



HOUSE OF LORDS

Select Committee on the Constitution

7th Report of Session 2013–14

House of Lords Reform (No. 2) Bill

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Select Committee on the Constitution

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To examine the constitutional implications of all public bills coming before the House; and to keep under review the operation of the constitution.

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Committee staff and legal advisers

The current staff of the committee are Nicolas Besly (clerk), Dr Stuart Hallifax (policy analyst) and Helen Gibson (committee assistant). Professor Maurice Sunkin and Professor Adam Tomkins are legal advisers to the committee.

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House of Lords Reform (No. 2) Bill

1. The House of Lords Reform (No. 2) Bill was brought from the Commons on 3 March 2014. It is a private member's bill introduced by Dan Byles MP. Its sponsor in the House of Lords is Lord Steel of Aikwood. Its second reading in the House of Lords is scheduled for 28 March. The bill has the support of the Government.¹ It was also supported in the Commons by the opposition front bench.²
2. The bill passed its substantive stages in the House of Commons without division. Its committee stage was taken in a public bill committee (which met just once, for 38 minutes). The bill was amended in committee but was not further amended thereafter.
3. The bill contains measures which were passed by the House of Lords in the last session of Parliament (in Lord Steel of Aikwood's House of Lords (Cessation of Membership) Bill [HL]);³ although the precise wording of the two bills differs in some particulars). The "Steel bill" made no progress in the House of Commons. At the time it was the view of the Government that Lords reform "must include the introduction of elected members into the House of Lords" and that "minimal" reforms such as those contained in the Steel bill—and now in the Byles bill—"do not address the issues that make reform of the House of Lords necessary".⁴
4. In October 2013 the Government announced that they would support the Byles bill. As a private member's bill, any amendments made by the Lords to the bill would normally fall to be considered by the House of Commons on one of the Fridays it sets aside for private members' bills. However, there are no more private members' Fridays currently nominated this session in the Commons. The practical result for this bill is that if the Lords amends the bill those amendments would have to be considered in the Commons in Government time; if no such time is made available then the effect of the Lords amending the bill would be that it does not become law this session.
5. The bill provides for three "small-scale" reforms of the House of Lords.⁵
6. First, in clause 1 the bill provides for the resignation or retirement of members of the House of Lords. Under clause 1 resignation may not be rescinded.
7. Secondly, in clause 2 the bill provides that a member of the House of Lords who does not attend during a session ceases to be a member from the beginning of the following session. Exceptions are provided for, for example where the session is short, where the member has leave of absence or where the House resolves that there are "special circumstances".

¹ HC Deb, 28 February 2014, col 568.

² HC Deb, 28 February 2014, cols 565–66.

³ HL Bill 21 of 2012–13.

⁴ Chloe Smith MP, then Parliamentary Secretary, Cabinet Office: HC Deb, 16 October 2012, col 143.

⁵ "Small-scale" is the language used by the House of Commons Political and Constitutional Reform Committee in its October 2013 report, *House of Lords reform: what next?* (9th Report, Session 2013–14, HC 251).

8. Thirdly, clause 3 provides that a member of the House of Lords who is convicted of an offence and sentenced to be imprisoned for more than one year ceases to be a member of the House. This applies to a conviction outside the United Kingdom only if the House of Lords resolves as such.
9. In opening the second reading debate on the bill in the House of Commons, Mr Byles stated that “the years of debate about the long-term reform of the House of Lords have obscured the need for effective, immediate, yet modest reform”. He stated that the bill is “certainly not an attempt to close off any potential future reform”.⁶
10. In commenting on the bill on the Constitution Unit blog, Dr Meg Russell, author of two books on House of Lords reform, stated that “Lords reform has only ever been achieved through small, incremental steps” (in, for example, 1911, 1958 and 1999).⁷ Even if, on each of these occasions, the reform was considered “small and inadequate, in retrospect such changes were important”, she added.
11. Dr Russell has identified what she considers to be a flaw in the present bill: namely, that it will permit members who leave the House of Lords immediately to stand for election to the House of Commons (see clause 4(5)(b)). The Royal Commission on the Reform of the House of Lords, chaired by Lord Wakeham, which reported in 2000, was concerned that “would-be career politicians should not be encouraged to see membership of the second chamber as a springboard to membership of the Commons”.⁸ The Government’s ill-fated House of Lords Reform Bill (2012) would have provided that a former member of the House of Lords would be disqualified from election to the House of Commons for a period of four years and one month.
12. The matter was considered at report stage in the House of Commons. The minister stated that “we do not want to see the House of Lords become a nursery for the Commons where young hopefuls start their careers before being transplanted to this chamber at some point”.⁹ He undertook that the matter would be reviewed should it prove to be a problem in the future. It is notable that the “Steel bill” passed by the House of Lords in the last session—like the Byles bill—contained no provision restricting former members of the House of Lords from standing for election to the Commons.
13. **We welcome the minister’s statement** that the Government have no intention of allowing the House of Lords to become a “nursery for the Commons”. Mindful, however, of the possibility of unintended consequences, we likewise welcome the minister’s undertaking that should this prove to be a problem in the future, it would be reviewed. **If it proves to be a problem, we would expect legislative action to be taken.**
14. **The bill is clearly a measure of constitutional reform but, in our view, it raises no problems of constitutional concern.**

⁶ HC Deb, 18 October 2013, cols 1001–02.

⁷ Meg Russell, *The Byles bill on Lords reform is important: but needs amending if it’s not to damage the Lords*, available at <http://constitution-unit.com/2014/02/13/the-byles-bill-on-lords-reform-is-important-but-needs-amending-if-its-not-to-damage-the-lords/>.

⁸ A House for the Future (Cm 4534), para 12.21.

⁹ Greg Clark MP, Minister of State, Cabinet Office: HC Deb, 28 February 2014, col 562.