

GENERAL SYNOD

Private Members' Motion - House of Lords Reform

Introduction

1. Following the publication of the White Paper on the Reform of the House of Lords (http://www.dpm.cabinetoffice.gov.uk/sites/default/files_dpm/resources/house-of-lords-reform-draft-bill.pdf), Tony Berry, (on behalf of April Alexander and himself) tabled the following PMM on June 15th 2011

“That this Synod requests that the Archbishops’ Council establish a working group with members of each House of General Synod to prepare the Church of England’s official response to the Government’s consultation on the reform of the House of Lords and that any such Church of England response should be tabled at General Synod in Feb 2012 for debate and approval”

2. We considered that the package of reform in the White Paper was of great public and Synodical interest and that it might impact on the Establishment of the Church of England and its constitutional position. In this background note we note the current proposals for Reform of the House of Lords, make a brief comment on developments on reform of the House of Lords since the turn of the last century, look briefly at the responses from the Archbishops and Bishops, explain what actions have been taken in regard to the Private Members Motion following our request to the Archbishops’ Council that it act upon the intent of the PMM, note the creation of an extended House of Bishops working group together with our expectations of a friendly amendment to be tabled to enable work to progress.

The White Paper

3. The contents of the White Paper are set out in the Secretary General’s background note

Reform of the House of Lords: 1911-2012

4. The House of Lords rejection of Lloyd George’s Budget of 1909 triggered a constitutional crisis. The Asquith Government threatened to create enough peers to overcome its Conservative majority unless the Lords voted through legislation to remove its powers on Finance Bills and limit its right to delay other legislation. The Lords eventually passed the Parliament Act of 1911 and avoided any immediate change in its membership. The second Parliament Act of 1949 reduced the period of delay available to the House of Lords from two years to one. In the late 1950s life peers were created and, after that, the creation of further hereditary peerages became very rare. Further, from the late 1950s, females who inherited a peerage were allowed to sit in their own right as, of course, were female appointed peers.
5. After that there were only minor changes in this position until the Labour Government under Tony Blair got rid of most of the hereditaries in 1999. The 92 who remained still sit today and, as they die, they are replaced by “election” from the hereditary peerage by the remaining sitting hereditaries. Mr Blair announced his intention of finishing this constitutional reform but, to date, that has proved too difficult and controversial. There is wide consensus on what was wanted (an end to hereditary places and to the way in which the appointment process had operated) but little agreement on how that could be achieved.
6. Over the last ten years the pace and pressure for closure on reform of the House of Lords has quickened. Despite the creation of an Appointments Commission and the removal of peerages from the honours lists, there has continued to be disquiet from time to time about

the power of patronage in the appointment system (the Prime Minister and other party leaders still appoint party supporters as ‘working peers’) and about the perceived connection between the conferring of titles and the relationship to the Prime Minister or the party in power, not to mention party funding. After the last election, a particularly large number of politicians from both major parties were appointed, markedly increasing the size of the House and, allegedly, reducing the difference in political balance as between the two Houses. The White Paper of 2007 had led to a series of votes in both houses. The House of Lords had voted heavily against any proposals to introduce an elected element while the Commons had voted to retain a bicameral system, to remove hereditary peers and an overall majority voted in favour of a fully elected or 80% elected second Chamber. However the necessary legislation was never brought before Parliament.

7. In the 2010 General Election all three major party manifestos included proposals for finishing the reform of the second chamber and all supported the notion of a wholly or largely elected chamber. This became part of the Coalition Agreement. There is still some uncertainty about whether the Government will proceed with the legislation and all will depend upon whether or not it is mentioned in the next Queen’s speech. Meanwhile, the cautious approach is to work on the basis that far reaching reform legislation of some kind will be enacted.
8. The White Paper seeks a more legitimate second chamber, more representative of the population and favours especially an increase the number and proportion of women. Retiring members of the new house would be debarred from seeking immediate election to the Commons. Comments were invited by October 2011.

The published view of the Archbishops and Bishops

9. There are broader, constitutional issues raised by the proposals as well as issues specific to the Church of England. On the former, the Archbishops have made a written submission (circulated to members of GS (GSMisc 1004)) and Dr Williams has submitted evidence to Joint Parliamentary Committee of peers and MPs.

“In summary, if, as we believe, the second chamber should remain essentially a revising chamber and if, as we also believe, the primacy of the House of Commons is to be maintained, the argument that such a chamber can only be effective and have proper legitimacy if it is wholly or mainly elected is no more than an assertion.”
(Emboldened in the original submission)

10. The Bishop of Leicester, as leader of the House of Bishops on the matter of constitutional reform who sits on the Joint Parliamentary Committee considering the white paper, contributed an article to the Church Times On October 28th. The headline of the piece claimed that the Bishops were holding the coalition government to account, It was he wrote “hard to see the wisdom of embarking on significant parliamentary reform with its irrelevance to the country’s core concerns”; he noted “that the abolition of the current House of Lords and its replacement with a largely elected body signal(s) a worrying tendency on the part of the Government that concerns about the effectiveness of an institution can be resolved simply by throwing elections at it”; and commented that “ the large influx of former MPs to the Lords (especially on the opposition side) has seen the Lords become more assertive, more obstructive and less considerate, hardly a good omen for an elected second chamber should one be chosen”.
11. Of course, Synod will have a great interest also in the many issues specific to the Church of England. They include the practical implications of a reduction of Lords Spiritual from 26 to 12 and how those twelve can deliver the service which the Bishops have delivered to date; the burden on them will be far greater than has been the case and the Church will need to consider how they can be released from their other duties to allow for that as well

as the further question of now they will be selected. There is also a question over the early introduction of women bishops to the Lords. The Archbishop favours this if the present Measure passes but this would be hampered by the current transitional arrangements.

12. To date no settled views have emerged on any of these Church of England matters. They are raised in the submission and in evidence to the Joint Committee and they will be among those to be covered by the working group over the months ahead.

General Synod and its interest in the May 2011 proposals.

13. Members of General Synod may well have their own views on the broader issues which may or may not coincide with those of the Bishops. They will no doubt develop views on the Church specific issues and it will be important that they are given time to debate both aspects of the changes proposed.
14. General Synod (2001) debated an earlier stage of proposed reforms, supported Establishment and the continuation of Church of England Bishops being members of the second chamber and seeking that other Christian Churches be represented. The House of Bishops has kept that 2001 debate in mind as The Bishop of Leicester made clear in response to a GS question in July 2011: "In making representations to the Government and in engaging with the Government's proposals, the Lords Spiritual have been and will continue to be guided by that motion and they will want to keep Synod abreast of developments as they unfold". However, much has changed since the 2001 debate and some surprise was expressed that so much reliance was put on it in the light of the 2011 new and very different proposals. Further, Synod members appeared to be looking for more than "being kept abreast" of matters of such great moment.
15. It was an answer to another question which alerted most of General Synod to the fact that there was already a working group of the House of Bishops preparing a response to the White Paper. The private member's motion on July 2011 on the issue attempted to give expression to a view that the Church of England's response to the invitation to comment should have the active participation and support of the General Synod, a course of action suggested by the Bishop of Leicester. 182 members signed it the PMM tabled by Tony Berry.

Action on the PMM since July 2011

16. Because of the unlikelihood of there being a GS meeting in November 2011 there was an application from a GS member, Dr Edmund Marshall, to hold a special meeting to discuss House of Lords reform but this was not acceptable. Meanwhile, on 11 July 2011, April Alexander had written, on behalf of both of us, to the Archbishops setting out the PMM and the timing difficulties it would present.

"Given the time constraints, I wonder whether we might ask the Archbishops' Council to set up a working party to which the motion refers in advance of the debate having taken place. This will ensure that there are proposals for Synod to debate in February (2012). A few people have already expressed an interest in this work and there is considerable expertise in Synod among both laity and clergy."
17. Immediately after the close of the July sessions we set about drafting an outline of the possible terms of reference for the working group proposed in the PMM, drawn up on the premise that the Church should preserve its place in Parliament and Establishment should be maintained. In addition we sought a draft response to the White Paper for General Synod to approve in February 2012. Clearly time has passed and events have moved on.
18. At its September meeting, the Archbishops' Council discussed a number of matters relating to the House of Lords reform including the draft submission from the Archbishops

to the Joint Parliamentary Committee (GSMisc 1004) which was subsequently submitted and distributed to Synod members. In relation to our work the Council endorsed a proposal to extend the Episcopal group to include Philip Giddings and Christine Hardman (both Officers of the Synod) and Philip Fletcher (chair designate of MPA) as well as another “back bench” member of General Synod (later identified to be April Alexander”. This was a pragmatic way of keeping continuity with the House of Bishop’s working group and the wishes of members of General Synod as well as presenting a joint view from the Church of England as a whole and avoiding much duplication of work. That group met on January 10th 2012 and has further meetings planned during 2012.

What might Synod be discussing when the PMM is debated

19. In order that the PMM be updated to take account of developments since July 2011, April Alexander will propose an amendment to the effect that the extended group of Bishops and General Synod members referred to above will continue to work on the response of the Church of England to the proposals in the White Paper. The amendment is further likely to set out the mechanism by which the group will inform Synod about progress and seek approval for any further submissions or changes in which the Lords Spiritual are selected and carry out their work.
20. However, a vital matter referred to in the PMM and likely to be at the core of any amendment to “update” the PMM in the light of recent developments, is the **process** by which General Synod can fully participate in discussions and can be party to regular reports and have the facility to debate any proposals from the Church of England. In our view, that should lie at the heart of our discussion at this stage.

Conclusions

21. Over the last century the wholly elected House of Commons has established itself as the first chamber in the UK Parliament. For so long as a Government retains the confidence of the Commons its will prevails, subject only to the Lords’ ability to revise and delay legislation. The ongoing reform of the UK democratic institutions has seen the creation of the Supreme Court and major steps in the reform of the House of Lords to limit and remove hereditary peers. Recently there has been the establishment of new elected assemblies in Northern Ireland, Scotland and Wales and members may reflect that there could be a new role for a second chamber in relation to the UK as a whole, should one of the component parts become independent.
22. In this context the proposals presented in the white paper for a new second chamber have all been intended to strengthen its democratic legitimacy and its capacity for revision. There will be differing views as to which of these great issues are for General Synod to consider. For those who are interested, there is an excellent House of Lords Library note <http://www.parliament.uk/briefing-papers/LLN-2011-036> which details some history and reports on the participation of bishops in house votes. . The Joint Parliamentary Committee may present some new options especially in relation to the balance between elected and appointed members. A revised bill may be signalled for the next session of parliament that begins in May.

Tony Berry and April Alexander

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