House of Lords Reform: A History

Volume 2 *1943-1958: Hopes Rekindled*

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Preface

We ended our first volume on the history of House of Lords reform in 1937. After this date, a long pause occurred – first, because of the political crisis in Europe, which occupied the minds of the members of both Houses of Parliament; secondly, because of the outbreak of the war in September 1939, which took priority over all other issues. Yet, despite these formidable problems facing the British nation, or perhaps in view of the fact that such problems might eventually force an imperative need for change on the country, reform of the Upper House continued to concern those thoughtful men who had made a lifelong trade of politics there. The 4th Marquess of Salisbury belonged to this class of people. While the cataclysm of the war still engulfed Britain, this marquess, now over eighty years old, produced a brief draft of a new reform proposal for the House of Lords. The House, he wrote with approval, constituted 'a platform from which men of influence' could mature public opinion, but its functions would have to be discharged differently in future. The House of Lords required strengthening, but this strengthening should be evolutionary. Although the hereditary principle must be retained, it now needed qualification. A peer should not sit and vote in the House by reason alone of his hereditary right. Lord Salisbury issued these theories in April 1943. And it is from this point that we begin the second volume of our history of House of Lords reform.

The country had to wait until the end of the war before concrete proposals for reform of the Lords were suggested to the Labour Government. This was in 1945. It was the reform policies of the Attlee Government itself, including amendment of the Parliament Act of 1911, that prepared the ground. Initial attempts, more or less private, were made, first by an academician and then by a distinguished politician. Although their efforts were rather minor, they nevertheless deserve our attention. Edward F. Iwi addressed a memorandum on reform of the House of Lords to the government in August 1945. No peerage, he argued, should be given otherwise

than for service to the state. Viscount Cecil of Chelwood then suggested that a resolution should be moved in the House of Lords to create a limited number of life peers and that women should be eligible to be created peers on the same terms as men. The government took notice of these proposals, but there was no further development.

An important attempt at reform of the Lords (if one may put it that way) was the government bill to amend the Parliament Act of 1911. The government considered introducing legislation to limit the delaying power of the House of Lords, reducing it from two years to one. Accordingly, a bill came before the House of Commons in November 1947, where it 'set tongues on fire'. Because of the Labour majority in the Commons, the bill had a comfortable passage there. In the Lords, the situation was different. Here the Conservative peers commanded the majority. The bill came under forceful attack from the 5th Marquess of Salisbury, who had recently succeeded to the title of his father, after the latter's death in April 1947. It was this 5th marquess who now carried the Salisbury torch for Lords reform. With considerable skill, he convinced their lordships that a conference with representatives from the three major political parties should be summoned to consider the whole constitution of the Upper House. The virtue of this initiative was recognized by the Labour government. The Liberals were also keen that this conference should take place. The all-party conference met several times between the middle of February 1948 and the end of April in that year. Labour delegates made comprehensive proposals; the Conservative and Liberal representatives on their part suggested alternatives. In the present volume, we have, we believe, printed the complete minutes of these meetings for the first time. Labour and the Liberal delegates were in agreement as to how the Upper House should be reformed, but the Conservatives, headed by Lord Salisbury, would not give their assent to a further limit on the delaying powers of the Lords. The conference therefore failed. In an 'Agreed Statement' issued in May 1948, the public was told why this had happened.

It would be unjust not to mention what great efforts the Labour leaders at the time made in an attempt to reach agreement with the Conservatives. When their patience was completely exhausted, however, they decided to reintroduce their bill for the amendment of the 1911 Parliament Act in

the House of Lords in June 1948. Their intentions were abundantly clear: they wanted to secure the passage of any future Labour bill in the closing years of their term in parliament. Moving the Parliament Act Amendment Bill, the lord chancellor, Viscount Jowitt, defended its clauses, arguing that one year's delay gave the Lords adequate time to perform their function thoroughly and sufficiently. The leader of the opposition, Lord Salisbury, countered. He asserted that the government was moving towards establishing a single-chamber parliament. After a bitter controversy between the two sides, the Lords threw out the bill. Thereupon the government proceeded to invoke the original 1911 Parliament Act to amend the act's own content – an event until then unmatched in the history of parliament. Finally passed, the Parliament Act of 16 December 1949 further restricted the delaying powers of the Lords, and thus may be seen as a first step towards the reform of their House in the post-war period.

In July 1949, while the Amendment Bill was still being considered, the Marquess of Reading initiated a motion to offer peeresses, in their own right, the same privileges and rights as were enjoyed by male peers. Their lordships expressed little enthusiasm for the motion and, when they divided, it was defeated.

Then a singular, perhaps not wholly novel, attempt to render useful service to the cause of reform was made by Lord Exeter in the spring of 1952. He maintained that the House of Lords was competent to introduce changes by its own standing orders, and supplied past instances. By his argument, any other legislation would be needless. Their lordships responded very lethargically, and the suggestion was dropped.

Perhaps the most agreeable proposal for reform presented for consideration was that which Lord Simon put forward in February 1953. The Life Peers Bill had a simple objective: its aim was restricted to the creation of a certain number of peers, both men and women, who could make fresh contributions to the work of the House of Lords. The bill met with a lack of engagement from all the three political parties, who each opposed it. The Conservative spokesman denied support on the grounds that the bill was a private member's bill and that a bill on a matter so important should be a government bill; he further claimed the bill was not comprehensive enough. The Labour representative said that he had no instructions from

the party leadership, while the Liberal spokesman reiterated the words of his Labour counterpart. All three argued that the House should not prejudice the secret negotiations taking place between the government and the opposition on the question of reform. There were in fact no such negotiations. The truth was rather that the prime minister, Winston Churchill, had sent letters to the leaders of the Labour and Liberal parties inviting them to hold joint inter-party talks on reform of the Upper House and the invitation had not been taken up. Though the Liberal leader had welcomed it, the Labour leader had rejected the invitation. Lord Simon was unaware of this development when he put down his motion. In a brilliant oration Lord Simon begged their lordships to support his plan. In equally eloquent but modest language, Lord Jowitt for Labour, Lord Swinton for the Conservatives and Lord Samuel for the Liberals begged Lord Simon to withdraw his motion. This he agreed to do with grace and dignity.

It seems that the Labour leaders' decision to refuse to take part in discussions on reform of the Lords caused considerable joy to Lord Salisbury. 'We need not', he exclaimed, 'break hearts over their refusal'. From his point of view, the refusal appeared to be as favourable as if it had been planned all along. Nature had profusely lavished fine qualities of statesmanship on several generations of the house of Gascoyne-Cecil (the Salisburys). The immediate predecessors of the 5th Marquess, the 3rd and the 4th of the line, had already employed their talents and energies in attempts to reform the House of Lords. They were consummate masters in the skills of debate. Yet all their endeavours had come to nothing. The 5th Marquess entered the House of Lords at a time when the spirit in which the 4th Marquess had contemplated reform was still ardent. If the 5th Marquess now intended to continue the campaign of his father, he meant to do it not so much from filial duty as from the persuasions of his own conscience, acting in what he saw as the public interest. He shared the peculiar qualities of disputation and eloquence that had been so notable in his ancestors. This marquess now set about promoting his personal views on reform. In his first memorandum to the government, in 1953, he proposed measures he described as 'moderately conceived'. In fact the proposals were not very moderate at all, and they were both lengthy and comprehensive. Lord Salisbury observed that there were two measures that might be acceptable to the House of

Lords. The first was to have a system of representation whereby the hereditary peers would be represented by a select number of sitting peers whom they regularly elected. (The number of such sitting peers would have to be laid down in an act of parliament.) The second measure was to include an equal number of life peers nominated by the prime minister of the day. Lord Salisbury suggested that the cabinet should appoint a committee to go into various alternative schemes of reform. The cabinet agreed to this request, and a House of Lords Reform Committee was set up in 1953. The committee worked intensively on schemes submitted not only by the 5th Marquess but by others as well. The committee had substantial difficulties in recommending the introduction of life peers into the reformed Upper House, since the Conservative peers insisted that the hereditary element must be retained. Eventually there was general agreement that the new House should be composed partly of hereditary peers and partly of life peers. Gradually it was accepted that the presence of life peers could be an essential element in the new House. Life peerages would open up membership to eminent men and women who could not afford to accept hereditary peerages. The idea of nomination of life peers by the prime minister of the day won wide acceptance. The difficulty now arose with regard to the election of representative hereditary peers. How should they be chosen? The essential thing was that they should be 'in the public eye, suitable legislatures'. It was suggested that there should be an electing committee composed of members of the House of Lords, chosen according to the strength of the parties in the House or else in proportion to party strengths shown in votes cast at the last general election. As to the *method* of election, it was proposed that the committee would elect from the whole body of hereditary peers those whom they considered most suitable. This suggestion caused controversy. The composition of the new House, Lord Salisbury observed, needed to be so amended as to make it a 'real bulwark against extremist action'.

The idea that the Upper House should be composed partly of nominated peers and partly of representative hereditary peers elected from among themselves aroused little enthusiasm from the general public, and even that dwindled. The reformed House, some argued, should be made up of a fixed number of 'peers of parliament'. Such peers should sit in the

House of Lords for life, subject to (i) a right to resign their seats, and (ii) 'adequate attendance'. All peers should be entitled to renounce the right of succession of their heirs, and all vacancies in the House should be filled by the sovereign on the recommendation of the prime minister of the day. The law lords were thought to be an essential feature of any reformed House, where they would continue to sit. However, the numbers of peers spiritual would have to be reduced.

The members of the Reform Committee pursued their researches, thoroughly studying the diverse proposals, and then in early 1956 they submitted two alternative draft bills to the cabinet for consideration. The first of these bills, called the 'Shorter Version', would:

1. confer 'on the crown power to appoint life peers, without limit as to numbers';
2. provide 'that life peerages may be conferred on women';
3. enable 'the holder of a life peerage to resign his or her right to sit in the House of Lords, and upon so doing to be entitled to vote at parliamentary elections and ... be capable of being elected for and sitting and voting in the Commons';
4. provide 'for the payment of free railway travel for all members of the Lords and for payment of a daily allowance to all such members with the exception of ministers and the law lords'.

The second bill, the 'Longer Version', specified that it would:

1. assume a power of creating life peers as in the Shorter Version, but with limits on the numbers that could be created initially and annually, restricting the total number of life peers to 200;
2. restrict the hereditary peers to 200 as well, with the exception of royal dukes, the law lords, past and present cabinet ministers, and Scottish and Irish representative peers;
3. provide for a committee of selection for hereditary peers;
4. prescribe principles to govern the selection of life peers, the appointment of the committee of selection for hereditary peers, and the selection of hereditary peers;

5. enable women to be created life peers (peeresses) in their own right, able to sit in the House of Lords if selected or if elected as Scottish peeresses empowered to vote at elections of representative peers of Scotland;
6. provide that any peer not, for the time being, entitled to sit in the House of Lords (whether as a life peer or as a hereditary peer) be entitled to vote at elections to the House of Commons and be eligible for election to the Commons themselves;
7. provide for the representation in the House of Lords of the Established Church of Scotland; and
8. make the same provision for payment for free railway travel and daily allowances as in the Shorter version.

The 5th Marquess of Salisbury was not satisfied with either of these versions, but he made out that he was willing to accept the Longer Version in the hope that the cabinet would act soon. They did not. Churchill's cabinet had generally shown little enthusiasm for the reforms. Anthony Eden displayed some sympathy, but deferred making any decision. On the whole, the cabinet had all along found Salisbury's proposals too comprehensive and too complicated. Eden had much too high a regard for the Marquess to tell him openly about the lack of consensus. The prime minister's goodness of heart was shown in the Queen's Speech of 6 November 1956, in which the government promised to put forward proposals for reforming the composition of the House of Lords. But Eden would do no more. Then circumstances changed, and so did the men in power. When, in January 1957 Harold Macmillan stepped in as the new prime minister, Salisbury's case was entirely lost. Macmillan had his own vision of how he should proceed with reform of the Upper House, and he was supported by the Earl of Home who strongly urged that reform should proceed in small measures. Both men appear strictly to have observed Macaulay's dictum that a government that attempts more than it ought will perform less. Macmillan ordered that the shortest possible bill on Lords reform be drafted for legislation. This instruction bore immediate results. A bill of one clause only was produced. It gave her Majesty power by letters patent to confer on any person – women included – a peerage for life. Such a life

peerage entitled the person on whom it was conferred to sit and vote in the House of Lords. This bill of singular brevity was almost an exact replica of what Viscount Cecil of Chelwood had proposed in 1945, and Lord Simon in 1953. Now in May 1957 it was delivered to the cabinet for acceptance. The cabinet members unanimously agreed that it should be brought before parliament. In the Commons, Labour raised strong objections. The born debaters Hugh Gaitskell, Tony Benn and Jennie Lee, vehemently resisted the passage of the bill. They found the bill 'technically very limited', and objected that it left the composition of the Lords overwhelmingly hereditary. Also it did not enable the sons of peers to renounce their right to a seat in the House of Lords and, in consequence, have a right to put up for election for a seat in the Commons. The government recognized the points made in the Labour argument, but it believed all such objections could be addressed in a separate bill. Meanwhile, the Liberals welcomed the idea of life peerages.

In the House of Lords the bill rode on less stormy waters. Having survived animated discussion in both houses of parliament, it finally passed through all the necessary stages to receive the Royal Assent on 30 April 1958. The Peerages Act, 1958 marked a turning point in the history of reform of the House of Lords. Its impact was immediately felt when the first life peers were created in July of the same year. Even the Labour leaders now realized the significance of the bill. When Harold Macmillan first approached Hugh Gaitskell, asking him to suggest names for life peers that he could submit to the Queen for approval, the Labour leader hesitated. However, when asked the second time, Gaitskell came up with five or six nominations. In the ensuing years this 'modest constitutional reform' (as Macmillan described it) has had notable results. The Life Peerages Act, 1958 may be cited as the first fundamental act of reform of the House of Lords put into effect since 1911. Further such acts, also in shorter versions, became operative in later years. These will be discussed in our next volume.

In the present study, faithfully and in detail, we have recorded the processes behind all the events noted above. And here we beg to seek the indulgence of both the reader and the critic. We have had at our disposal almost all the cabinet papers concerning the reform of the House of Lords during the period treated. These papers, so carefully assembled in the National

Archives, have only recently been made accessible to researchers. Although some historians concerned with the topic of reform have referred to these sources, none, to our knowledge, has so far published the complete texts of the documents. We have done so with studious care. The complex problem of the reform of the House of Lords was so extensively discussed within the meetings of the various cabinets, and was considered so meticulously in various government drafts that the original documents fully merit scrutiny by the public. The resulting compilation is a voluminous work. It is a conglomeration of a vast number of highly important documents, which illustrate the motivations behind the process of reform and elucidate the mechanisms of the governments who were able, finally, to accomplish a significant change in the British constitution.

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