

## Reform of the House of Lords

The constitution of the House of Lords (HoL) has been under discussion for many years. It seems to be widely agreed that some change is needed, but nothing actually happens. Why? Possibly because we never come close to reaching agreement on how things should be. Only four options seem ever to have been considered for membership of the HoL, and none of them seems acceptable.

- (1) All hereditary
- (2) All appointed
- (3) All elected
- (4) Some combination of the three.

Hereditary membership was what we used to have, but it has long been accepted that having aristocratic parentage is by no means guaranteed to ensure fitness to govern the country. So we have moved to having the majority of “lords” appointed by the government of the day.

Appointment is regarded by some as undemocratic. But it is surely no less democratic than most decisions taken by the elected government? The real trouble with appointment is it is generally of old semi-retired party faithful, often those who have failed or outlived their usefulness in a more active role. That is not an ideal recipe for a chamber whose function is to act as moderator of the Commons.

Having an elected chamber is greatly favoured by many, because direct elections mean membership is directly controlled by the people. But is it? Presumably the candidates would be nominated by the same minuscule meetings of activists who select parliamentary candidates, and being presented with a choice of two or three such candidates can hardly be said to give the people a chance to express their true wishes and interests. And will the turnout be any greater than it is for Commons elections? Hardly! So we are faced with the prospect of having the HoL composed of party nominees, each put forward by a group of a few dozen activists and each voted for by perhaps 25% of the electorate. More democracy, or just another great turn-off? Surely we need to find some way of re-kindling the people's willingness to participate in our democracy, and not yet another way of convincing them it is all a waste of time?

And the core of the problem is arguably party politics itself. Many people, particularly politicians, are convinced that party politics is the indispensable essence of true freedom and democracy. It is certainly true that a politician's chances of success and advancement are greatly improved if she represent a party, and almost non-existent if not. But that is a statement about the power of parties rather than about their contribution to democracy. Indeed, it can be argued that political parties are in many respects inherently anti-democratic.

Many people say of the parties that they are “all the same”. Which is true, up to a point; and they certainly all have to compete for the same middle ground, which can make their policies seem indistinguishable. And people are just not joining parties the way they used to. Membership is in serious decline. And turnout at elections is low. People are no longer interested in politics, it seems.

Which is just not true. Passions run high on many subjects, and people have inadequate ways of voicing their feelings. And they do join things, just not political parties. They join, and usually pay subscriptions to, all sorts of special interest groups: The Ramblers Association, The

Countryside Alliance, The AA, the Consumers' Association, Greenpeace, Amnesty, The Roman Catholic Church, RSPB, NSPCC, The Electoral Reform Society, to name but a few. Would it therefore not clearly express “the will of the people” if such organisations sent representatives to the HoL? It would certainly give an apparently excellent chance of reviving popular interest in matters political, as well as giving the nation of having such special interests represented in the consideration of new legislation. Personally, I'd go for 100% special interest representatives on the HoL, but I'd settle for 50%, or even 10% as a practical trial.

But could we make it work? The rest of this note addresses various practical issues. But this is just a start. The problems and hazards need to be thought through and fully addressed before we are ready to formulate a very specific proposal.

(1) *What organisations should be eligible?*

Well, it really should be an organisation of people, and should have a purpose to provide services to those people and/or support the interests of those people and/or take actions which those people wish to be taken.

(2) *How should the delegate be appointed?*

In principle, by the members. Preferably by a simple AV/STV voting system. Personally, I would insist on the use of AV/STV, since it seems to be the only fair and democratic system when there are more than two candidates.

(3) *How should candidates be nominated?*

There is not much point in having a “democratic” election if candidates are nominated only by “the management” or by a self-appointed committee of activists. Nominations must be open to be made by all members. And in principle, the requirements and qualifications should be as open as for a candidate for the Commons, including nomination by only a small number of members.

(4) *Could we allow appointment by a nominated appointments committee rather than by direct election?*

I see no reason why not, provided that this committee is elected by a process similar to that required for direct election (i.e. STV voting and open nomination of candidates). There should also be an option for the members to call a new election if a significant number disapprove of the actions of the appointments committee.

This option would avoid the requirement for an unnecessary election in any organisation whose board or council of management was already appointed by the members by STV. In such cases I see no problem in allowing the board to appoint the delegate, at least until the next election.

But, in any case, having an appointment committee would facilitate easy replacement of the representative in the event of unavailability for any reason. For that reason it might well become the norm, if allowed.

(5) *Could we allow “alternate” or deputy representatives?*

Why not. They are representing the organisation, and a stand-in in the event of sickness or holiday would be a useful option. But the deputy should not act as stand-in without the agreement of the primary representative. And if the primary representative is chosen by direct election then the deputy really should be the person coming second in that election. (Which would require a small and obvious extension to STV counting system to rank the candidates rather than just select a given number of them.)

(6) *How big should an organisation be to warrant representation in the HoL?*

I would make the answer variable. Clearly only substantial organisation can be reasonably accommodated, so a size threshold needs to be specified. This might, for example be a membership of 200,000. But the actual threshold should be adjustable, to enable the number of delegates to be appropriately limited. If a threshold of 200,000 brought in 1,000 organisations then we should consider raising it. The total number of delegates should probably be in the range 200 to 500.

(7) *Can you really have a major political institution without political parties?*

There should be no prohibition. Any political party with enough members would automatically qualify for a seat.

(8) *Should only large organisations be represented?*

Possibly not. It would seem a good idea to include delegates from selected professional bodies, in order to be able to take advantage of their specialist professional knowledge and perspective. For example, we would all stand to benefit from having guaranteed seats for delegates from, say, the British Medical Association, the Royal College of Nursing, the Law Society, the Association of Chartered Accountants, and suchlike. But even in those cases, subject to the same STV election rules as for larger organisation.

There may be also a case for having a special representative from the Church of England, while that remains the “established” church; but it may in fact have enough members to qualify automatically.

(9) *Should enormous organisations have the same representation as much smaller ones?*

Perhaps, but ideally not. However, representation proportional to membership is also not a good idea, I think. I would adopt the widely accepted square root rule: representation proportional to the square root of membership. Thus to get a second seat an organisation would need to have 4 times the threshold, and for a third seat 9 times.

(10) *What if the organisation is owned by shareholders rather than members?*

Is there a problem? The AA is such an organisation nowadays. But it can (and indeed must) still represent its members' interests. However, given that the directors are elected by the shareholders rather than the members, it would seem preferable that the HoL representative should be appointed by the members directly, or by a member-elected appointment committee, rather than by the company. So I would accept any commercial organisation on that condition.

(11) *Does allowing commercial organisations leave scope for cheating?*

Probably. For example, a company could form several subsidiaries, and declare all members to be members of all companies, thus having as many delegates as it wished. That loophole should be fairly easy to plug, using standard definitions of “associated companies”, for example, but there may well be other loopholes. And rather than trying to legislate for all possible form of dubious practice, I would be inclined to leave eligibility to the discretion of the Electoral Commission, in accordance with some broad and uncontroversial guidelines. With some right of appeal, I suppose, but I doubt this would be much used.

(12) *How should membership be counted?*

The obvious first answer is that an organisation of subscribing members should have a well organised and auditable membership register. And even if there are no subscriptions there should be a mailing list. But membership registers are very changeable things, and

ascertaining exactly how many actual members there were (alive and paid-up) on a given date may not be at all easy. And mailing lists are by no means guaranteed to be reliable. I therefore think that we should consider instead counting the number of members actually voting in any pertinent election. Which is guaranteed to be much easier to ascertain reliably. And makes it relatively easy to accommodate organisations whose membership is decidedly ephemeral. Like, for example, the readership of any newspaper which cares to ballot its readers, including even the Daily Mail, which deserves a voice as much as anybody.

*(13) How do we avoid multiple voting?*

With difficulty, as always. If we asked voters to quote their reference number from the Electoral Register, we would be arguably no worse off than with current elections. If we asked for NI Number, we might perhaps be better off. But would such impositions be allowed? And does it matter if people cheat a little? The only risk to the HoL is that an organisation might in rare cases get an additional representative it did not really deserve.

*(14) Does it matter that people who belong to many organisations will be represented many times over?*

I don't think so. Indeed, why not give people every possible encouragement to support all the causes they care about?

*(15) Are there any organisations which should be excluded?*

Preferably not. Partly because of the difficult, and inevitably controversial, problem of formulating an acceptable and workable definition. Indeed, I see some merit in allowing even the most unlikely groups into the club. Why not let Daily Mail readers and Tesco customers have their say, if that is what people actually want and if the proprietors are willing to organise appropriate elections?

*(16) So somebody could create a new club today and have it represented in the HoL tomorrow?*

Hopefully not. A measure of stability might need to be introduced by stipulating a minimum period between when an organisation is formed and when it can be represented in the HoL. On the other hand, that period should not be too long, because some issues might benefit from representation while still fairly hot and fresh. My first thought is that a minimum of something between 6 and 12 months between formation and representation might be appropriate.

*(17) How long should delegates serve for?*

I see no reason to put a limit on how long delegates can serve. But they (or the members of the committee which appoints them) really should be subject to periodic re-election, say every 3, 4 or 5 years.

*(18) Should delegates be paid?*

Perhaps. It would be normal. But there is a good case for avoiding paying any form of salary. Then it is up to the organisations represented to support their delegates. Which will induce them to treat the whole thing much more seriously and responsibly, I feel, rather than as just a way of getting subsidies from the taxpayer.

However, there would clearly be a case for paying some basic travel, accommodation, and telecommunication expenses, to ensure that there was no avoidable disincentive for delegates from parts of the country distant from London. Even so, both expense and inconvenience would be reduced, and effectiveness possibly increased, if much of the business were conducted electronically, with representatives working at home, and with intense plenary sessions in the House itself only a few times a year.

There could be a case for allowing registered charities to apply for living allowances for their delegates.

Any money saved on salaries and expenses could well be used to provide some necessary additional resources for the Electoral Commission, and to subsidise the administration of all the STV votes which the envisaged system entails.

*(19) Can this be introduced overnight?*

Not easily. And possibly not desirably. There could be much to be said for introducing it progressively, starting with a high membership threshold, and gradually reducing this while the numbers of hereditary and appointed members of the HoL are progressively reduced. This would enable any problems to be ironed out, and all systems fully validated before any large burden is placed on them.

*(20) Will this really make things better?*

Yes. A much better scrutiny and decision making body. And an excellent opportunity for reviving popular interest in politics and political processes.

07 Jun 09