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Reforming
the Lords
and
changing Britain

John Osmond

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The Fabian Society

The Fabian Society is Britain's senior think tank. Concerned since its foundation with evolutionary political and economic reform and progressive social change, the Fabian Society has played a central role for more than a century in the development of political ideas and public policy on the left-of-centre. The Society is affiliated to the Labour Party but is editorially and organisationally independent. In recent years the Society's work on the modernisation of the Labour Party's constitution and its analysis of changing political attitudes have played a significant part in the renewal of the party's public appeal.

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The Fabian Society's programme on 'Redesigning the State' seeks to examine the role and form of a state appropriate to 21st century Britain. In recent years the role of the state has come under multiple challenge: its ability to tax adequately and to deliver public services efficiently has been widely doubted, while 'globalisation' has apparently raised questions of its economic competence. Public confidence in the institutions of government is in long term decline.

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Reforming the Lords and changing Britain

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1. Introduction

Pressure for constitutional change in Britain has ebbed and flowed across the last hundred years. It is only since the late 1980s that the agenda has crept in a serious way from the Celtic fringes of Wales, Ireland and Scotland to become a preoccupation at the Westminster hub of the British Isles. This was a highly significant development, not least because the new pressure produced a realisation that the political culture as a whole was in question. Changing political institutions in a centralist state is akin to a programme of environmental or ecological reform. All parts affect the whole. So, for example, when the campaigning organisation Charter 88 first put forward its ten demands for a democratic constitution for Britain in 1988 (to mark the 300th anniversary of the 1688 settlement), it did so in the knowledge that each one would impact on the other. It was acknowledged that changing one part of the constitution would have a reverberating effect on the rest. That is one reason why constitutional reform in Britain's unitary, monarchical state is so difficult and controversial. Change a little and you change everything.

Understanding this gave rise to a further insight. Creating a modern, democratic constitution for Britain is about much more than tinkering with regulations, altering procedures, incorporating rights, updating the judiciary, introducing proportional representation, or even establishing entirely new elected chambers in the nations and regions of Britain. More formidably it is about the transformation of a political culture and turning British subjects into English, Scots, Irish and Welsh European citizens.

This is the context in which reforming the House of Lords into a democratic, citizen-based Upper Chamber should be considered. It should be seen as an integral part of a complete constitutional agenda, and not just in narrow terms of the impact it will inevitably have on the monarchy and the House of Commons. It should be regarded as an essential part of a more fundamental, underlying project of changing Britain's political culture and, indeed, transforming what it means to be British.

Reform of the House of Lords should therefore be closely connected with the decentralisation agenda — the creation of a National Assembly for Wales, a Parliament for Scotland and Assemblies in Northern Ireland and in the English Regions — and the whole should be related to Britain's place within the European Union. Its achievement should be recognised as embracing an irrevocable cultural shift in the way we imagine citizenship in Britain. The Easter 1998 Irish Agreement's commitment to create a British-Irish Council as part of the effort to create stability for Northern Ireland underlines the point. This was an intriguing development. In the past, the notion of some kind of pan-British Isles representative body, embracing all the nations, has only been thought of on the further fringes of nationalist thinking in Wales and Scotland. That it has now emerged as part of an effort to assuage Unionist fears in Northern Ireland is a further indication of how the constitutional

agenda is changing under our feet. In coming to terms with the new, however, we have no choice but to build on the past, and in this case the House of Lords can be put to good use.

The European context of this endeavour is another essential part of the matrix. Britain can no longer pretend to remain unaffected by the great cultural and political shifts that have long been changing continental Europe. As Lord Denning famously said as long ago as 1974, the Treaty of Rome which had established the Common Market in 1957 and set the course for the European Union, was "like an incoming tide. It flows into the estuaries and up the rivers. It cannot be held back" (1). Moreover, learning from constitutional patterns that are evolving elsewhere in Europe will be of great assistance in devising practical solutions to British constitutional problems. First, however, we need to address the way reform of the House of Lords is emerging as part of the agenda of constitutional change, the peculiarities of English territorial politics, and the way these inter-mesh with the centralist state institutions we wish to reform.

2. The current debate

Reform of the House of Lords has long been on the British political agenda. The 1911 Act that reduced the powers of the second chamber to its present form, contained the following promise: "It is intended to substitute for the House of Lords as presently constituted a second chamber constituted on a popular instead of a hereditary basis." Yet only now is this intention being seriously addressed. Labour's 1997 manifesto contained a commitment to abolishing the right of hereditary peers to sit and vote, which would be "the first stage in a process of reform to make the House of Lords more democratic and representative." Quite what should constitute the second stage is being left tantalisingly unspecified, however.

A previous Fabian discussion paper written by two peers - one a Labour life peer, one a cross-bench hereditary peer - published in January 1997 criticised this halfway position (2). They warned of the risks of a two-stage reform process, and described the proposed first stage of creating an appointed House by removing the hereditary peers as the "least legitimate of the reform options".

It would simply provide the Commons with a fangless watchdog and a useful rest home for unseated MPs and party worthies. Furthermore, it is very difficult to envisage acceptance by the Commons of the next step towards a legitimate second chamber - a democratic mandate. What we are offered is the prospect of a permanent halfway house of lifetime appointees, which can hardly be regarded as an advance either for democracy or effectiveness. But the Labour Party cannot be allowed to shelter behind a smokescreen of vague intentions. It must come clean and, at the very least, publish its preferred option for the phase of reform after removal of hereditary peers.

They claimed that the most important lesson to learn from the Labour government's abortive reform attempt in 1969 (blocked by an alliance between Michael Foot and Enoch Powell) "is that it is not possible to separate the issue of composition of the second chamber from that of its power" and they believed that "the real defect of the second chamber is its lack of power. Because it is unelected, the House lacks legitimacy and is aware of this ... The House of Lords is a fig leaf for what is effectively a unicameral system", which suited the Lower House.

Since the election Labour's 'halfway house' position has provided the Conservatives with an opportunity of taking the high ground. In a wide-ranging speech on constitutional matters in February 1998, William Hague announced that his party was "no longer wedded to evolutionary change" to the House of Lords. Henceforth it would advocate non-evolutionary reforms for which 'democratic accountability' would be the guiding principle (3). In July he established a Commission, chaired by Lord Mackay the former Lord

Chancellor, to examine ways the Lords might be reformed. In his statement announcing the Commission Hague said there were six criteria by which Conservatives would judge any proposal for reforming the second chamber:

- It must be better at scrutinising and revising legislation than the present one.
- A substantial independent element must remain.
- The Prime Minister's powers of patronage must not be increased.
- The members must be drawn from all parts of the United Kingdom.
- Reform must be considered in the context of its effects on Parliament as a whole.
- The supreme authority of the House of Commons must remain intact.

And in a rhetorical flourish Hague accused the Government of merely wanting to "transform the House of Lords into a giant quango":

It wants to rush through far-reaching changes that have everything to do with increasing the power of the Prime Minister and nothing to do with principled reform. It wants to avoid public examination and political consensus by drawing up its plans in secret, without consultation or debate. Above all, it wants to avoid real and lasting reform of the House of Lords by delaying indefinitely Stage Two reform (4).

The six criteria put forward by William Hague at least had the merit of moving the debate about the House of Lords on from merely being about its composition. It was the Constitution Unit's report on *Reform of the House of Lords* in 1996 that stated most clearly that some consensus about the second chamber's functions, powers and relationship with the House of Commons should be established first (5). International experience, it said, pointed to the following three conditions for an effective second chamber:

- A second chamber that positively complements, rather than compensates for, the first chamber is more likely to be accepted and effective.
- The need for, and role of, a second chamber is most readily discernible in federal states like the USA, Australia, Canada, and Germany.
- The composition of the chamber (whether through nomination or election) must be clearly and deliberately representative of something if the body is to have political authority.

The most recent contributions to the debate have ignored these injunctions. An IPPR discussion paper *Straight to the Senate* has proposed maintaining the powers of the second chamber much as they are but directly electing it by STV from large multi-member constituencies (6). Shortly afterwards, in May

1998, a Demos report came up with the more novel idea that members of the second chamber be chosen from the regions and nations of Britain by lot, as in jury service (7).

Direct elections along the lines suggested in the IPPR report would place the second chamber in direct competition with the House of Commons so far as legitimacy and authority is concerned. Selection by lot would give the second chamber no representative base apart from one related to eccentric individualism. Both papers refer with varying degrees of approval to the idea that the second chamber should represent directly the nations and regions of Britain. The authors of the Demos report, Anthony Barnett and Peter Carty, for instance, say:

A powerful argument for a regionally based chamber is that it would encourage the growing development of regional and national devolution in a constructive fashion by providing all-British space for the expression and possible resolution of difference. This would be a new role distinct from that of scrutiny and division.

However, they dismiss a regional chamber along these lines because "there is not yet a regional politics to generate legitimate voice". Undoubtedly, the strong regional identities and affiliations that exist within England have hitherto been expressed in cultural rather than political terms. However, the English regions are achieving a progressively more powerful economic and political presence, a trend that is charted below. A regionally based second chamber would be a forum where the needs of the British nations and regions could be articulated. It would also bring British civic culture into line with developments that have been accelerating in continental Europe during the past two decades.

3. The European framework

Constitutional change in the United Kingdom can no longer be considered except within the European framework within which it is evolving. Two key processes are underpinning the movement towards European integration:

- The merging, or pooling of sovereignty between the nation-states.
- Subsidiarity, in which power is pushed down to the lowest level at which it can most effectively be utilised.

In historical terms both processes are developing at an extraordinarily rapid pace within the European polity. This is not to say that the era of the nation-state is over, or necessarily in the process of coming to an end. Rather the nation-state is being re-shaped, is modulating at the edge, and finding new forms and new roles. Within the European Union there is a pooling of sovereignty in a growing number of fields, of which economic and monetary union and the single currency are taking a leading, and obviously, important role.

Alongside there is an emerging regionalism within the EU which is steadily finding stronger expression in institutional terms. The outlines within the continental nation-states have long been apparent - the German Lander, the Italian regions, the emerging Belgian confederation, the evolution of the Spanish Autonomous Communities since the death of Franco, and latterly regionalism even within France. This process, which has been gathering pace in the last few decades, has now been immensely fortified by devolution within the United Kingdom. At the pan-European level this movement has found expression in the Committee of the Regions, still embryonic in terms of influence, but nonetheless highly emblematic.

The result is something of a paradox. The countries of Europe are undeniably becoming more European in terms of their governing structures and elites. Yet, at the same time, and because of this Europeanisation coupled with devolution within, they are becoming more French, more German, more Italian, and more Spanish. Of course, in this development what it means to be French, German, Spanish and so on is also being changed. So, to take one example, the Germans are in the process of discovering they can be German without the sovereignty stage-prop of the Mark and the Bundesbank. Suddenly, what seemed an essential badge of national identity — their own bank-note — is ceasing to be central and, indeed, is past its sell-by-date. In its place the essence of what it is to be German is being found in the cultural depth of the Lander-Regions on the one hand, and in the role as a newly-unified country leading a uniting Europe on the other.

How do these trends operate within the United Kingdom? Pretty well on the Celtic periphery is one immediate answer. Europeanisation has been the making of the Irish Republic. All sides in Northern Ireland will testify that

the European dimension has been unequivocally beneficial in the achievement of a settlement. In Wales and Scotland, the new emerging Europe has been enthusiastically embraced, certainly by political activists and those responsible for steering their economies. Apart from anything else, Wales and Scotland have been used to pooling sovereignty for centuries. And certainly so far as Wales is concerned, the constitutional changes underway — the creation of the National Assembly — would be unimaginable without the setting of a wider European framework. In Scotland the SNP does not seek independence outwith the European Union.

For the English, however, the perspective is rather different. The European dimension of English affairs tends to be viewed rather more as a threat than an opportunity. On the whole this is the English response to the whole agenda for constitutional change. At best it is seen as a need to assuage the needs of the Scots. At worst, and more often than not, it is seen as boring and not part of the front-line political agenda. In Scotland, Wales and Northern Ireland, the experience of constitutional change is proving literally liberating.

In contrast the English generally do not regard constitutional change as having the potential to animate the rest of political and economic development, in the way that is widely understood by its advocates in Wales and Scotland. In England it tends to be seen as a way of settling old problems, or eliminating outdated impediments, rather than creating new opportunities. So, for example, reform of the House of Lords is not seen as an opportunity to renew democracy and create a new civic culture for Britain within the wide context of the emerging new Europe. Rather, it tends to be seen merely as a mechanism for getting rid of an antiquated hereditary peerage.

4. The problem of England

We have to face up to the oddities of English political culture and its class-based character linked to traditions of deference and hierarchy that only since the 1960s have slowly begun to unravel. There are contradictions in such assertions, of course. It can be argued that rather than a democracy, England is a Parliamentary nation. This explains why even in the 1990s, the House of Commons retains an atmosphere of being run by a squirearchy, while the House of Lords is not acutely felt to be an anomaly. It can be argued further that, with its monarchy and doctrine of sovereignty resting with the 'Crown in Parliament', England is not a democracy but in the words of Lord Hailsham "an elective dictatorship" (8).

At the same time English people have profound democratic instincts. Rooted in the English mind is a sense of decency, and a feeling for an ordered way of doing things without which democratic structures are difficult to sustain. Hence the English, perhaps British, propensity to organise every society and club in civil society through committees, with elections for chairs, treasurers and secretaries, and regular minute-taking. There is an underlying, and powerful instinct for citizenship amongst the English people.

So what is stopping it expressing itself in the conventional, perhaps normal, democratic ways that are common elsewhere? What is so powerful about its state structure that led Raymond Williams to say of it: "It can be said that the Welsh people have been oppressed by the English for some seven centuries. Yet it can then also be said that the English people have been oppressed by the English state for even longer" (9). The answer is to be found, first, in that long history. Very early in the English experience an excessively powerful and centralised State system was established, starting with the Norman Conquest. From the start sovereignty was bound up with the monarch and only carefully and gradually allowed to be extended outwards from a single centre. Never in this long process was the idea that political power emanates from the people and the localities from which they spring allowed to take hold. It is a major reason why, although English people have strong attachments to their localities and a powerful regional sensibility reflected in accent and culture, these have rarely found political expression. When the regions have articulated their interests it has generally been through protest, from the Pilgrimage of Grace in the Middle Ages to the Jarrow March in the 20th Century, rather than in demands for political representation. Arguably the main 20th Century vehicle for representing the interests of the English regions in the northern part of Britain, as with Wales and Scotland, has been the Labour Party. But that only emphasises the point. The distinctive needs of the regions and nations were combined and then hidden within the Labour Party, rather than expressed individually.

in terms of territory, language and a sense of the people as being the foundation of the nation. The English, however, do not rely on these characteristics in such a straightforward way. Who can easily draw a map of England? Rather, England is a country of the mind, either smaller than its actual territory, focused around a 'Home Counties' (why *Home* counties, if not home to the monarch?) rural arcadia, or larger: embracing the whole island of Britain (Northern Ireland is usually excluded from this imagination) and formerly all those red bits on the map of the world, sometimes still retained in the form of the Commonwealth. The English language is regionalised into dialects and accents on the one hand, while on the other, Americanised into a world alternative to Esperanto. But most significant of all, for the argument being pursued here, under the unwritten British constitution, there are no English citizens — only subjects under a Crown-Parliament hegemony established in 1688, long before democracy was heard of in its modern sense.

In fact, it was the intrusion of European law, through the Maastricht Treaty in 1992, that for the first time brought the rights of citizenship in a legal, constitutional sense, to the shores of Britain. And it was the Irish Agreement, in Easter 1998, that first breached the legal subjecthood of the individual's constitutional status within the United Kingdom itself. The Agreement states that it is "for the *people* of the island of Ireland ... to exercise their right of self-determination" and confirmed "the birthright of all the people of Northern Ireland ... to hold both British and Irish *citizenship*" (my emphasis). In terms of the limboland of the United Kingdom's unwritten constitution, its people are citizens within the European Union as a whole, subjects on the British mainland, but citizens within Northern Ireland.

To some extent of course, the attributes that characterise English identity also apply to the Irish, Scots and certainly the Welsh. But to a greater or lesser extent — sometimes depending on individual inclination — they do not. Indeed, this is part of what differentiates them from the English. The point can be further made by exploring the relationship that the Scots and Welsh, for example, have with the idea of Britain. They see their British identity as something separate from being Scottish or Welsh. They have a dual identity, in fact, with each part of the whole being accentuated at different moments and in different circumstances. The English, however, do not make the same distinction. For them England and Britain are not so easily differentiated. In the English mind there seems to be a fusion between the two, into an Anglo-British identity which relates perhaps to a sense of 'Greater England', and which has made the House of Lords such an enduring part of Britain's unwritten constitution.

5. The emerging regional governance of England

Despite the cultural singularity described here which, together with its long historical trajectory, has militated against the development of political formations in the English regions, the early 1990s marked the beginning of a profound shift. The clearest indication came with the creation by the Conservative administration, in April 1994, of Government Offices for the English Regions. These are a network of ten integrated regional offices which bring together civil servants from the Departments of Employment, Environment, Trade and Industry and Education under the control of a Senior Regional Director in each case — for London, the South East, the South West, East Anglia, the East Midlands, the West Midlands, Yorkshire and Humberside, the North West, the North-East, and Merseyside. Simultaneously these are defining the geographical dimensions of regional government in England, and providing a focus around which momentum towards achieving fully-fledged regional democratic government can be mobilised.

Many reasons have been put forward for this Conservative initiative, first signalled in the 1992 Party Manifesto, not least that enhancing the presence of central government at the regional level might forestall pressures for an elected regional tier. And it is true that the creation of the regional offices was an imposition from the centre. They remain accountable upwards to Ministers, who appoint their members and set their budgets. In reality they are nationally appointed quangos. At the same time, the Department of the Environment Press Notice announcing the change, in November 1993, was unambiguous. It stated that the change entailed "sweeping measures to shift power from Whitehall to local communities and make the government more responsive to local priorities."

Part of the background was the perceived disadvantage of the English regions within the United Kingdom. The Sixth Report of the Treasury and Civil Service Committee of the House of Commons (1988-89) contrasted the position with that in Scotland, Wales and Northern Ireland which have the benefit of co-ordinated political management, devolved territorial departments, block budgets and expenditure-switching discretion between programmes within their blocks.

Undoubtedly, too, there was the wider background of the impact of the European Union on the English regions. The launching of the Single European Market, the European Economic Area and further enlargement of the Union heightened awareness of the opportunities and competitive threats of a trading bloc of some 380 million people. Business leaders became increasingly concerned about the weakness of the business support infrastructure in the English Regions, compared with comparable areas, not just in the United Kingdom, but in continental Europe as well. One influential study, published in 1992 by the organisation Business in the

Community, reflected on the economic development lessons that needed to be absorbed. 'We believe within the UK there is a lack of recognition of the increasing threat that the full extent of inter-regional European competition represents,' it declared (10). Examined were four contrasting European Regions — Catalunya, Limburg in the Netherlands, Lombardy in northern Italy, and Hamburg in Germany. Each possessed powerful economic development bodies at a scale and with sufficient autonomy to achieve 'critical mass'. The study concluded that as a result they could:

- (i) raise and apply resources from within their region;
- (ii) take decisions;
- (iii) implement a European/international strategy at a scale which enabled them to compete effectively against other locations.

It was against the background of pressure such as this that the Conservative Party Manifesto at the 1992 general election made a commitment to the introduction of Integrated Regional Offices, later known as Government Office for the Regions. Each is responsible for administering a single geographical area. They administer or advise on more than £6 billion of public spending. They also administer the newly integrated programme for inner-city regeneration, the Single Regeneration Budget, combining 20 separate programmes, worth initially £1.4 billion. For the first time 2,800 staff from four different ministries in the Regions are all accountable to one Senior Regional Director. By 1994 their combined running costs amounted to some £90 million (11).

The initial impact was bureaucratic, rather than democratic — the new Senior Regional Directors having something of the character of the old French Prefectorial system. And, indeed, their operation soon attracted the attention of MPs in these terms. For instance, Peter Kilfoyle, Labour MP for Liverpool Walton, complained to the Public Accounts Committee:

I cannot even discover how the structure works, who gives the final nod. The system seems to be running secretly, with grants of up to £3.8 million awarded without any elected representative considering the application. The regional director seems the most powerful influence in the process. He has extra powers which lead me to think of him as a viceroy appointed by a faraway power, with little or no regard for local opinion or democratic rights. Is this network of civil servants and Quangocrats giving value for money or is their function more political in nature? (12)

Quite apart from this structure other government departments and Quangos, including the NHS, have a strong presence at the regional level in England. English Quangos now spend an estimated £50 billion a year on such functions as the health service, higher and further education, urban

regeneration and housing. Most of the Quangos have resulted from the restructuring and fragmentation of central government services. The only functions of significance transferred from local government have been housing and further education. In 1995 the then Prime Minister, John Major, revealed that in the south-west of England alone there were 43 different regional outposts of central government employing 26,000 people (13).

Although the new Government Offices for the Regions were to be tightly controlled by the civil service machine in London, their creation did not occur without opposition and a Whitehall rearguard action. There was a hard-fought Cabinet debate despite the Manifesto commitment, with John Major holding out against the change, which was supported by Michael Heseltine, President of the Board of Trade, and Kenneth Clarke, the Chancellor of the Exchequer. Heseltine and Clarke, reflecting Conservative business pressure, made the case on grounds of efficiency. Major, it seems, was worried about the political implications of institutionalising the English regions on such firm economic foundations. This view confirmed, in a backhanded way, by Howard Davies, speaking in February 1995 when he was still Director-general of the CBI:

There is a growing consensus that a regional focus for decision-making across the public sector needs to be created, and one with business input ... Regional businesses have definitely welcomed having a single point of call for government in their region. But curiously rather than appease the enthusiasm for regional autonomy, and make them think the government really does care about the world beyond the M25, the Integrated Regional Offices seem to have had the opposite effect. It's woken them up to what they have been missing. This is perhaps not surprising. History suggests that reform is a slippery slope. The most dangerous time for a centralised regime is when it begins to unbend (14).

Early in 1996 Michael Heseltine was suggesting ways in which the role of the new offices could be enhanced, by giving them administrative responsibility for overseeing local authority finances in their region (15). At present capital grants are allocated to councils by four separate government departments — education, transport, housing and social services. Under the Heseltine scheme, local authorities would send all their bids to one of the regional offices. For the first year, only £300m out of the annual £3.5 billion local council spending would be allocated in this way. But the sum would rise rapidly and the long-term aim was to bring all capital funding into the scheme. It would be an enormous shift of power away from Whitehall spending ministries to the regional offices.

With the advent of a Labour government committed first, to the establishment of Development Agencies (RDAs) for the English Regions from April 1999, followed by Regional Chambers representing local government and other key interests, and eventually directly elected Regional Assemblies,

the trajectory, if not yet the timetable, for the creation of regional governance within England has been set. The White Paper that launched the RDAs, *Building Partnerships for Prosperity*, published in December 1997, declared that they should address five specific objectives: economic development and social regeneration; business support; enhancing skills; promoting employment; and sustainable development. Their formation will undoubtedly prompt a debate on whether they have sufficient powers and funds to do the job. They will also stimulate a debate about their democratic accountability. As Kevin Morgan has remarked:

Like the Government Offices before them, the birth of the RDAs will accentuate demands for more democratic governance structures in the English regions; indeed, we might see directly elected regional assemblies sooner than we think, especially in proud, self-conscious regions such as the north ... If the regions are to become genuine laboratories of development, able and willing to learn from experience in and beyond the UK, they will need forums in which to exchange ideas and disseminate good practice (16).

6. Local government regional co-ordination

Alongside the emergence of a regional level of central government administration has been a parallel, and in some ways more fundamental development of a local government organisation at the same level which stretches back some fifteen years. This is the English Regional local government Associations that cover each of the standard regions, coinciding in most regions with the boundaries of the Government offices. The exceptions are in the North West, where there is a Government office for Merseyside, and in the South East, where the planning forum SERPLAN covers Bedfordshire, Hertfordshire and Essex which are part of the Government Office for the Eastern Region and London, which has its own Government Office.

As voluntary groupings of local authorities with no statutory recognition or powers, these associations rely on the constituent local authorities (and in some case other bodies) agreeing to co-operate and co-ordinate their actions. Their main activities include regional planning, economic development, the environment, transport, and waste disposal. They also have a role advising central government on Regional Planning Guidance and co-ordinating European Union funding bids.

The size, status and level of activity of the Regional Associations varies considerably and their administrative budget is modest, ranging from £55,000 for the North West Regional Association (one permanent member of staff with three seconded) to £627,000 for SERPLAN (15 permanent members of staff) in the 1994-5 financial year (17).

Some of the associations are developing in the direction of regional government. For instance, in June 1996 a new regional body, the Yorkshire and Humberside Regional Assembly, brought together the Yorkshire and Humberside Regional Association and Regional Planning Conference. Even more advanced is the North of England Assembly which is currently pressing a case for statutory recognition and separate funding. If achieved this would take its role and powers well beyond the co-ordination of existing local government responsibilities. The fact that these bodies describe themselves as *Assemblies* makes the point.

The existence and development of these local authority regional bodies illustrate that there is a perceived need for regional government in England. It is significant that this is a bottom-up development, unprompted by central government and with no statutory authority, showing that there are some functions which local authorities recognise need to be co-ordinated at the regional level.

There is further point to be made in this context and this is that the regions are poised to become authentic political units in their own right during 1999

with the European election campaign. All Britain's mainland MEPs will be elected in June 1999 for the first time under a proportional representation system, with multi-member seats at a regional level, corresponding to the areas covered by the Government Offices for the Region with, for this purpose, the North West and Merseyside combining. The results will bring together MEPs of all parties for the first time in pursuing and developing their regions' interests in Brussels, and in lobbying Whitehall and Westminster to give each area a fair deal.

7. Labour's policy

The response of the Labour Party to these developments when in Opposition in the mid-1990s was radical, certainly when compared with its position when it was in government in the 1970s. Its key spokesmen, deputy leader John Prescott, and Jack Straw, when shadow Home Secretary, continuously stressed the need to link economic regeneration with democratically accountable regional government (18). And this was the main message of the consultation paper on the party's plans for English regional government, *A Choice for England*, launched in July 1995:

England is handicapped by a serious regional imbalance. Political, financial and economic decision-making is concentrated in the City of London and Whitehall. This has profound implications for access to investment. In order to correct this imbalance Britain needs an economic strategy which is geared to the particular needs of its regions. This can only be developed by those regions themselves (19).

Labour calculated that around £13 billion every year was spent by unelected bodies (the Quangos) on public economic investment, and wanted to get economic regeneration underway in the first year of a Labour government by devolving responsibility, initially to economic development agencies set up along the lines of those already established in Scotland and Wales. In England they would be organised to reflect regional boundaries, and would bring public and private partnerships together. They would be expected eventually to be absorbed into regional Chambers of elected councillors. Once these Chambers were created, each would be entitled to call on the people of its region, via a referendum, to endorse a directly elected Assembly to replace it.

These proposals were warmly welcomed by the Liberal Democrats and other groups campaigning for constitutional change. For instance, Charter 88 strongly endorsed the proposals:

Power decentralised means power shared. It means that localities will enjoy intermediate institutions that have their own voice and which exercise power in their own authority for which they are accountable downwards to the voters. Pluralism will replace monopoly. The proposal to have elected Regional Assemblies brought about by a referendum of the local people is just such a proposal to decentralise power. Such elected Assemblies will have their own legitimacy. By voting them into existence through a referendum, electors will have a greater claim on the legitimacy of their Assemblies than the House of Commons. Brought into being not by Parliament but by the people they will cease to exist on the sufferance of Westminster even if the process originates with Parliament's permission. Technically, this side of a written constitution, the power and existence of elected assemblies will not be entrenched. In reality, they will be (20).

It is true that since gaining power, the new Labour administration has proved cautious about moving the decentralisation agenda beyond Wales, Scotland and Northern Ireland. There has been resistance to the whole idea of regional government in England, not least from the Cabinet Office itself. This accounted for the removal of reference to regional chambers in the legislation establishing the Regional Development Agencies. In part, too, this reflects turf wars between Whitehall departments. John Prescott and Richard Caborne at the Department of Environment remain enthusiastic supporters of English regionalism but are being opposed by the Department of Trade and Industry which has most to lose from the creation of Regional Development Agencies. For instance, cases have been reported of Department of Trade and Industry officials failing to turn up to meetings in some Regions to discuss making progress with the Development Agency initiative. Equally, the Department of Education and Employment has attempted to limit the powers and budgets of the RDAs, in defence of its control of the TECs and budgets for education and training.

In the longer run, however, the demand momentum for change is likely to prove unstoppable, even though legislation may well be delayed until a second term. In a *Constitutional Declaration*, issued jointly by Tony Blair and Paddy Ashdown in June 1998, "decentralising and devolving power from Westminster and Whitehall to the nations, regions and localities of the United Kingdom" was placed at the head of the principles of reform. The Declaration added:

"The creation of Regional Development Agencies and Regional Chambers will help to focus development in the regions of England and will help make government more accountable at the regional level." (21)

The Declaration was revealing in that it failed to provide a coherent vision for the destination of the government's overall project. Of course, relying on vague concepts such as placing power closer to the people and, as here, making "government more accountable" provides for greater flexibility, allowing the government to respond to events as they occur. Indeed, the government's approach to constitutional change has been compared with that of the previous administration's to privatisation. What started out as a small-scale set of ideas, over time developed its own logic and ideological rationale. In the same way Labour's policy for English regionalism, as with the House of Lords itself, remains hesitant and ill thought out. It can be easily criticised on this score, by those who demand clear-cut, all-embracing and bold policy interventions. However, this is to underestimate the forces at play when a centralist system starts to unravel. The result is inevitably hesitant, incremental, and even messy as conflicting pressures and interests compete. The process is, however, incremental. Once institutional change begins in a centralist state system such as the British it contains within it a dynamic that drives the process forward. Change to one part affects the whole.

8. The House of Lords and reform at the centre

This is why there is a powerful case to be made for linking devolution to Scotland, Wales and Northern Ireland, and democratic decentralisation within England to reform of the House of Lords: for making the Second Chamber representative of the regions and nations of Britain. As argued at the outset, this should be seen as part of the wider project of constitutional change which fundamentally is about changing the political culture of Britain in a civic direction, in which the people become European English, Welsh, Scots and Irish citizens, rather than British subjects. This is not to argue that 'Britain' will simply dissolve as an idea or level of governance. Rather it will change and the role it has always sustained will become transparent. This is to be a focus for certain political, constitutional loyalties and for civic values that are held in common between peoples who come from quite different cultural and national backgrounds. Beyond this there are a number of instrumental advantages to a regional reform of the House of Lords, which can be summarised as follows:

- It provides increased justification for democratic decentralisation and an enhanced role for the new regional and national institutions, as well as for the Upper Chamber itself.
- It provides a completely different democratic foundation for the Upper House from the House of Commons, so distinguishing clearly between the two.
- The Upper House would not be seen as a competing legislative chamber. This would be emphasised if the national and regional assemblies were represented in the Upper House. The membership of the Upper House would then be made up of members appointed by the national and regional assemblies, thereby being indirectly elected.
- The Upper House would provide a forum for negotiation between the centre and the regions and nations of Britain, especially so far as the resolution of financial differences and conflicts are concerned. The advent of the Council of the Isles, as part of a settlement in Northern Ireland, serves to underline this constructive dimension.
- It locks one part of the constitutional reform agenda closely with another and emphasises the underlying change in political culture that is involved.
- Because the central legislative processes will be umbilically linked to the geographic and historic regions of the country, the system will create a natural counter-weight to the instinctive centralising tendencies of the Whitehall administrative machinery.

- It makes the point that democratic decentralisation, far from threatening "the Balkanisation of Britain" — as some of its opponents allege — holds out instead the prospect of a new and more constructive partnership between the nations and regions and the centre.
- It would bring the evolution of British democracy into line with common constitutional practices around the world, and especially continental European democratic constitutions. It would make it easier for Britain to participate effectively in European Union institutions, especially the Committee of the Regions and the European Parliament.

9. The Spanish and German models

Connecting an upper chamber with regional democratic assemblies, along the lines being advocated here, is common constitutional practice in other democratic constitutions around the world. *Methods of Election to Upper Chambers*, a survey undertaken for the Electoral Reform Society in March 1996, examined the constitutional structures of 26 democracies. Eight of them have unicameral chambers, and so do not count for the purposes of this comparison. Of the remaining 18, nine have Upper Chambers whose representatives are drawn from elected regional assemblies of one kind or another — Argentina, Austria, Canada, Germany, India, Italy, the Netherlands, South Africa and Switzerland. Three have Upper Chambers which are at least partially representative of regional assemblies — Belgium, France, and Spain. The United States Senate has national elections, but each state has equal representation regardless of size, thereby giving a disproportionate weighting to the country's smaller federal states. The Upper House of the Russian Federation is presently directly elected by simple majority, but is moving towards a position where its deputies will be appointed by regional governments.

From the British point of view the constitutions of Spain and Germany are perhaps the best examples of the way regional democratic bodies can be inter-meshed with the operation of the Upper Chamber of their respective national state legislatures, to the benefit of both. In terms of constitutional evolution Spain provides a closer template. Like Britain it is a multi-national state, comprising 17 *Autonomous Communities* or Regions. Some — in particular Catalunya, the Basque Country and Galicia — have claim to separate nationhood, as with Scotland and Wales. The remaining Communities, like Rioja, Extremadura, Aragon, and Valencia are more akin to some of the English regions, while the Madrid Autonomous Community is analogous to the old Greater London Council.

Under the 1978 Spanish Constitution, adopted after the demise of the Franco regime, 17 Autonomous Communities — the Regions — of Spain were established. At the centre, in Madrid, are two democratic chambers, elected by Spain as a whole — the Congress, the lower house, and the Senate, the upper house. The Senate, initially intended as a chamber for territorial representation in central government, had by the early 1990s become widely regarded as a useless body: it was granted just two months, and in urgent cases 20 days, to review bills passed to it by the Congress. However, a Senate debate on the Autonomous Communities in September 1994 concluded with the recommendation that the 1978 Constitution be amended in order to transform the upper house into a genuinely territorial chamber. To this end a *ponencia* (committee) was established, with all-party support, to study the composition and functions of the Senate. There is now a broad consensus on the need for reform. The revised Senate will be charged with representing the Autonomous Communities' interests in regard to financial transfers, co-

operation with the central state, and their relations with the European Union (22).

At present the Senate has 256 members, the large majority — 208 — directly elected from the provinces, rather than Autonomous Communities or Regions of Spain. Each province elects four members, with the remaining senators nominated by the Regions. The planned reform, which will require amending the Constitution, will change the Senate into a fully regionally based body, consolidating the devolution process that has been underway in Spain since the death of Franco in the 1970s.

The Spanish model is in many ways the most relevant to Britain within the European Union just because Spain contains so many contrasting Regions, ranging from those that have long aspired to separate nationhood to others which had, at least at the start of the devolution process, relatively little self-awareness. It is noteworthy, however, that as the devolution process has advanced in Spain, all the Regions have sought to catch up with the powers and autonomy that initially put Regions like Catalunya and the Basque Country ahead of the game. It can be expected, therefore that the English Regions will follow suit, under Labour's plans for incremental devolution for Britain, once they see Scotland and Wales achieving their own directly elected Parliaments.

The German federal model is more elaborate and developed than the Spanish, both in terms of the connections between the Regional Lander and the centre, and through their involvement with the Bundesrat, the German upper house. However, in some ways the model is less relevant to Britain because generally there is a lack of strong regionalist underpinning for German federalism. Though there is a strong tradition of regionalism within Germany — an inheritance of the country's historical fragmentation into Princedoms, Dukedoms, Palatinates and so on — in modern times this has not been translated into regionalist/nationalist/separatist ambitions. As one observer has put it:

The federal order in Germany is, evidently, not about the protection of the rights of ethnic-national minorities, nor — and this is perhaps less obvious — is it designed to preserve particular regional identities or promote cultural, economic or social diversity. Although its capacity to protect, promote and represent diversity is frequently cited as one of the central benefits of a federalised polity, in German constitutional law, and, to an even greater extent, constitutional practice, legal, economic and social uniformity and standardisation have been stressed. Thus the Basic Law acknowledges the legitimacy of Federal action for "the maintenance of legal or economic unity, especially the maintenance of uniformity of living conditions beyond the territory of any one Land." (23)

Such an emphasis might, of course, find a good deal of favour, certainly

within the more cautious elements of the British polity. And it is also true that the decentralised German federal system has justifiable claim to be a vital part of both the democratic and economic success of Germany in post War Europe. For these reasons alone, the German system warrants attention by British constitutional reformers.

The mechanisms of the German federal system, in particular the nature of the representation of the Lander governments in the Bundesrat, also provide a model that might be considered relevant for Britain. The Bundesrat is indirectly elected. That is to say, the Lander governments appoint and recall members. Their number varies with population, but each Land has at least three. Those with more than two million people send four; more than six million, five; more than seven million six. There are currently 68 members, representing the 16 Lander of the united Germany. Each Land's representation in the Bundesrat reflects the state of the parties in that Land. If a single party is in power, that party will have all the seats available to the Land. Coalition governments send proportional representations. Each Land casts its votes as a block.

It should be pointed out that this system, though nominally democratic, is in fact heavily bureaucratic, with the power of decision-making resting largely with the executive, at both federal and Land levels, rather than with the respective legislatures. So much so that the German system can be accurately described as 'executive' rather than 'democratic' federalism (24). Most laws are executed at the federal level, while the administrative competence for the execution of most of the legislation rests with the Lander state governments. The salient feature of the system is the dominance of the executives in the intergovernmental process, with a marginal role for parliaments, and in particular the state legislatures. Co-operation, co-ordination and joint policy-making are the almost exclusive preserve of the executive. At the top of the joint policy-making system are regular meetings among the Lander Minister-Presidents, amongst them and the federal Chancellor, together with institutionalised conferences between the state ministers — usually with federal ministers also present — organised along departmental lines. In addition to the Minister-Presidents' Conference, there are 16 Lander ministers' conferences, spanning the entire range of domestic public policy.

Beneath this top political level, there is a vast network of administrative committees of different status as well as ad hoc meetings, staffed by public servants. This is a formidable bureaucratic, co-ordinating machinery which not only prepares top-level political decisions, but, perhaps more importantly, serves to harmonise and synchronise the development and implementation of public policy. Little wonder, therefore, that not only the Lander state parliaments, but the Federal lower house itself, the Bundestag, often finds it difficult to exercise effective influence, let alone control, over this intergovernmental policy-making activity. When planning for reform of Britain's upper house this is a lesson that should be kept in mind.

10. The mechanics of change

The case made here for integrating reform of the House of Lords with the wider project of moving towards democratic decentralisation in Britain, rests on three main pillars:

- It runs with the grain of the ambition, outlined at the beginning of this pamphlet, to transform our democratic political culture in the civic direction of responsible citizenship, negotiated at the British level, between the nations and regions.
- It would enhance the role and status of the national and regional assemblies at the same time as giving an extra, and valid function to a reformed Upper Chamber without placing it in a competitive relationship with the House of Commons.
- It helps steer Britain into the mainstream of world and especially European democratic processes.

There are, however, a number of issues that need to be addressed, given the peculiarities of Britain's existing political structures and the evolutionary character of the constitutional changes that are likely to occur. The first reality is that at present Britain does not have regionally-based institutions that can be systematically represented in a reformed Upper Chamber, though the emergence of Regional Associations of local government in England is providing a foundation for the Labour proposals for Regional Chambers. A second reality is that change is unlikely to occur in a uniform way. Rather, the development of regional government is likely to be different for the various nations and regions, and spread over time.

In the longer run, however, there may be progress towards more uniformity as regions which are making little demand for devolution begin to see its advantages, and strive to catch up with more powerful institutions established elsewhere. The Spanish experience demonstrates that such evolutionary need not present an insuperable obstacle to change. There is no reason why reform of the House of Lords should not be conducted in a gradualist, evolutionary manner in a regionalist direction. Indeed, this would probably suit the pragmatic, and essentially conservative British temperament in constitutional matters. One possibility is that, as an interim measure hereditary Peers could be abolished, with the Upper House continuing to comprise Life Peers together with representatives of local government. This would signal an intention to eventually reform the Lords in a regionalist direction, but gradually, as regional democratic structure emerge. If such a course were adopted, it would make sense to combine such interim local authority representation on the basis of the English Regions currently emerging as a result of the Whitehall decentralisation currently underway and discussed in Section 5 above. So far as Wales, Scotland and Northern Ireland

are concerned, National Assemblies will be in place by the time such changes to the House of Lords can be contemplated in any event. Such a gradualist approach could also enable some of the present House of Lords representatives to be re-deployed, at least in the short to medium term, as representatives of local authorities, but on a regional basis. These issues lead directly to two further questions:

- (i) Whether regional representation should directly elected on the basis of the regions themselves, or be indirectly elected or appointed from regional bodies.
- (ii) Whether any weighting in representation should be given to regions on the basis of their size, and to the nations as opposed to the regions of Britain.

(i) Direct or indirect election ?

In federal systems and in unitary states around the world where the Upper House represents the provinces or regions, three methods of representation occur: direct election (Australia, United States, Italy); indirect election (Belgium, Netherlands); and appointment (Canada, Germany). Experience in these countries suggests that the last two methods may provide for more effective representation of the regional assemblies or their governments with the institutions of central government. This is clearly the case, for example, with the German Bundesrat, but not the case with the Australian Senate whose role within the federation is generally sidelined. When networking between institutional structures within a democratic system is required it seems to be the case that direct democracy does not work as effectively as indirect democracy.

This question of whether a reformed House of Lords should be directly or indirectly elected or appointed is likely to emerge as a key issue. Should the Upper Chamber represent the **people** of the nations and regions (direct election); or the **regional assemblies** (indirect election); or the **regional governments** (appointment)? The answers depends on the extent to which the reformed Upper House should be a piece of interlocking machinery and a forum for political brokerage, or a chamber to represent a regional voice but not necessarily regional governments. A number of other factors should also be taken into account:

- Direct elections would enhance the legitimacy of the Upper Chamber. On the other hand, it might entrench too strong a competitive role for the Chamber vis à vis the House of Commons to sit comfortably with British tradition, which has always regarded the Commons as paramount.
- Indirect elections would enhance the role and standing of the regional elected bodies.
- Indirect elections would answer the charge of those who take the view

that direct elections would overburden the electorate who would already be voting in elections for local authorities, regional and national assemblies, the House of Commons, and the European Parliament.

(ii) Weighting of representation

In considering this questions the following factors should be taken into account:

- There is a case for giving each of the English regions the same representation regardless of their varying population size. As with the representation of the States in the Senate of the United States this would acknowledge the distinctive cultural identity and contribution of the various regions. Such an approach would further distinguish the reformed Upper Chamber from the House of Commons in a beneficial way.
- This is equally a case for giving the nations of Wales and Scotland, and also Northern Ireland, a weighted representation in order to recognise their distinctive national status. This would help sustain the unity of the system overall.

11. Outline of a new institution

The government has established a seven-person Cabinet sub-committee to oversee its policy on the reform of the House of Lords (25). Its brief is to advise on how to remove hereditary peers by statute from their role as voting members of the British Houses of Parliament. Labour's 1997 manifesto recognised that more would be needed. Removing the hereditary peerage, it said, "will be the first stage in a process of reform to make the House of Lords more democratic and representative." Accordingly the Cabinet sub-committee is considering the following:

- Whether the government should be committed to a 'second stage' at the same time as it carries out the first stage.
- What kind of reform or replacement of the Lords this should entail.
- How to bring about such a reform or replacement.

It therefore behoves anyone coming forward with ideas about reforming the House of Lords to address these immediate, practical, questions. As to the first the government should, indeed, be committed to a 'second stage'. That is not to say that both stages should be carried out together. Rather, when the voting role of the hereditary peerage is removed the government should also announce what it will be replacing the current House of Lords with and should indicate a realisable timetable for the legislation.

As to the second question, the answer should be, as argued here, that the new second chamber should be built upon the nations and regions of Britain. This would add significantly to its role. The current role and powers of the Lords have been analysed in detail by Linda Clark MP (26). In summary there are four main aspects:

- Scrutiny and revising: it oversees up to 1,500 amendments to legislation every year, often at the government's instigation.
- Deliberation: it debates legislation as well as issues of importance where there is no proposed legislation. It also has specialist select committees.
- Power of delay: it can force the government to think again by delaying non-financial legislation for a year, although this power is hardly ever used.
- Power to act as a constitutional check in limited cases such as election law.

These are all important functions which should continue. However, if the Second Chamber were constituted on a more democratic base there are further functions which could be added. The limitations of the government's perspective can be gauged from the view of the Lord Chancellor, who

suggested in a recent interview that the powers of the Lords were 'about right' for any future chamber (27). In their Demos paper Anthony Barnett and Peter Carty have suggested that a second chamber should have the capacity to return legislation from the Commons that is manifestly flawed or unconstitutional (28). This would be an important development, but nothing as compared with the second chamber being representative of the nations and regions. Some idea of the scope that would then be possible was provided by the Strand Three provisions in the Easter 1998 Irish Agreement relating to the establishment of the British-Irish Council. For instance, clause 5 states:

The British-Irish Council will exchange information, discuss, consult and use best endeavours to reach agreement on co-operation on matters of mutual interest within the competence of the relevant Administrations. Suitable issues for early discussion in the BIC could include transport links, agricultural issues, environmental issues, cultural issues, health issues, education issues and approaches to EU issues.

In other words, every aspect of policy that devolved administrations within the UK were responsible for would be liable for discussion and debate in the Second Chamber. What then of the third question being considered by the Cabinet sub-committee on the House of Lords: the form that its replacement should take? Currently there are some 775 Hereditary Peers and around 300 Life Peers. All told it is estimated that about 300 Peers regularly attend. If a reformed Second Chamber were based on this figure of 300 and broken down into the regions and nations, proportionally in terms of their relative populations, then the numbers allocated would be as shown in the table opposite.

As discussed in Section 10 there is a case for providing Scotland, Wales and Northern Ireland with a weighted representation since their status as nations (or, perhaps, part nation in the case of Northern Ireland) within the United Kingdom should be recognised. On the other hand, the likelihood is that their legislative powers will remain substantially more than those of the English regions for the foreseeable future and, on that basis, there is a strong case for giving an equal population-based representation to all.

As to the basis of election there is a strong case, too, for indirect election from the elected chambers of the nations and regions, by the members of the various Assemblies as a whole. This would increase the status and role of the devolved institutions, and establish beyond doubt that the Second Chamber - the House of the Nations and Regions - was composed of representatives chosen on an entirely different basis from those in the House of Commons. It would obviate the need for a fresh set of elections affecting the population as a whole, given that there are already six sets of elections — for the European Parliament, House of Commons, devolved Assemblies, County Councils, District Councils (in England) and Parish and Community Councils. Allowing the devolved institutions as a whole to elect representatives from their membership would militate against excessive

Composition of a 300-Member Second Chamber in Relation to the Nations and Regions of the UK and Their Populations

	Population ('000s)	% UK	Members of new Second Chamber
North East	2,605	4.45	13
North West	6,900	11.78	35
Yorks & Humberside	5,029	8.59	26
East Midlands	4,124	7.04	21
West Midlands	5,306	9.06	27
South West	4,827	8.24	25
Eastern	5,257	8.98	27
South East	7,847	13.40	40
London	6,968	11.90	36
Scotland	5,137	8.77	26
Northern Ireland	1,649	2.82	8
Wales	2,917	4.98	15
TOTALS	58,566	100	300

Source: ONS Website

patronage being placed in the hands of their executives. Where there are Regions with as yet no devolved Assemblies, the elections should be undertaken by their respective Association of local authorities, with the members chosen from among leading local councillors.

12. Conclusion

The creation of the British-Irish Council, as the third strand in the recent Irish Agreement, has unconsciously pushed Britain towards a quasi-federal constitutional settlement. A question immediately raised is whether in this process we have to create completely new institutions. Surely the British way is to build on what we already have? And in this rapidly moving picture what we have is a very old institution indeed, and one that is currently searching for a new role.

The House of Lords is in the frame for constitutional change, but the government is unsure what direction it should take. Apart, that is, from removing the hereditary peerage and converting it into a completely appointed, but still undemocratic and unrepresentative chamber. The British-Irish Council suggests the kind of new central institution that is needed within the newly emerging polity of the British Isles — one that represents its constituent parts. Scotland is to have its Parliament, Wales its National Assembly, and now Northern Ireland a legislative chamber. All that leaves is England.

But England is already moving in a regional direction. London is to have its own elected mayor and authority, confirmed in the recent referendum. The Government is committed to creating development agencies for the English regions which are likely to be closely followed by English regional assemblies, referendums permitting. All experience elsewhere, and especially in Spain, shows that once a centralised state starts devolving in some directions, a movement begins in which everywhere is anxious to catch up and compete on equal terms.

The sensible approach therefore, is to start thinking of a reformed Second Chamber at the centre which can hold together and mediate between the constituent parts. Within such a framework the British-Irish Council could sit quite comfortably, as the Second Chamber operating, so to speak in its international mode, embracing Wales and Scotland as well as the North and South of Ireland.

And after all, the kind of issues that the Irish Agreement suggests as suitable for early discussion in the British-Irish Council fit very well with traditional House of Lords preoccupations, namely "transport links, agricultural issues, environmental issues, cultural issues, health issues, education issues, and approaches to EU issues."

Though a reformed Upper Chamber should be representative of the nations and regions of the United Kingdom, this should not be its sole function. It cannot just be a question of transplanting a European model, such as the German Bundesrat, to Britain. Given British traditions this would be too big a political and cultural shift. Representing the regions and nations should be **one** function of the reformed Second House. Maybe it will evolve into its

most important function.

At the same time other, more traditional functions would persist for the reformed House of Lords. It would need to continue as a revising chamber. Equally important it would need to expand and elaborate the role it has already begun, of developing as a constitutional and human rights watchdog. If Britain is to develop a written constitution the Second Chamber should be the place to locate the legitimacy for the legal structures that would be required to oversee it. That legitimacy would be enhanced if the Chamber itself was rooted in a mandate derived from the nations and regions rather than in a more centralised all-British election.

Notes

- (1) *Bulmer v Bollinger*, (1974) 3WLR 202; quoted in Ferdinand Mount, *The British Constitution Now*, Heinemann, 1992, p.219.
- (2) Lord Desai and Lord Kilmarnock, *Destiny not defeat: reforming the House of Lords*, Fabian Discussion Document No 29, January 1997.
- (3) William Hague, *Change and Tradition: Thinking Creatively About the Constitution*, Conservative Central Office, 24 February 1998.
- (4) *Hague launches Commission on the future of the House of Lords*, Conservative Central Office, 13 July 1998
- (5) Constitution Unit, *Reform of the House of Lords*, April 1996
- (6) Katherine Quarmby, *Straight To The Senate*, IPPR Discussion Paper, April 1998. Quarmby was researcher to the Labour Leader, House of Lords 1991-1994.
- (7) Anthony Barnett and Peter Carty, *The Athenian Option: Radical Reform for the House of Lords*, Demos, May 1998
- (8) Lord Hailsham, Dimpleby Lecture, October 1976 and *The Dilemma of Democracy*, 1978.
- (9) Raymond Williams, *Wales and England* in John Osmond (Ed.) *The National Question Again: Welsh Political Identity in the 1980s* (Gomer Press, Llandysul, Dyfed), p.18.
- (10) *Business in the Community and Coopers & Lybrand Lessons from continental Europe: Promoting partnership for local economic development and business support in the UK*, Business in the Community, 227a City Road, London EC1V 1LX, 1992
- (11) David Hunt, then Secretary of State for Employment, speech to the Institute of Directors, February 1994.
- (12) *Independent on Sunday*, 5 February 1995.
- (13) Hansard, Vol. 252, Col. 275, 16 January 1995.
- (14) Howard Davies, speech to regional newspaper editors, London, 6 February 1995.
- (15) *Independent on Sunday*, 10 March 1996.
- (16) Kevin Morgan, *Let's get regionalism right this time*, *New Statesman*, 26 June 1998.
- (17) SERPLAN, *A survey of the English Regional Associations*, 1995.

(18) *Guardian*, 19 March 1996.

(19) *A choice for England - A consultation paper on Labour's plans for English regional government*, Labour Party, July 1995.

(20) Anthony Barnett, *In Support of Consent: Charter 88's Response to Labour's 'A Choice for England'*, Charter 88, February 1996.

(21) Tony Blair and Paddy Ashdown, *Constitutional Declaration*, 11 June 1998

(22) See Paul Heywood, *The Government and Politics of Spain*, (Macmillan, 1995), p. 100.

(23) Klaus H. Goetz, *German Federalism and European Integration: Compatibility and Adjustment*, paper presented to at the ESRC Research Seminar "Intergovernmental Relations in the European Union", London School of Economics, December 1993.

(24) *Ibid.*

(25) It is known as CRP (HL). Its members are Lord Irvine of Lairg (Lord Chancellor), Lord Richard QC, Ann Taylor MP, Nick Brown MP, Lord Carter, Jack Straw MP, Peter Mandelson MP. See *Reforming the Lords: a step by step guide*, Constitution Unit, January 1998.

(26) Linda Clark MP, *Reform of the Legislative Process*, Submission to the House of Commons Select Committee on the Modernisation of the House of Commons, 12 July 1997. For a comprehensive account of the functions and powers of the Lords see the Constitution Unit report *Reform of the House of Lords*, pp 17-20.

(27) Interview with Ian Hargreaves, *New Statesman*, 6 February 1998.

(28) Anthony Barnett and Peter Carty *op. cit.*





Reforming the Lords and changing Britain

Pressure for constitutional change in Britain has ebbed and flowed across the last hundred years. It is only since the late 1980s that the agenda has crept in a serious way from the Celtic fringes of Wales, Ireland and Scotland to become a preoccupation in Westminster. Changing political institutions in Britain's unitary, monarchical state is so difficult and controversial because if you change a little, you change everything.

In this pamphlet John Osmond argues for a reformed Upper Chamber that would be representative of the nations and regions of the United Kingdom. He makes a powerful case for linking devolution within the United Kingdom and democratic decentralisation within England to reform of the House of Lords. However, it cannot just be a question of transplanting a European model, such as the German Bundesrat, to Britain. He outlines a new institution of 300 directly elected members which would keep the traditional functions of the House of Lords and also expand and elaborate a role as a constitutional and human rights watchdog.

John Osmond is Director of the Institute of Welsh Affairs. A former journalist and television producer his latest book is *Welsh Europeans* (Seren, 1996).

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