fc RTA

CONFIDENTIAL

HOUSE OF LORDS,
SW1A 0PW

27 October 1980

My dear Margaret, Future of the House of Lords

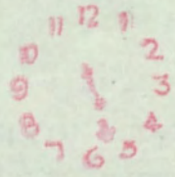
Christopher Soames, Peter Carrington and I have been giving further consideration to this problem in the more acute form which it has assumed since the Labour Party's Conference, bearing in mind also the discussions at our own Conference. We think that the Government will have to settle before long at least an interim policy on the future of the House of Lords, if only because Lord Alport's Bill, which he is going to introduce at the beginning of the new Session, will (and is intended to) make it necessary for the Government to declare its own position.

In our view, the question which now arises is whether the Government should promote a Bill before the end of this Parliament to give some interim protection to the House of Lords in its present form. We think it would have to be faced that the introduction of such a Bill would imply a commitment to reform the House of Lords in the next Parliament. If the Government is to promote such a Bill, preparatory work ought to begin on it now. The alternative is to do nothing, and hope that the threat will not materialise. If the threat then does materialise, it will be too late.

For this reason, we think that the Cabinet ought to discuss this matter in the near future. If Cabinet considers that the Government ought to promote an interim Bill, then the Ministers most closely concerned can begin to work out the details in order to put more definite proposals back to Cabinet some time next year. But there would be no point in embarking on this arduous and time-consuming task without a positive steer from Cabinet.

The Right Honourable
The Prime Minister

29 OCT 1980

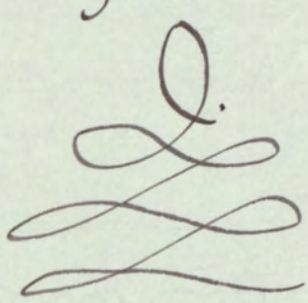


I enclose a copy of the paper which, if you agree, we would therefore like to circulate to Cabinet for discussion sometime during the next couple of weeks.

I think it would be preferable not to attempt an answer to Lord Blake's recent letter to you until the Cabinet has reached some conclusions on this matter.

I am sending copies of this letter and its enclosure to Christopher Soames and Peter Carrington, and also to Willie Whitelaw and Norman St. John Stevas.

yrs:



Je RIA

CONFIDENTIAL

THIS DOCUMENT IS THE PROPERTY OF HER BRITANNIC MAJESTY'S GOVERNMENT

DRAFT

COPY NO.

28.10.80

C(80)

CABINET

THE FUTURE OF THE HOUSE OF LORDS

Memorandum by the Lord Chancellor, the Secretary of State for Foreign and Commonwealth Affairs and the Lord President of the Council

1. Recent events have led us to the conclusion that we must invite the Cabinet to consider whether the Government should take action during this Parliament to protect the House of Lords.

2. There now appears to be a real danger that the Labour Party will enter the next General Election committed to abolish the House of Lords without replacement; and that, if they were to win the Election, they would carry out that commitment, even if they had to go to the length of creating sufficient new peers to secure the passage of the necessary legislation. This danger is still some way off, and for one reason or another may well not materialise. But if any legislative action is to be taken to guard against it, we must begin planning it now.

3. In any case, the Government is coming under increasing pressure, which will intensify when the new Session of Parliament opens, to formulate and declare its policy on the House of Lords. The statements at the Labour Party Conference have led some of our own supporters to demand either reform of the House of Lords or some form of protection which would make its abolition difficult or impossible for a Labour Government. Lord Alport is to introduce a Constitutional Referendum Bill which would require the holding of a referendum before a Bill abolishing or reducing the powers of the House of Lords could proceed beyond Second Reading. When Lord Alport's Bill is debated, the Government will be expected to state its own intentions. Meanwhile, Lord Blake has written to the Prime Minister suggesting that the Parliament Acts 1911-1949 should be repealed and reconstructed in such

as to prevent any measure affecting the existence, powers or composition of the House of Lords from passing without the consent of the House of Lords itself. He would couple this with the imposition of a limit on the number of peers that could be created in any one year or one Parliament.

4. In our opinion, the House of Lords in its present form cannot survive any sustained and determined attack. If a second chamber is to be maintained, the composition and we would think also the powers of the House of Lords need radical reform. Opinions may well differ on how this should be done. Our own view is that nothing short of a fully or mainly elected chamber would suffice to carry with it the necessary authority. But such a proposal would inevitably raise further and profound constitutional issues. We could not seek decisions on them now or seek to implement them before the next Election. But we do consider that the Ministers concerned should now undertake a thorough and systematic study of the matter, with a view to enabling the Cabinet to settle, before the end of this Parliament, the main lines of a definite policy for the reform of the House of Lords as a commitment to be contained in a future Election manifesto.

5. There can be no realistic prospect of forging an agreed policy to reform the House of Lords and passing it into law before the next Election. The question therefore arises whether we should seek to legislate during this Parliament to give some protection against precipitate abolition at the hands of any Labour Government, if one were to come to power in 1984. This would give the House of Lords a better chance of surviving in its present form until, in good time, its constitution can be revised in accordance with the principles on which, by then, we shall have decided. The promotion of such interim legislation is not an attractive prospect. Its preparation would make substantial additional calls on Ministers and senior officials. Its Parliamentary passage would be time-consuming and highly controversial. And we should have to be able to satisfy Parliament and public that we were not simply seeking permanently to entrench the Conservative majority in the present House of Lords.

We would have to say, and mean, that the Act we proposed, unlike the Parliament Act 1911 (which is also expressed to be an interim measure) would be followed within a reasonable time by serious proposals for more fundamental reform. Thus, a decision to introduce an interim Bill would amount to, and would have to be accompanied by, a commitment to reform the House of Lords. Nevertheless, unattractive as the prospect is, we think that the danger makes it necessary to give serious consideration to the promotion of some such interim measure, perhaps in the 1981-82 Session.

6. Three measures of interim protection have been proposed by Lord Alport and Lord Blake. The first is to put a statutory limit on the creation of new peers (and disapply the Parliament Acts from any further repeal of the limitation). Any other safeguard can be overturned if the abolitionist Government is willing to create enough peers to get its way. The second course is to disapply the Parliament Acts from Bills affecting the existence, powers and composition of the House of Lords. This would prevent the House of Lords from being abolished without its own consent as long as the abolitionist Government was unwilling to go to the length of creating peers. Nothing short of a combination of both these two measures would guarantee the House of Lords against unilateral abolition, though each of them, taken by itself, would afford a substantial, if not impregnable, safeguard. For this very reason, however, either or both would be fiercely attacked as a device to entrench the Conservative majority in the House of Lords. Our present view is that neither course is likely to be practicable. The third possibility is to require that any Bill abolishing the House of Lords or significantly affecting its composition or powers must be put to a referendum. (Such a Bill would also have to disapply the Parliament Acts from any further repealing Bill.) This course offers the advantage of putting the issue to the people, and it seems to us that of the various options it is the least unattractive.

7. We invite the Cabinet to agree that the Ministers principally concerned should now examine further and then report back to the Cabinet on -

(a) whether the Government should promote an interim Bill during this Parliament to protect the House of Lords in its present form from being abolished without its own consent;

(b) if so, what measures of protection it should embody; and

(c) what should be the main lines of the Government's policy for reform of the House of Lords during a subsequent Parliament.

8. If this proposal were approved, it would be possible for the Government to oppose Lord Alport's Bill on the ground that the subject is unsuitable for a Private Members Bill and that the Government is considering whether or not it should make proposals of its own in due course.

PRIME MINISTER

House of Lords Reform

The Lord Chancellor suggests in his letter below that Cabinet should have a "second-reading" discussion on House of Lords reform and then remit the matter to a Ministerial Group for detailed consideration. He is against putting it straight to a Ministerial Group without a prior Cabinet discussion.

Hitherto you have been contemplating establishing a Ministerial Group and as far as I know, you have not envisaged taking the subject in Cabinet first. But you were worried that the membership of any Group would be "packed" too much in one direction.

You were going to discuss this at last Monday's meeting with the Home Secretary, the Chairman and the Chief Whip, but there was no time to do so. Would you like to have a word with the Home Secretary after the meeting on Northern Ireland tomorrow (when he is in any case staying behind to talk about the Act of Settlement)?

30 October 1980

FROM THE PRIVATE SECRETARY

HOUSE OF LORDS,
SW1A 0PW

CONFIDENTIAL

27th October, 1980

C.A. Whitmore Esq.,
Principal Private Secretary to the
Prime Minister,
10 Downing Street,
London, SW1.

PA.
MLL
27x.

Dear Clive,

Future of the House of Lords

I am writing only to confirm that, as I told you on Friday, the Lord Chancellor will almost certainly be writing to the Prime Minister to suggest discussion in Cabinet of a paper on the future of the House of Lords. You said that you would in the meantime draft a holding reply for the Prime Minister to send to Lord Blake's letter of 7th October.

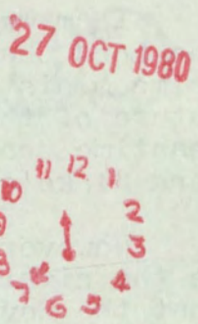
However, it has been put to me that this would not necessarily be the right course. Unless the Prime Minister is to tell him that the Government proposes to do nothing at all about the House of Lords, any reply he receives will inevitably be a holding reply, while Ministers consider (whether or not in Cabinet) what the proper course to take is.

Could I therefore suggest that you postpone any reply to Lord Blake until the Prime Minister has seen the Lord Chancellor's letter; it may be that she will then agree that there is no substantive answer she can give him, other than that the question is being considered by the Government.

Yours sincerely,

Richard Collon

M.H. Collon


27 OCT 1980

MR WHITMORE

Cancel. CS, 20/10.
No, thank you.
20x.

Future of the House of Lords

You will remember that the last meeting got postponed. Would you like ~~to~~ me to set anything up?

CS.

20 October, 1980

CONFIDENTIAL

FROM THE LEADER OF THE HOUSE

HOUSE OF LORDS 17th October 1980

My dear Prime Minister,

Following on the Brighton Conference - with the platform accepting the motion from the floor to "strengthen" the House of Lords, I feel I had better sometime soon take your mind on what, if anything, we should be seeking to do with or to the House of Lords during the lifetime of this Parliament.

In this context we also have to decide how as a Government we should react to Lord Alport's Private Member's Bill, which will come up for second reading in the House of Lords early in the next session. I presume we will anyhow say that we do not think this a suitable subject for a Private Member's Bill. But that will not suffice. I think we will need to go further and to give some idea of whether or not we are considering entrenchment of the House of Lords in some manner or other.

I have received a letter from Alec Home giving his present feelings on the subject of House of Lords Reform, which you may like to see.

My own feeling is that we can't let this matter go completely by default. I do not think we need to be in a hurry or necessarily do anything in this Parliament, but we ought at least to be ready to say what sort of a second chamber we envisage by the time of the next election. I would suggest, therefore, that you set up a small Committee of a few Ministers plus Peter Thorneycroft to put forward an idea to you in the first place. A decision could then be taken on what we do, what we say about it and when.

Yours ever

Christopher

The Prime Minister.

House of Lords · Westminster

October 8th

My dear Christopher

Be heard a word in the Lobby on the position raised by the Socialists on the failure of the House of Lords.

I have been thinking about the political tactics on the issue.

I think there is a lot to be said for taking two bites at it. That is at the next election to put before the electors the question - A Second Chamber or none?

It is possible that this could be done at a referendum between now & then but on the whole better to wait.

If we advance now the detailed plans put forward by various bodies I have a fear that the great Electorate will become completely

... Confused. & the matter of principle will be lost in the muddle.

Curiously enough the pattern of political decisions is shaping this way.

Europe or not - N.A.T.O or not - nuclear weapons or not - Independent schools or not? - & etc -

That can suit us Conservatives very well. Shan't tell Margaret if you feel inclined.

Yours Alec

+ This line will be taken if would be well added that once the decisions had been taken principle a plan for reform would be designed.

17 OCT 1980

1.

PRIME MINISTER

You said when you saw Lord Blake's letter about the reform of the House of Lords that you thought the time had come when Ministers should consider the question of the future of the House on a more systematic basis than hitherto, and I said I would let you have some advice.

I suggest that the best way of proceeding would be to set up a Ministerial group, under your Chairmanship, with the following membership:-

Home Secretary
- Lord Chancellor
- Foreign and Commonwealth Secretary
- Lord President
- Leader of the House of Commons

Chief Whip (Commons)

No - they are too committed to one result. We must have some neutrals, hard'ocks?

The group would be serviced by the Cabinet Office.

I rather doubt whether any formal terms of reference for the group would be needed, but if you thought it helpful to set out their remit in terms, it might be "to consider proposals for changes in the composition and powers of the House of Lords".

I suggest that the title of the group should be simply the Ministerial Group on the House of Lords.

I have consulted Sir Robert Armstrong, and he agrees generally with the advice in this minute.

If you are content, he will make the necessary arrangements to set up the group.

17 October 1980

PS. Since dictating this minute I have taken delivery of the attached letter from Lord Thomas. He wants a committee of Ministers; but he has neither Lord Thorneycroft, which makes it difficult to make it a Cabinet Committee. He also envisages that the Committee is chaired by someone other than you. Do you want to take the chair? And do we include Lord Thorneycroft? talk.

talk.

cc CWO(HL)

Parliament

10 DOWNING STREET

From the Principal Private Secretary

16 October 1980

BF 27.10.80

Future of the House of Lords

The Prime Minister would like to send a substantive reply to the attached letter from Lord Blake about the House of Lords, and she would accordingly be grateful for the views of the Lord Chancellor and the Lord President on Lord Blake's proposals. No doubt Lord Hailsham and Lord Soames will concert their advice as necessary.

I am sending a copy of this letter and of the attachment to Michael Pownall.

C.A.

M.H. Collon, Esq.,
Lord Chancellor's Office.

1

10 DOWNING STREET

PRIME MINISTER

Here is a letter from Lord Blake about House of Lords reform.

What would you like us to do with it? Would you like us to send it on to Lord Hailsham and Lord Soames, and with their help put together a full draft reply? Or would you rather send a short note of acknowledgement and not circulate it to your colleagues?

8 October 1980

Telephone 48411
Provost: Lord Blake, F.B.A., J.P.

The Queen's College
Oxford

8/10

7 October 1980

Dear Margaret

I was delighted to read in the Press that you were contemplating some action about the House of Lords. I hope that this is true, and on the assumption that it is I venture to make a suggestion. I believe that we should separate the question of the composition of the House from the question of its protection i.e. of preventing it from being either abolished without its own consent, or having its membership changed in some absurd way, or having its already diminutive powers even further diminished.

What is needed is a Bill which begins by repealing the Parliament Acts of 1949 (and 1911 insofar as the latter is still on the Statute Book). We are then back to the pre-1911 situation when the Houses were co-equal and the Lords veto could only be overridden by the creation of peers or the threat of creation. One could then follow up the first clause with clauses enacting whatever limitations on the Lords powers were deemed appropriate - perhaps simply re-enact the existing limitations - but one would make a specific exception for any measure affecting the existence, powers or composition of the House itself. These could only be changed with the House's own consent. If this was thought to be a bit too strong even in the Conservative interest, one might have the alternative of a referendum, requiring a specified percentage of votes as in the Scotland and Wales Bills, which would override the Lords from having an absolute veto on their own reform.

Whatever one did in the Bill, it would be necessary to add a clause imposing some limit on the number of peers that can be created in any one year or one parliament. People may argue that this means limiting the Royal Prerogative, but ever since the reign of Charles I Parliament has been doing this, and everyone knows that the limitation would not really be a restriction on the Royal Prerogative but on the power of a revolutionary demagogue Prime Minister to subvert the constitution.

I appreciate that even if we did pass an Act on these lines

2/ ...

a Benn-like Prime Minister could still pass a great deal of odious legislation, unless one were actually to increase the powers of the Upper House, but it would take him a year to get it through, and a year in politics is an even longer time than a week!

I believe that in the end the Conservatives ought to tackle the composition of the House, but a measure preventing its total abolition would give the necessary time and leverage to consider that later.

Yours ever

Robert

Thank you very much for your letter about University salaries, which is much appreciated

The Rt. Hon. Margaret Thatcher, PC, MP,
10 Downing Street,
London SW1.