amended and agreed to.

Paragraph 24 (*now 27*) was read.

It was moved by Viscount Bledisloe to leave out “There was a broad opinion that a House of” and insert “As was made plain in the debates in both Houses, any conclusion on the proper size of a reformed House is directly connected with the decision on its composition. There is general agreement that for a wholly or largely elected House”.

Which being objected to, the question was put thereupon, and the Committee divided:

<i>Contents</i>	<i>3</i>	<i>Not-Contents</i>	<i>19</i>
Mr James Arbuthnot		Janet Anderson	
Viscount Bledisloe		Lord Archer of Sandwell	
Mr Paul Tyler		Lord Brooke of Alverthorpe	
		Mr Chris Bryant	
		Lord Carter	
		Mr Kenneth Clarke	
		Lord Forsyth of Drumlean	
		Baroness Gibson of Market Rasen	
		Lord Goodhart	
		Mr William Hague	
		Lord Howe of Aberavon	
		Mr Stephen McCabe	
		Baroness O’Cathain	
		Joyce Quin	
		Mr Terry Rooney	
		The Earl of Selborne	
		Mr Clive Soley	
		Mr Paul Stinchcombe	
		Lord Weatherill	

The amendment was disagreed to.

Paragraph 24 was amended and agreed to.

Paragraph 25 (*now 28*) was read.

It was moved by Lord Goodhart to leave out the last sentence (“This is another matter to which the Committee can return in its further deliberations.”).

Which being objected to, the question was put thereupon, and the Committee divided:

<i>Contents</i>	<i>6</i>	<i>Not-Contents</i>	<i>16</i>
Mr James Arbuthnot		Janet Anderson	
Mr Kenneth Clarke		Lord Archer of Sandwell	
Lord Goodhart		Viscount Bledisloe	
Mr William Hague		Lord Brooke of Alverthorpe	
The Earl of Selborne		Mr Chris Bryant	
Mr Paul Tyler		Lord Carter	
		Lord Forsyth of Drumlean	
		Baroness Gibson of Market Rasen	
		Lord Howe of Aberavon	
		Mr Stephen McCabe	
		Baroness O’Cathain	
		Joyce Quin	
		Mr Terry Rooney	
		Mr Clive Soley	
		Mr Paul Stinchcombe	
		Lord Weatherill	

The amendment was disagreed to.

Paragraph 25 was agreed to.

Paragraph 26 (*now 29*) was read and amended.

It was moved by Lord Goodhart to leave out the last two sentences (“We agree with them that the only way of achieving this is to put the Appointments Commission on a statutory basis. But much work needs to be done on exactly what is needed to produce a widely respected and viable method of appointment.”) and insert “But these matters also could only be considered once it has been decided whether there should be appointed members and, if so, how many of them.”.

Which being objected to, the question was put thereupon, and the Committee divided:

<i>Contents</i>	<i>9</i>	<i>Not-Contents</i>	<i>13</i>
Mr James Arbuthnot		Janet Anderson	
Mr Chris Bryant		Lord Archer of Sandwell	
Mr Kenneth Clarke		Viscount Bledisloe	
Lord Goodhart		Lord Brooke of Alverthorpe	
Mr William Hague		Lord Carter	
Joyce Quin		Lord Forsyth of Drumlean	
The Earl of Selborne		Baroness Gibson of Market Rasen	
Mr Paul Stinchcombe		Lord Howe of Aberavon	
Mr Paul Tyler		Mr Stephen McCabe	
		Baroness O’Cathain	
		Mr Terry Rooney	
		Mr Clive Soley	
		Lord Weatherill	

The amendment was disagreed to.

Paragraph 26 was further amended.

It was moved by Mr Chris Bryant, at the end of paragraph 26, to insert “and we note that the least popular option in the House of Commons, apart from unicameralism, was for a wholly appointed Second Chamber”.

Which being objected to, the question was put thereupon, and the Committee divided:

<i>Contents</i>	<i>9</i>	<i>Not-Contents</i>	<i>13</i>
Mr James Arbuthnot		Janet Anderson	
Mr Chris Bryant		Lord Archer of Sandwell	
Mr Kenneth Clarke		Viscount Bledisloe	
Lord Goodhart		Lord Brooke of Alverthorpe	
Mr William Hague		Lord Carter	
Joyce Quin		Lord Forsyth of Drumlean	
Mr Paul Stinchcombe		Baroness Gibson of Market Rasen	
Mr Paul Tyler		Lord Howe of Aberavon	
Lord Weatherill		Mr Stephen McCabe	
		Baroness O’Cathain	
		Mr Terry Rooney	
		The Earl of Selborne	
		Mr Clive Soley	

The amendment was disagreed to.

Paragraph 26 was agreed to as amended.

It was moved by Lord Howe of Aberavon, after paragraph 26, to insert a new paragraph:

“26A. Meantime, and in the possible absence of primary legislation, this is not an issue that can be neglected for long. Two years have passed since the appointment of the last group of new life peers. There is, therefore, a growing need to top up the stock of expertise and of younger members. In order to handle this problem, consideration should, therefore, be given to the appointment of a new and manifestly independent Appointments Commission (composed as recommended by the Royal Commission), and

endorsed – as an interim alternative to primary legislation – by an Order in Council, approved by both Houses.”

Which being objected to, the question was put thereupon, and the Committee divided:

<i>Contents</i>	<i>14</i>	<i>Not-Contents</i>	<i>8</i>
Janet Anderson		Mr James Arbuthnot	
Lord Archer of Sandwell		Mr Chris Bryant	
Viscount Bledisloe		Mr Kenneth Clarke	
Lord Brooke of Alverthorpe		Lord Goodhart	
Lord Carter		Mr William Hague	
Lord Forsyth of Drumlean		Joyce Quin	
Baroness Gibson of Market Rasen		Mr Paul Stinchcombe	
Lord Howe of Aberavon		Mr Paul Tyler	
Mr Stephen McCabe			
Baroness O’Cathain			
Mr Terry Rooney			
The Earl of Selborne			
Mr Clive Soley			
Lord Weatherill			

The amendment was agreed to.

Paragraphs 27 to 30 (*now 31 to 34*) were read and agreed to with amendments.

Paragraph 31 (*now 35*) was read and amended.

It was moved by Mr Paul Tyler to leave out the last sentence and insert “The Leader of the House made it clear during the Commons debate that if the options for an elected component were defeated it would follow that the method of election – direct, indirect or secondary mandate – inevitably would be irrelevant. We do not feel that we are entitled to examine these further options without a clear statement from both Houses that, despite the votes on 4 February, we are instructed to do so.”

Which being objected to, the question was put thereupon, and the Committee divided:

<i>Contents</i>	<i>7</i>	<i>Not-Contents</i>	<i>15</i>
Mr James Arbuthnot		Janet Anderson	
Mr Kenneth Clarke		Lord Archer of Sandwell	
Lord Goodhart		Viscount Bledisloe	
Mr William Hague		Lord Brooke of Alverthorpe	
Joyce Quin		Mr Chris Bryant	
The Earl of Selborne		Lord Carter	
Mr Paul Tyler		Lord Forsyth of Drumlean	
		Baroness Gibson of Market Rasen	
		Lord Howe of Aberavon	
		Mr Stephen McCabe	
		Baroness O’Cathain	
		Mr Terry Rooney	
		Mr Clive Soley	
		Mr Paul Stinchcombe	
		Lord Weatherill	

The amendment was disagreed to.

Paragraph 31 was agreed to as amended.

Paragraph 32 (*now 36*) was read and agreed to with an amendment.

It was moved by Mr Clive Soley, after paragraph 32, to insert a new paragraph:

“32A. The Committee recognises the duty on the Government to respond to this Report, but also takes the view that such fundamental reforms of our Parliamentary structure should be led by Parliament. It is for Parliament, and not Government, to decide the final shape and form of our two Houses. We therefore recommend that this Committee continues to examine proposals for the reform of the second chamber, and from time to time reports with recommendations to each House.”

Which being objected to, the question was put thereupon, and the Committee divided:

<i>Contents</i>	8	<i>Not-Contents</i>	13
Janet Anderson		Mr James Arbuthnot	
Lord Archer of Sandwell		Viscount Bledisloe	
Lord Brooke of Alverthorpe		Mr Chris Bryant	
Lord Carter		Mr Kenneth Clarke	
Baroness Gibson of Market Rasen		Lord Forsyth of Drumlean	
Mr Stephen McCabe		Lord Goodhart	
Mr Clive Soley		Mr William Hague	
Mr Paul Stinchcombe		Lord Howe of Aberavon	
		Baroness O’Cathain	
		Joyce Quin	
		The Earl of Selborne	
		Mr Paul Tyler	
		Lord Weatherill	

The amendment was disagreed to

Paragraph 33 (*now 37*) was read.

It was moved by Mr Paul Tyler to leave out all except the last sentence.

Which being objected to, the question was put thereupon, and the Committee divided:

<i>Contents</i>	9	<i>Not-Contents</i>	12
Mr James Arbuthnot		Janet Anderson	
Mr Chris Bryant		Lord Archer of Sandwell	
Mr Kenneth Clarke		Viscount Bledisloe	
Lord Forsyth of Drumlean		Lord Brooke of Alverthorpe	
Lord Goodhart		Lord Carter	
Mr William Hague		Baroness Gibson of Market Rasen	
Joyce Quin		Lord Howe of Aberavon	
The Earl of Selborne		Mr Stephen McCabe	
Mr Paul Tyler		Baroness O’Cathain	
		Mr Clive Soley	
		Mr Paul Stinchcombe	
		Lord Weatherill	

The amendment was disagreed to.

Paragraph 33 was amended.

It was moved by Lord Carter to insert at the end of paragraph 33 “and then acceptance by both Houses that our work should continue on the lines we have set out”.

Which being objected to, the question was put thereupon, and the Committee divided:

<i>Contents</i>	<i>14</i>	<i>Not-Contents</i>	<i>8</i>
Janet Anderson		Mr James Arbuthnot	
Lord Archer of Sandwell		Mr Kenneth Clarke	
Viscount Bledisloe		Lord Goodhart	
Lord Brooke of Alverthorpe		Mr William Hague	
Lord Carter		Lord Oakeshott of Seagrove Bay	
Lord Forsyth of Drumlean		Joyce Quin	
Baroness Gibson of Market Rasen		The Earl of Selborne	
Lord Howe of Aberavon		Mr Paul Tyler	
Mr Stephen McCabe			
Baroness O’Cathain			
Mr Terry Rooney			
Mr Clive Soley			
Mr Paul Stinchcombe			
Lord Weatherill			

The amendment was agreed to.

Paragraph 33 as amended was agreed to.

Resolved, That the Report as amended be the Second Report of the Joint Committee to each House.

Ordered, That the Chairman do make the Report to the House of Commons and that the Lord Howe of Aberavon make the Report to the House of Lords.

Ordered, That such Reports be laid upon the Table of each House.

Ordered, That the Joint Committee be adjourned to a date and time to be fixed by the Chairman.