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Research paper

Wales and the reform of the House of Lords

May 2012

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Wales and the reform of the House of Lords

May 2012

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This paper provides an overview of the UK Government's draft proposals in relation to House of Lords reform and a summary of the initial reactions of the main UK parties to those proposals.

The paper also provides a synopsis of how Welsh interests are currently represented in the House of Lords and outlines the arguments of those who believe that the House of Lords should be reformed on a territorial basis.

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Summary

This paper provides an overview of the UK Government's proposals in relation to House of Lords reform and a summary of the initial reactions of the main UK parties to those proposals. The paper also provides a synopsis of how Welsh interests are currently represented in the House of Lords and outlines the arguments of those who believe that the House of Lords should be reformed on a territorial basis.

Contents

1. Introduction	1
2. Draft House of Lords Bill	3
2.1. Joint committee on the House of Lords Reform Bill.....	3
2.2. Initial reactions	5
2.3. Next steps	6
3. The House of Lords and Wales	7
3.1. Welsh representation in the House of Lords	7
3.2. Regional representation in a reformed House of Lords	8
A. Joint Committee on the Draft House of Lords Reform Bill - membership	11
B. Joint Committee on the Draft House of Lords Reform Bill - members that also signed up to an alternative report.....	13

Wales and the reform of the House of Lords

1. Introduction

The UK Government coalition's "Programme for Government" includes a commitment to:

... establish a committee to bring forward proposals for a wholly or mainly elected upper chamber on the basis of proportional representation. The committee will come forward with a draft motion by December 2010. It is likely that this will advocate single long terms of office. It is also likely that there will be a grandfathering system for current Peers. In the interim, Lords appointments will be made with the objective of creating a second chamber that is reflective of the share of the vote secured by the political parties in the last general election.¹

A House of Lords Reform Draft Bill² ("the draft Bill") was subsequently introduced by the UK Government on 17 May 2011 which proposed wholesale changes to the membership of the UK Parliament's upper chamber.

Following the draft Bill's introduction and in light of further constitutional developments since its publication, particularly regarding plans for a referendum on Scottish independence, the First Minister, the Rt. Hon Carwyn Jones AM, stated on 30 March 2012 that:

I believe that the four nations of the UK should have equal membership of the House of Lords on a territorial basis. This would mirror arrangements for the Senate in the United States which ensures an equally weighted voice for each state of the Union regardless of population. The House of Commons, like the House of Representatives, would continue as the Chamber which reflects population share – so there could be no question of England's voice being diminished within the wider constitutional settlement. I believe an arrangement along these lines could help bind together the four nations of the UK.³

In the same speech, the First Minister lamented that constitutional reforms at the UK level are being proposed without reference to other constitutional developments in Wales, Northern Ireland and Scotland. He stated that although "There is potential for reform of the Lords to be an important part of the overall review of constitutional arrangements in the UK ... this linkage simply does not appear to have been made".⁴

¹ UK Government, *The Coalition: our programme for government*, May 2010, page 27

² Cabinet Office, *House of Lords Reform Draft Bill*, 17 May 2012

³ Click on Wales website, *First Minister's speech: Wales and the future of the United Kingdom*, 30 March 2012

⁴ Ibid

Further clarification about the First Minister's position was provided by the Welsh Government in response to the publication of the Joint Committee on the draft House of Lords Reform Bill's report on 23 April 2012:

The First Minister's views on Lords reform are clear - firstly, it should be considered as part of a comprehensive look at the constitutional arrangements for the UK as a whole, rather than in isolation; and secondly, there should be a territorial dimension to the membership of the House of Lords so that all four nations of the UK are strongly represented at that level. The House of Commons would continue as the Chamber which reflects population share - so there could be no question of England's voice being diminished within the wider constitutional settlement.⁵

The purpose of this paper is to provide an overview of the UK Government's proposals in relation to House of Lords reform and to summarise the initial reactions of the main UK parties to those proposals. The paper will also provide a synopsis of how Welsh interests are currently represented in the House of Lords and will outline the arguments of those who believe that the House of Lords should be reformed on a territorial basis.

⁵ Wales Online, [*First Minister Carwyn Jones receives House of Lords reform boost*](#), 23 April 2012

2. House of Lords Reform Draft Bill

The draft Bill and an accompanying White Paper was introduced by the Deputy Prime Minister, the Rt. Hon Nick Clegg MP, on 17 May 2011. The publication of the draft Bill followed the creation of a Government Committee on Lords Reform (which had its membership drawn from the front benches of both the UK Government and main opposition party in the Commons and the Lords), which met between June and November 2010. In response to the publication of the draft Bill however, the Leader of the Labour Party in the Lords made it clear that the Bill was a Government Bill which had not been produced by that committee.⁶

The proposals for reform include:

- Creating a House of Lords with 300 “full time” members, 240 (80 per cent) of which would be elected with a further 60 (20 per cent) to be appointed.
- There would be a maximum of 12 Church of England bishops who would sit as ex-officio members.
- Ministers would be drawn only from the elected members.
- The Prime Minister would only be able to appoint people to serve as Ministers who would be members of the House of Lords for the duration of their appointment.
- Members would serve a single term of 15 years (the length of three parliaments).
- Elections would be held for a third of the House at a time and would be held under the Single Transferable Vote (STV).

The White Paper also provides information on how the draft Bill could be amended to provide for a 100 per cent elected House of Lords in the future.

Although Wales is not specifically mentioned in the draft Bill or accompanying documentation, Lord Wigley has speculated that Wales would probably constitute “one multi-member constituency with four new members” under the proposed arrangements and that “By 2025 Wales would have its full complement of 12 elected members in the new Second Chamber”.⁷

2.1. *Joint committee on the House of Lords Reform Bill*

A Joint Committee on the Draft Bill, chaired by Lord Richard of Ammanford and comprising 26 members appointed from both the House of Commons and the House of Lords considered the draft Bill’s provisions and published a report on 23

⁶ More information relating to the draft Bill and White Paper is available in the House of Commons Library Standard Note, [*Reform of the House of Lords: the Coalition Agreement and further developments*](#), 2 June 2011

⁷ Agenda, Dafydd Wigley: *Turkey’s don’t vote for Christmas*, Spring 2012

April 2012.⁸ A list of the Joint Committee's members is included as an annex to this paper. It made the following recommendations:

- It supported the use of the STV system for members to the upper house, the 15 year terms for members and the 80/20 split between elected and appointed members.
- It disagreed however with the UK Government in relation to the size of the chamber, recommending a new upper chamber consisting of 450 members instead of the 300 initially set by the draft Bill.
- It recommended that Members should receive an annual salary of £50,000 rather than the existing attendance allowance.
- The majority of committee members also recommended that the proposals for reform should also be subject to a "yes" vote in a referendum before coming into effect.

The committee was not unanimous in its views however, with nine out of the 26 members of the committee voting against elected peers and eight opposing a referendum.⁹

An alternative report was also prepared by 12 members of the Joint Committee as an addition to the Joint Committee's official report. The alternative report recommended that a constitutional convention should be established to consider the reform of the House of Lords and that it should be comprised of:

... members of both the House of Commons and the House of Lords, plus a number of non-Parliamentarians, including specialist academic experts; representatives of other forms of governance in the United Kingdom, including from the Scottish Parliament, the Welsh Assembly, the Northern Ireland Assembly and local government; representatives of faith communities; representatives of non-governmental policy bodies; representatives of wider society, including business and employee groups, charities and others.¹⁰

They added that the convention should be tasked with:

... considering in depth the issues involved in further reform of the House of Lords, and bringing forward proposals. The issues involved would include the impact on the House of Commons of any reform of the House of Lords, the method of any elections to the House of Lords, including indirect elections, the relationship between the two Houses of Parliament, the impact of reform on the devolved assemblies, and the impact on Parliament, including the House of Lords, of any developments in the devolved assemblies, including any referendum in Scotland on independence.¹¹

⁸ UK Parliament, *Joint Committee on the Draft House of Lords Reform Bill*, 23 April 2012

⁹ BBC News, *House of Lords should be 80% elected - MPs and peers' report*, 23 April 2012

¹⁰ Joint Committee on the Draft House of Lords Reform Bill, *House of Lords Reform: An Alternative Way Forward*, 23 April 2012, recommendation 3

¹¹ *Ibid*, recommendation 4

One of the 12 members who signed up to the alternative report was Lord Hennessy of Nympsfield, who suggested that federalism should be looked at as an alternative to the current arrangements:

Federalism was something we thought was terrific for everybody else. But we've always had an asymmetrical constitution in this country and we rather like it that way. We pride ourselves on being quirky. But certainly the federal notion in [this] context [would] have to be looked at.¹²

2.2. *Initial reactions*

The Conservatives,¹³ Labour¹⁴ and the Liberal Democrats¹⁵ all included commitments to reform the House of Lords in their 2010 UK General Election manifestos. Despite this, since the introduction of the draft Bill and the publication of the Joint Committee's report, there has been a lack of consensus on the issue between and within the main political parties.

Many senior and backbench Conservative MPs have indicated uneasiness about the new proposals, including the Secretary of State for Justice and Lord Chancellor, the Rt. Hon Kenneth Clarke MP, who has stated that the Conservative Party would not be in favour of reforming the Lords during the current parliament.¹⁶ He also suggested that despite the Liberal Democrats' determination to push the reforms through, up to 6 members of the cabinet would be in favour of delaying any change.¹⁷

Both the Prime Minister, the Rt. Hon David Cameron MP and the Deputy Prime Minister¹⁸ have indicated support for the proposals although they have stated that they are not in favour of putting the issue of Lords reform to a referendum, as suggested by the Joint Committee. The Prime Minister has stated however that while he was not persuaded of the need for a referendum he was not willing to rule it out entirely.¹⁹

The MP for Montgomeryshire and Parliamentary Private Secretary to the Secretary of State for Wales, the Rt. Hon Glyn Davies MP, in contrast has demanded a referendum on an elected House of Lords and feared the "conflict that there would be if there were two elected parliaments competing for legitimacy".²⁰

¹² Wales Online, [First Minister Carwyn Jones receives House of Lords reform boost](#), 23 April 2012

¹³ Conservatives, [The Conservative Manifesto 2010: Invitation to join the government of Britain](#), April 2010, page 67

¹⁴ Labour, [Labour Party Manifesto 2010: A future fair for all](#), April 2010, pages 9:2 – 9:3

¹⁵ Liberal Democrats, [Liberal Democrat Manifesto 2010](#), April 2010, page 88

¹⁶ Golwg 360, [Ceidwadwyr 'ddim am ailwampio Tŷ'r Arglwyddi'](#), 22 April 2012

¹⁷ Ibid

¹⁸ BBC News, [Nick Clegg sceptical on Lords reform referendum](#), 19 April 2012

¹⁹ BBC News, [House of Lords should be 80% elected - MPs and peers' report](#), 23 April 2012

²⁰ Wales Online, [Welsh Conservative MP Glyn Davies demands referendum on House of Lords reform](#), 23 April 2012

The Labour Party also supports a wholly elected second chamber and agrees with the Joint Committee that the proposals should be subject to a referendum.²¹

An additional suggestion on how the House of Lords should be reformed was also put forward by the previous Labour Secretary of State for Transport and life peer, Lord Adonis. He felt that a reformed second chamber should be moved to a location outside London:

If the House of Lords is going to be reformed next year, part of the reform should be to move it out of London to a city in the Midlands or the north, perhaps next to the relocated BBC in MediaCity in Salford Quays ...

Half of our national politicians would then assemble well away from 'Planet London'. The public purse would make a net saving by selling the vast and expensive property portfolio the Lords has been acquiring to house its 850 members along Millbank and the surrounding streets.²²

In analysing the Joint Committee's report and the reactions to the UK Government's proposals, Dr Meg Russell from the UCL's Constitution Unit argued in relation to the issue of a referendum that:

Now that the joint committee has recommended that the government's proposals be put to a referendum, pressure to concede this will be irresistible. The referendum already has the support from the Labour leadership and many Conservative backbench MPs. If pressed to a vote on the issue in the Commons, the government will almost certainly lose.²³

2.3. *Next steps*

A House of Lords Reform Bill has been included in the UK Government's legislative programme for the 2012-13 session.²⁴ According to the Cabinet Office's briefing note on the Queen's Speech, the Bill will ensure that "the reformed House of Lords reflects society better than it does now by having Members elected according to the regions and the nations of the UK".²⁵ No introduction date for the Bill has been provided to date. Dr Meg Russell has however suggested that such a Bill may fail as it would face "massive opposition in both Houses" and "risks completely dominating the parliamentary session".²⁶

²¹ Ibid

²² The Guardian, [Move House of Lords out of London, says Lord Adonis](#), 19 April 2012

²³ UCL Constitution Unit, [Press Notice: Lords reform unavoidable, says Constitution Unit](#), 2 April 2012

²⁴ BBC News, [Queen's Speech 2012 at-a-glance: Bill-by-bill](#), 9 May 2012

²⁵ Cabinet Office, [The Queen's Speech 2012 - background briefing notes](#), 9 May 2012

²⁶ UCL Constitution Unit, [Press Notice: Constitutional changes to feature strongly in Queen's Speech](#), 8 May 2012

3. The House of Lords and Wales

The House of Lords does not have a defined role in relation to Wales. As the former Welsh MEP and now Baroness Morgan of Ely, Eluned Morgan, explains:

There is no formal link or channel for discussion [in the House of Lords] with the National Assembly, let alone the people of Wales.²⁷

There is no specific Select Committee in the Lords that considers Welsh affairs or any Grand Committees, akin to the Welsh Grand Committee in the House of Commons, where issues of relevance to Wales are aired and debated. However, the [Lords Constitution Committee](#) commented regularly on the process of transferring powers to the Assembly under Part 3 of the *Government of Wales Act 2006*²⁸ during its operation in the third Assembly (from 2007 to 2011).

Despite this, the Lords remain a general forum for Welsh interests and issues. There is a substantial pool of knowledge of, and expertise in, the affairs of Wales and the Assembly amongst the current membership of the House of Lords. One current AM, Lord Elis-Thomas, and three former AMs, Lord German, Lord Wigley and Baroness Randerson sit in the Lords.

3.1. *Welsh representation in the House of Lords*

Ascertaining Welsh representation in the House of Lords is not a straightforward exercise. According to the House of Lords Library Note on “Regional Representation in the House of Lords”,²⁹ of the 614 members of the House of Lords for whom address details were available,³⁰ 24 have main residences in Wales. This accounts to 4 per cent of the total number of peers in the upper chamber (the population of Wales accounts to 4.9 per cent of the UK’s total population).

In 2008, the New Local Government Network stated that:

In Wales many counties only register one or two Peers, however Powys is represented by seven. Overall Wales is under-represented with just under 20% fewer Peers than it should have given the size of the population.³¹

This figure may not be truly representative of the number of peers who raise and discuss Welsh issues however as the Library Note discounts peers who do not live in Wales, including those peers who may continue to have strong connections with Wales and may be willing to raise and discuss Welsh issues.

²⁷ Agenda, *Eluned Morgan: Wales in the House of Lords*, Spring 2012

²⁸ [Government of Wales Act 2006](#) (Chapter 32)

²⁹ UK Parliament, [House of Lords Library Note: Regional representation in the House of Lords](#), 6 March 2012

³⁰ The total number of House of Lords members currently stands at more than 800 – see UK Parliament, [Lords by type and party](#) for more information.

³¹ New Local Government Network, [Lords of our manor? How a reformed House of Lords can better represent the UK](#), September 2008

3.2. *Regional representation in a reformed House of Lords*

Despite the First Minister's recent calls for a territorial dimension to the membership of a reformed House of Lords, providing a regional element to a second parliamentary chamber, both in the UK and elsewhere, is not a new idea. In his article on "Bicameralism and Representative Democracy", Rafal Heydel-Mankoo states in relation to federal countries that:

... many federations, most of which cover large geographic areas, allocate a disproportionate number of upper house seats to less-populated regions (the United States and Australia accord all states equal representation in their senates, despite huge variations in the size of state populations).³²

In relation to the UK, the Royal Commission on the House of Lords (the Wakeham Commission) recommended in 2000 that a proportion of the members of a reformed second chamber should represent the regions and nations of the UK. It did not however recommend that the chamber should become either a federal legislature or a forum for liaison between the nations. Instead, the Commission proposed that a new committee on devolution issues should be created.³³ The Commission's proposals were subsequently rejected by the then UK Labour Government.³⁴

Writing in 1999, Dr Meg Russell stated that while the UK is not a federal state, "the progress of devolution in the UK means that a more territorial politics is emerging" and that "It is thus natural to at least consider the introduction of a territorial second chamber to replace the House of Lords, or a strong territorial element in any reformed house."³⁵ She concluded however that the "uneven pattern of devolution in the UK makes it difficult to design such a chamber" and that the "asymmetrical" nature of devolution in the UK would "present particular challenges in the design of a territorial second chamber for Britain".³⁶

Following recent constitutional developments in the UK, some have suggested that any reform of the House of Lords should include a territorial element to better represent the interests of the constituent parts of the UK. The New Local Government Network recommended in 2008 that

... a reformed House of Lords which reflected a better balance of regional experience and representation would allow better scrutiny of our legislative process. With an intake currently

³² Heydel-Mankoo, R, *Bicameralism & Representative Democracy: An international Perspective*, in Blond, Phillip ed., (2012), *Our House: Reflections on Representation and Reform in the House of Lords*, ResPublica: London

³³ The Guardian, *The Wakeham commission recommendations: Key points for a new second chamber*, 20 January 2000

³⁴ New Local Government Network, *Lords of our manor? How a reformed House of Lords can better represent the UK*, September 2008

³⁵ Russell, M. (1999). *Representing the Nations and Regions in a New Upper House*. London: Constitution Unit.

³⁶ Ibid

out of sync with the rest of Britain, the democratic legitimacy and accountability of the Second Chamber must be called into question.³⁷

Such issues were also raised by the MP for Ceredigion, Mark Williams MP, following the publication of the draft Bill and the ensuing debate in the House of Commons on 17 May 2011:

Mr Mark Williams (Ceredigion) (LD): Does my right hon. Friend see these proposals as a means of empowering the voices of the devolved nations and the English regions? Manifestly, that will be achieved by electing people, rather than hand-picking appointees, in order to achieve balance across the country as a whole.

The Deputy Prime Minister: Clearly, a proportional electoral system, whichever one is finally settled on, would be reflective of opinion across the whole of the United Kingdom, so people across the United Kingdom can look forward to this as providing a greater reflection of opinions the length and breadth of the land.³⁸

Since the draft Bill's introduction, others (in addition to the First Minister) have suggested that the reform of the House of Lords should include a territorial element. Baroness Morgan stated that:

I am at one with the First Minister in thinking that we should try and elaborate a more regional form of representation in the chamber. In some way the red benches should reflect the changing nature of our constitutional set up in the UK. If Scotland were to gain further powers, we would need serious reassurance that the Welsh voice it to be heard in a sea of English MPs and Lords. Certainly the current structure is totally anachronistic. It does not cater for any member living outside London who is not of pensionable age and who therefore has no alternative income. And it certainly takes no account of childcare considerations. It is little wonder that 82 per cent of the membership is over 60. The time is ripe to reform the House of Lords to ensure that it better reflects modern society.³⁹

Lord Wigley also made the following observations and suggestions in relation to the First Minister's comments:

Carwyn Jones has suggested that Westminster's Second Chamber might become a federal chamber for the UK with responsibility for defence, foreign affairs and broad economic policy. His suggestion arose in the context of Scotland securing independence. It was perhaps easier for him to postulate the idea for what is still a hypothetical situation. He is however, aware of discussion at Westminster that if 'devolution-max' gained momentum – a model supported by former Tory Prime Minister John Major in a keynote speech last July – some envisage the Second Chamber as a UK quasi-federal chamber ...

A federal Second Chamber must surely be an option if 'devolution-max' emerges from Scotland's referendum debate.

³⁷ New Local Government Network, *Lords of our manor? How a reformed House of Lords can better represent the UK*, September 2008

³⁸ [HC Deb 17 May 2011 c164](#)

³⁹ Agenda, *Eluned Morgan: Wales in the House of Lords*, Spring 2012

If the UK has a future, creative thought must be given to the powers devolved to Scotland, Wales and Northern Ireland – and indeed England. Such consideration may change discussion about the Second Chamber. But if the English body politic isn't prepared to contemplate this, it must accept partial responsibility for the approaching break-up of the United Kingdom.⁴⁰

⁴⁰ Agenda, *Dafydd Wigley: Turkey's don't vote for Christmas*, Spring 2012

A. Joint Committee on the Draft House of Lords Reform Bill – membership

Member	Party
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Lords

Lord Norton of Louth	Conservative
Rt. Hon Baroness Shephard of Northwold	Conservatives
Rt. Hon Lord Trefgarne	Conservative
Rt. Hon Lord Trimble	Conservative
Lord Tyler	Liberal Democrat
Baroness Scott of Needham Market	Liberal Democrat
Rt. Hon Lord Richard of Ammanford	Labour
Baroness Andrews	Labour
Rt. Hon Baroness Symons of Vernham Dean	Labour
Rt. Hon Lord Rooker	Labour independent
Baroness Young of Hornsey	Crossbench
Lord Hennessy of Nympsfield	Crossbench
Bishop of Leicester	No affiliation

MPs

Gavin Barwell MP	Conservative
Oliver Heald MP	Conservative
Eleanor Laing MP	Conservative
Dr Daniel Poulter MP	Conservative
Laura Sandys MP	Conservative

John Stevenson MP	Conservative
John Thurso MP	Liberal Democrat
Rt. Hon Tom Clarke CBE MP	Labour
Ann Coffey MP	Labour
Bill Esterson MP	Labour
Tristram Hunt MP	Labour
Rt. Hon Malcolm Wicks MP	Labour
Dr William McCrea MP	Democratic Unionist Party

B. Joint Committee on the Draft House of Lords Reform Bill – members that also signed up to an alternative report

Member	Party
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Lords

Lord Norton of Louth	Conservative
Rt. Hon Baroness Shephard of Northwold	Conservatives
Rt. Hon Lord Trefgarne	Conservative
Rt. Hon Lord Trimble	Conservative
Baroness Andrews	Labour
Rt. Hon Baroness Symons of Vernham Dean	Labour
Rt. Hon Lord Rooker	Labour independent
Lord Hennessy of Nympsfield	Crossbench
Bishop of Leicester	No affiliation

MPs

Oliver Heald MP	Conservative
Eleanor Laing MP	Conservative
Rt. Hon Tom Clarke CBE MP	Labour