



**28 January 2010**

## **Constitutional Reform**

### *Debate*

**1.51 pm**

*Asked by Lord Tyler*

To call attention to the case for further political and constitutional reform; and to move for papers.

**Lord Tyler:** In moving this Motion, I anticipate that the gratifying number and distinction of those who are to contribute is a general recognition that we face a crisis of public confidence-in politics, yes, but also in Parliament in particular. During 2009, the House of Commons was, of course, very hard hit by a series of scandals-both alleged and, to some extent, confirmed. However, as they were the result of a relatively small number of behaviour problems, combined with the inadequacy of the system, it may be felt that that was all rather unfair. If it was unfair, it is still a fact.

However, the challenge for us in your Lordships' House is threefold. It is, first, not to accept the temptation to think that it is simply the other end of the building- the Commons-that is the problem. That would be complacent myopia. To coin a phrase, we are all in this together. It is, secondly, to respond not by chiding the media, but by challenging the culture and the way that

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we work at both ends of the building. Thirdly, we must make sure that Parliament is more responsive to the public, whom we all serve. We have to show that our House-and the other House-is working more effectively for the electorate as a whole.

Obviously, financial probity is a start, but it will not do on its own to restore confidence. We must show that we are more effective at doing our job: representing the country at large and holding the Government to account. This House prides itself on securing useful, constructive amendments to government Bills. It is right to do so, but the Executive still run roughshod over the settled will of Parliament.

Let me take one example with which I have been concerned: the Political Parties and Elections Act. On 15 June last year, your Lordships added a new clause to the Bill. It was tabled by the noble Lord, Lord Campbell-Savours, with my support. Incidentally, he told me that he would have liked to have participated in this debate, but family commitments have made that impossible. The clause, which sought to end offshore bankrolling of political parties, was passed by your Lordships' House, despite an unholy alliance of the Conservative and Labour Whips. The Lord Chancellor, Jack Straw, reluctantly accepted the measure, as he could never have persuaded his Labour colleagues to vote in favour of a tide of foreign Tory cash. However, immediately after the clause was refined by the Government's parliamentary counsel and the Bill was passed into law, the Ministry of Justice announced that it would not be implemented until after the general election.

The Government seem so bound up with their own demise that they are fated actually to accelerate it. Now, at the 59th minute of the 11th hour, Jack Straw appears to have noticed and regretted this folly. In the *Independent* newspaper, he published an article entitled,

"The Tories are trying to buy the election. Never before in the history of our elections has a party spent so much to help so few".

A revelation! I cannot see how that could come as news to the Lord Chancellor, as many of us-and, indeed, many of his own party-have been telling him that that was going to be the case. The vagaries of our electoral system may be so further exacerbated by the most ruthlessly targeted campaign in the history of British elections that we will see a distorted outcome. Whole swathes of seats will be ignored as respectively "safe" and "no hope", while the remainder-about 150 marginals-will be deluged with leaflets, direct mail, telephone calls, billboards; you name it.

More constituencies are in the process of being bought than at any time since the removal of the rotten boroughs in 1832. If any Members of your Lordships' House think that I am exaggerating, read the article in the *Times* today that shows that to be the case. The election will focus on a narrow band of voters in those seats, leaving millions of others in a democratic desert.

Your Lordships' House voted to stop the rot, but the Government have simply ignored the will of Parliament. Their excuses cut no ice. The Electoral Commission did not say that it would be impossible to police the safeguards against foreign donations, if Mr Straw had authorised their introduction as soon as

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the Bill became law. Indeed, the Government could and should have gone further, by accepting constructive proposals put forward by those of us on these Benches and others to restrict both the huge donations to central parties and the huge expenditure in marginal seats.

Ministers' pursuit of some elusive consensus has in practice meant that the slowest reformers, the retrograde, have had a practical veto. The pace of progress has been as swift as only the most sluggish of drivers. Despite support for proper donation caps and for limits on spending in constituencies between elections, even from former national officers of the Conservative Party who sit on the Conservative Benches in this House, Ministers failed abysmally to respond to the challenge.

Now the Lord Chancellor has woken up from his lethargy and is complaining, but it is his fault. He has been shown to be a man of straw. The corrosive power of big money will, even more than before, dominate the coming election campaign and potentially determine its outcome. Potentially,

that is corruption of our political process on a scale that will cause the expenses revelations of last year to pale into insignificance. Worse still, that is just one item in a catalogue of failures.

I have here a checklist of progress made on the Brown agenda, as set out in his first statement of purpose as Prime Minister and the subsequent Green and White Papers. On war powers, the proposed statutory right for MPs to vote disappeared. On treaty ratification, in the current Bill before the other House, the Lords has a very limited role, while Ministers retain wriggle room. No more is heard about even the very limited role that the Commons might have to approve the dissolution of Parliament, let alone a fixed-term Parliament. Recall of Parliament has gone. The promised review of royal prerogative powers has stalled. The proposal to increase the independence of the Attorney-General from the Government, as recommended by Commons Select Committee inquiries, to avoid rows such as those over Iraq and BAE advice, has been dropped completely. The disclosures at the Chilcot inquiry this very week show all too clearly that the office is too susceptible to political pressure, but that reform has gone.

On accountability of Ministers, regional Select Committees have been a dismal failure, while Secretaries of State are still not confirmed in office after appearing before the appropriate departmental Select Committee. The ministerial code is now not to be approved by your Lordships' House or the other place; it is still to be effectively policed only by the Prime Minister.

On enhancing the role of Back-Benchers, having set up the Wright committee with a tight timetable, the Government Chief Whip is now delaying and neutering its recommendations. Any Member of your Lordships' House who managed to observe Business Questions a couple of hours ago in the other place will have noticed that, yet again, Harriet Harman is putting this issue into the long grass. That is outrageous.

There has been absolutely no progress on petitioning Parliament. On protests around Parliament, even the modest relaxation in the Constitutional Reform and

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Governance Bill is being delayed by abysmally slow management by the Government. After 150 years, we thought we were getting somewhere on Civil Service reform, but the Government are now backtracking, even on important issues about the independence and integrity of the Civil Service in relation to special advisers. Reform is now at the mercy of a slow and ponderous legislative process, and there is no protection for Civil Service whistleblowers, so obviously necessary from the evidence we have seen at the Chilcot inquiry this week.

On local government, there is no sign yet of real devolution to councils or of the production of a concordat, which is not even in draft. The Equality Bill has been left so late in this Parliament that it could be lost in an early dissolution. On a British bill of rights and duties, Ministers have vacated this territory and handed it over to reactionary Tories. As I have already said, the regulation of political party donations and expenditure has gone out of the window after the hard work across parties in the discussions on Hayden Phillips's proposals.

Surely, constituents should have the last word on the recall of MPs. When an MP cheats, recall should not be for the party leaders, using some sort of Star Chamber process; it should be for constituents. The Prime Minister said that he was considering it, and then he conveniently forgot all about it. I dare not go into House of Lords reform. After 10 wasted years, we are getting nowhere. Some of my colleagues on these Benches will wish to say something about that.

Is there to be a deathbed repentance on electoral reform? We are told that the Cabinet was considering it this morning. Instead of a principled initiative to give electors a real choice with votes of equal value, timid ideas in the dying days of this Parliament run the risk of being seen as gerrymandering. If I may adopt a football analogy so dear to the hearts of noble Lords, I wondered this morning whether it was Newcastle Brown 2, Gordon Brown 0.

Mr Straw and the Prime Minister have said that they are in favour of a written constitution. Why not try to build up public support and encourage proper discussion among our fellow citizens in a citizens' assembly or convention to make progress? All the optimism of those early days, not just in May 1997, but in July 2007 as well, has evaporated. No wonder the public are so disillusioned and disenchanted.

However, not every reform depends on the will of Ministers. As the Lord Speaker rightly reminded us last month in her address to the Hansard Society, we could and should improve our effectiveness in holding the Government to account and raise our game. Indeed, the Hansard Society, in common with the Better Government Initiative and the Institute for Government, has been indicating ways in which we could do so. We need an urgent examination of the options along the lines suggested by the noble Lords, Lord Rooker and Lord Butler, in the debate on the gracious Speech in November. It does not need to await the general election; indeed, a clear, agreed agenda for change in your Lordships' House before the dissolution is desirable. If we leave it to the initiative of the Government Front Bench, nothing will happen, or it will be skewed to

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avoid improved accountability. The Conservative Front Bench, if we take the noble Lord, Lord Strathclyde, seriously-he likes to tease us sometimes-does not even seem to recognise the urgency of these reforms.

As a member of the Procedure Committee, I frankly doubt whether it is the right mechanism for this urgent project. Instead, perhaps an ad hoc committee should take forward the agenda outlined in the seminar on strengthening Parliament convened by the Lord Speaker last year. Just because the Prime Minister and the Cabinet have dragged their feet so disastrously, there is no excuse for either House to neglect its duties. To regain any public respect, so essential for our democracy to work, we need to achieve greater transparency, greater accountability and greater identification with our fellow citizens when we make decisions on their behalf at all levels of governance.

After 13 wasted years, the Government have failed to clean up our politics and make Parliament more effective. The public expect better of your Lordships' House than they do of Ministers. If we fail them again, all hope of retrieving Parliament's lost reputation will be lost for good.

**2.05 pm**

**Lord Parekh:** My Lords, I thank the noble Lord, Lord Tyler, for securing this debate and for introducing it with considerable passion. Demands for reform in almost every aspect of our political and constitutional life are in the air and the question is how we respond to them. The noble Lord outlined a syllabus of reforms, and there are many others. We can approach and discuss these reforms in one of two ways. One way I find satisfactory, but the other I do not.

One way is to take an abstract, theoretical view of democracy, representation or this or that aspect of our public life, measure existing institutions against it, find them inadequate and criticise them. For example, we might say that democracy means election with a majority. The House of Lords is

not elected; therefore, it must go or must be elected. We might say that we are a secular society; therefore, bishops have no place in the House of Lords. This is an a priori, theoretical way of approaching reform.

The second, much more empirical, pragmatic way of approaching reform is to identify problems, which institutions and practices are unjust or dysfunctional and how best we can put them right. For example, we might feel that an overbearing Executive are dominating Parliament. As a result, parliamentary debate and parliamentary control of the Executive are considerably diminished. What do we do about it? We think in terms of concrete suggestions. How did the scandal of MPs' expenses come about? Why was it not detected for so long, and what can we do about it? In other words, we can approach every institution in terms of whether and why it is unjust or dysfunctional and what we can do about it.

It is also important to bear in mind that reform in one institution invariably has consequences for another. For example, if we try to elect the House of Lords, we run the risk that the same party might be in power in both Houses, and therefore our concern to check the overbearing Executive would be frustrated. Every reform has a knock-on effect on another and cannot be

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discussed in isolation from its impact. We therefore need to ask two questions: to what problem is this reform an answer, and is the reform compatible with other reforms that we also want? There is always a danger of talking about reforms in the abstract and canvassing this or that without spelling out its implications. Much as I admired the speech made by the noble Lord, Lord Tyler, I felt that many of his reforms are likely to be incompatible with each other. In this spirit, I want to look at our constitutional and political system through the lens of one question. One can look at it through the prism of the scandal about MPs' expenses and ask how it came about and what our system looked like, but I want to look at our political system through the prism of the war in Iraq.

That war led to massive civilian and military casualties, the breakdown of law and order, sectarian violence, profound mistrust, loss of property and profound damage to our national pride and self-respect. It is a deep, massive and indelible stain on our national conscience, and the question is how we got it. When we were talking about the war in Iraq, my noble friend Lord Morgan and I wrote a letter to the Prime Minister giving seven good reasons why the war was counterproductive. We were not taken in by the arguments on WMD. Anyone who knew his history would know that that argument was untenable.

How did this happen? Why was intelligence manipulated? Why was the Cabinet bounced into supporting this decision? Why was there no planning and post-war reconstruction? Why was there no check on prime ministerial hubris or sense of self-righteousness? We will have to wait for the Chilcot inquiry report, but in anticipation of what he will say-he might not say what I suspect he will say-I end by making three important suggestions.

First, in the light of the war on Iraq and the lead-up to it, I am increasingly convinced that there should be no declaration of war without majority backing in both Houses of Parliament. In the Commons alone, there is always the danger that the party in power has a majority. Your Lordships' House has the advantage of being free from party control.

Secondly, intelligence should be vetted and certified by an independent body of experienced statesmen drawn from all walks of life so that we can be reasonably sure that it has not been manipulated or skewed.

Thirdly, there must be some sanctions-formal or informal, legal as well as political-on those who fail to exercise proper judgment or who positively misjudge. In this context, it might be worth remembering the practice of classical Athens and Rome, where the roots of our democracy were planted. In classical Athens, those who were guilty of misjudging or who failed to exercise judgment were sent into exile. In classical Rome, they were disqualified and asked to withdraw from public life. We might have some lessons to learn from the practices of those two great societies.

2.11 pm

**Lord Norton of Louth:** My Lords, it is a pleasure to follow my former colleague at the University of Hull, the noble Lord, Lord Parekh. Like him, I wish to call attention to a particular dichotomy.

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I have previously identified two types of constitutional changes: changes made to our constitutional framework and changes made within that framework. Changes made to our constitutional framework have been pronounced in recent years. They have been several and substantial. From the perspective of the constitution, they have also been incoherent: that is, they have derived from no clear view of the type of constitution deemed appropriate for the United Kingdom. Each has been justified on its individual merits and not set in a broader, intellectually coherent approach to constitutional change. We are therefore in something of a constitutional wilderness.

I have previously made the case for the creation of a commission, or a committee, on the constitution, not for the purpose of crafting a new constitution for the United Kingdom but rather for making sense of where we are and for ensuring that proposals for further change are consistent with the essential principles that underpin our constitution. Reform should not be divorced from first principles. We keep hearing about the reform of your Lordships' House-this has already been touched on-but reform is usually couched in specific terms, focusing primarily on composition, with no reference to first principles. We need to discuss this House in the context of Parliament and what we expect of Parliament in our constitutional arrangements. Discussing composition should be the end point, not the starting point, of a discussion about Parliament's place in our polity.

We should thus view with extreme caution calls for further major changes to the framework of the constitution. In many cases, they are contestable on their own merits. Some are lemon meringue reforms: that is, they appear superficially attractive, but when you bite into them, there is very little there. That applies not least to the arguments for electoral reform. What is more, demands for reform tend to divert us from the real, often messy, problems that face us and that permit of no clear-cut answers.

There is scope for change in our existing constitutional framework. Our system is premised on a number of vital relationships, not least between the Executive and the legislature and between the legislature and the individual. For reasons of time, I shall focus on the former.

We have seen a number of changes in recent years, which have been designed to enhance parliamentary scrutiny of legislation. Some of them have been very welcome, but Parliament, as the noble Lord, Lord Tyler, has already said, remains limited in the extent to which it can scrutinise legislation and call government to account. The Constitution Committee, in its 2004 report on *Parliament and the Legislative Process*, examined the process under the headings of pre-legislative

scrutiny, legislative scrutiny and post-legislative scrutiny. Let me briefly identify some of the changes that we should pursue.

For pre-legislative scrutiny, the publication of Bills in draft should be the norm and not the exception. It should be a matter for Parliament as to which are then subject to pre-legislative scrutiny. Once legislation is introduced, there are changes that we should make in this House. We are in danger of being left behind by

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the other place. Any Bill that starts its passage in this House and that is not subject to pre-legislative scrutiny should be referred to a special Public Bill Committee or a Select Committee. We already have provision for both; we should make greater use of it. For post-legislative scrutiny, there is case for a Joint Committee to ensure that no important review is overlooked-I very much welcome the movement now for post-legislative scrutiny-and to encourage best practice in the way in which reviews are conducted.

Several other reforms could be made to strengthen Parliament in scrutinising legislation and calling government to account. The noble Lord, Lord Rooker, identified them in his splendid speech at the start of the Session; the noble Lord, Lord Tyler, has already referred to some of them. We should also review the processes by which we determine our own structures and procedures. There is a long way to go, but my point is that we can at least make progress in strengthening Parliament. Implementing reform to achieve that is both desirable and achievable. Let us focus on that, where there is a clear case to act, rather than be side-tracked by demands for wider constitutional change that detract from addressing the real issues that face this country. Let us craft the means to enable Parliament to call government to account in tackling those issues.

**2.17 pm**

**Lord Shutt of Greetland:** My Lords, first, I declare an interest. I am obviously interested in democracy-I have 15 electoral contests to my name-but, to be specific, I am chairman of the Democratic Reform Company, a director of the Joseph Rowntree Reform Trust, and a trustee of the Joseph Rowntree Charitable Trust, which has been funding the Democratic Reform Company.

Members of this House will recall the 2006 Power report, which made 30 recommendations. It was presided over by the noble Baroness, Lady Kennedy of The Shaws, and was well received-so much so, in fact, that one commentator said, "Will this splendid report just go on a shelf, or will people really take this thing seriously and take it forward?".

The Democratic Reform Company exists to build on the Power report. Power2010 has been launched to bring the public into the heart of the issues of constitutional reform. In the early autumn, the public, via the splendour of the internet, were asked for reform ideas. Some 4,200 such ideas were received by 30 November. With the help of academics from Southampton University, the 4,200 ideas were distilled into 87 and deliberated on at an event that was held on 9 and 10 January this year. More than 130 people of all backgrounds throughout the United Kingdom were brought together by YouGov, who further considered the 87 reform ideas over two days and came up with 29 that reflected the majority of the views of the 130. All were supported by more than half the 130. This whole process was overseen by Dr James Fishkin and his team from Stanford University in the United States. Since 18 January, these 29 ideas have been put out to public vote, again via the internet, with the aim of finding the five most popular reforms. They can be found on the Power2010 website.

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At 10.30 this morning, more than 25,000 votes had been cast from more than 7,500 people. Although people can vote for all 29 reforms, they are tending to vote for about three. At the moment, the leader board shows 3,900 votes for introducing a proportional voting system, 2,800 votes for scrapping ID cards and rolling back the database state, just short of 2,000 votes for a written constitution, 1,900 votes for fixed-term Parliaments, and 1,670 votes for English votes on English laws. Coming up on the rim in sixth place is a fully elected second Chamber and, in seventh, is stronger local government. Noble Lords will be interested to know that in 29th place, with only 113 votes, is directly elected mayors.

Peers are not disfranchised from this election, so everyone here can take part. This will be built up until the closure date of 22 February. It is the intention of the Democratic Reform Company to see that these top five proposals are promoted throughout the land in the ensuing months.

**2.21 pm**

**The Lord Bishop of Ripon and Leeds:** My Lords, I am grateful to the noble Lord, Lord Tyler, for initiating this debate and for his continued pressure on us to look at and explore issues of constitutional reform. Any such reform must combine public accountability with that effective and detailed wisdom which is necessary to explore the way forward for legislation and the testing of government action. I want to explore that briefly in terms of three points.

First, in my comparatively recent membership of this House, compared with many of your Lordships, I have been impressed, as have many others, by the quality of much debate here. We look forward to the contribution of the noble and learned Lord, Lord Carswell, particularly today, but in future as well. I have also been impressed by the willingness of your Lordships to explore alternative policies and ways of striving for justice and mercy in our legislation. Retaining that ability must be crucial to any constitutional change. It must incorporate that willingness to listen to those from a wide variety of backgrounds and professions, and take seriously debates on ethical and moral issues. We sometimes seem to live in a society where education is valued, but wisdom is not. The second Chamber in particular needs to retain that variety of experience and thought if it is to be a purposeful partner in our legislative process. I believe that that is best achieved by a fixed and significant appointed element to this House.

Secondly, if that spread of wisdom is to be achieved, we need a greater representation in this House of other Christian denominations in addition to the established role of the Church of England, to which the noble Lord, Lord Parekh, has referred. We also need greater representation of other faiths which are widely observed in this country. A good, if somewhat patchy, start has been made over a number of years. It was a privilege, for example, a few weeks ago to be present at the introduction of the noble Lord, Lord Sacks.

We rightly pay much attention to ethical and moral issues, about which there are, again rightly, sharply defined and often contradictory views. In the previous

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debate, it was good to hear the continued exploration of what the concept of fairness means in our society; the way in which we develop our tax system; the way in which wealth is spread around and equality is made real in our society; and the way in which that spirit of equality informs the whole of the culture in which we live.

The input of faith groups to these debates is invaluable. I hope that serious attention will be paid to how that contribution can be ensured on a wider basis than at present. I draw the attention of your Lordships to the view of the General Synod of the Church of England. It stated that members drawn from other Christian churches and other faiths should be added to the composition of a new second Chamber in our parliamentary democracy.

My third point is to advocate a change in the electoral system. I was interest to hear the latest running in the Power2010 inquiry. On looking at the voting, I was disappointed originally to see how low a change in the voting system was rated. I am delighted to see that it is growing apace as that inquiry develops. I believe that a first-past-the-post system or a closed-list system produces the appearance rather than the reality of democracy.

The Church of England has long advocated elections by single transferable vote and has used that system in its own elections since 1920. There can be many criticisms of the General Synod, some of which I hold myself. But it has demonstrated the ability to work at issues affecting the Church of England with fair representation from all sides of that church. Again, in 2003, the synod voted to encourage and enable-by legislative and administrative action, and especially by introducing proportional representation by the single transferable vote for elections to Parliament-all members of our society to play a full part in our democracy. I strongly commend STV to your Lordships as a proven system to express the democratic will and I hope that there will be a renewal of the determination to introduce it more widely in our national electoral system.

**2.27 pm**

**Lord Carswell:** My Lords, I have had the privilege of being a Member of this House for a little over six years, but I have not until now had occasion to address your Lordships in debate. The reason is simple: I was, until my fairly recent retirement, a member of the Appellate Committee and sat as a Lord of Appeal in Ordinary. We all observed, rightly or wrongly, the self-imposed abstinence from participation in debates. But I am now released from that Trappist-type vow of silence and I hope to be able to make a modest contribution from time to time to the proceedings of the House. I trust that your Lordships will indulge me as I find my way through those proceedings.

In the context of this debate, I would echo the views expressed and the advice given by the late Lord Hailsham of St Marylebone. From time to time, proposals were advanced, which related to human rights and, as we know, in due course became the Human Rights Act 1998. But for a long time before that matured, his consistent reaction, his views and advice could be expressed in two words-be careful-which I understand he was

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fond of uttering. I commend those words to your Lordships as useful advice for anyone proposing constitutional change.

I am not like Lord Chancellor Eldon, who was opposed to change of any kind and the danger of anything more or anything less. One of the great advantages of our constitution is its flexibility, its adaptability, its ability to change and develop. In the process, of course, Parliament will pass

legislation aimed at that result and has done so many times with many beneficial effects. If wise and constructive proposals for reform are put forward which would modernise and strengthen our long-established and well-trying constitution, I for one would have no hesitation in supporting them. I am not an opponent of change.

However, I urge caution in the process because well-intended alterations can, if the results turn out wrongly, make things worse instead of better. In this of all fields of activity, the law of unintended consequences operates with adamant rigour and scant lack of concern for the frustrations of those who wish for something different. The Human Rights Act is a good example of the point that I wish to make to your Lordships. In saying that, I am not to be taken as either praising or criticising the Act. My point is that the consequence of the Act, unhappily, has been that a number of judicial decisions have been given which were certainly not pleasing to the Government.

Some persons in public life have been heard to say that the judges were arrogating power which they did not have and have been frustrating and stultifying the intention of Parliament. Having been in the thick of this in the judicial sphere, I reject that calumny. The judges have had the job of trying to apply legislation conscientiously and, according to my own observations and practice, they have tried to observe that as faithfully as possible. The judges' own opinions of the legislation are irrelevant and are left out of account. They take the law as enacted by Parliament and apply it, whatever they think of it and whether they think it is good or bad. It is rather like Barry John's famous remark when Gareth Edwards asked him how he liked his passes-high, low, fast or slow. He just looked at him and said, "You throw them, I'll catch them".

The consequence that the width of judicial power has been increased may have been wholly unintended but it was not sought by any judge of whose opinions I am aware. I have discussed this many times. Indeed, it was foreseen that there might be some such problems, but those who took that view were, like Cassandra, not heard or listened to. No judge to whom I have ever spoken was thirsting for the extension of power; there were no slaving judicial jaws and no longing to stick it to any Government. But there it is: the legislation was passed, the consequence happened and we have to live with it. However, it may serve as a timely warning about the difficulties of constitutional change. Think how difficult it proved to be to abolish the post of Lord Chancellor by a stroke of the pen.

I would add only one thing in conclusion: once you reduce something to writing-a Bill of rights, a constitution, things like that-you give rise to an industry among those who look for gaps, loopholes, extended interpretations and ways round. Lawyers in any other country which has a written constitution

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will tell you just that. My message applies right across the spectrum of constitutional change in all the aspects your Lordships are discussing today: if it is right, consider change and reform and propound it; but-in the words of Lord Hailsham-be careful.

**2.35 pm**

**Lord Harrison:** My Lords, it is my great privilege to congratulate the noble and learned Lord, Lord Carswell, on his maiden speech. In throwing off his Trappist vows, we understand the contribution that he will make in the future to this House. In sounding out colleagues informally about the noble and learned Lord, I found that not only is he well respected in the community of Northern Ireland but he is well loved, too. That is true of the noble and learned Lord and it is equally true of his wife,

Romayne, who has taken a deep part in public life in Northern Ireland. Indeed, she is Her Majesty's Lieutenant of the City of Belfast.

The education of the noble and learned Lord, Lord Carswell, is interesting and unique. He attended the Royal Belfast Academical Institution, which I believe is known as the Inst, and was at Pembroke College and Gray's Inn; and, to add a touch of Tabasco, he also studied at the University of Chicago Law School. Perhaps he imbibed some of the epiphany enjoyed later by President Obama. His career has been in the law. After becoming a barrister, as he has told us, he rose to become Lord Chief Justice of Northern Ireland, as well as being a Lord of Appeal in Ordinary until his recent graduation entirely here. His recreations are golf and hill walking and I hope that he will take the House of Lords as another of his recreations. He will be able to speak widely on so many issues, as well as Northern Ireland and the law, and we welcome him to the House.

The loss of the Law Lords is clearly made up for in part by the advent of the noble and learned Lord, Lord Carswell, but my thought for the day in this debate on further constitutional reform is that the Bishops should follow the Law Lords out. They are an anachronism-as were the Law Lords when they were arbitrating on laws which they had contributed to making-and there is no reserved place for religion in any other modern democracy. Indeed, the Bishops' vote has become a block vote of 26 Bishops-as was revealed on Monday in the Equality Bill-and this is unsatisfactory. Too often the block vote of the Bishops is exercised on a narrow set of issues-sex, death, birth and other country matters. The example they set on Monday in regard to the amendments on the protection of gays in employment was not good for the Church of England. Many Anglicans prefer the Bishops to deal with real life-and-death issues-poverty; the promotion of world peace-not party politics.

Often two reasons are advanced for retaining the Bishops: tradition and history, which always seeks to modernise itself; and, secondly, their special moral insight. I saw that in Lord David Sheppard, who used to sit on these Benches, but it is not evident to me in some of their followers on the vexed moral issues of the day. For instance, on the issue of assisting the dying of the terminally ill, four out of five Protestants are for the proposal of the noble Lord, Lord Joffe.

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If the Church retains these places in the House, why should it choose Bishops who are the most traditional and conservative in their views? If retained, the Appointments Commission may choose instead not people's Peers but people's preachers, who would be more representative of a modern Britain. Indeed, the bishops are under-representative of a modern Britain. It is still wrong that there are no women bishops-it is an affront. I have mentioned the attitude towards gay Christians. As my noble friend Lady Thornton suggested earlier this week, it really ought to be possible for reform in the Church of England to allow gay Christians to witness their civil partnerships within the churches.

Nor is the church representative of the United Kingdom. The Bank of England may operate as a whole but the Church of England is confined to England. Indeed, the Church of Scotland, interestingly, which is of course excluded, is zealous about the separation of state and religion.

The Church of England has simply not kept up with the changing times. Religious belief in Anglicanism is in full retreat; a special trend survey published this week shows that two out of five

of us are now non-believers. Indeed, Prince Charles, the putative head of the Church of England, recognises the mosaic of religious aspirations; he wants to become a defender of the faiths.

Other Christian denominations and religions which have no reserved places-many would not accept them-believe that their religious freedom is curtailed by this engagement with the state. Other religions are represented by individual Members but there is no reason why that should not be the case for Anglicans after the Bishops leave.

In conclusion, this is a further reform, and I hope that it is seriously on the agenda. It would be good for the House of Lords, good for the polity of Britain, and good for the Bishops themselves.

**2.41 pm**

**Lord MacLennan of Rogart:** My Lords, although I once initiated a debate in this House on the disestablishment of the Church of England, I do not propose to follow the noble Lord, Lord Harrison, in his line of thinking today. However, I want to express my sense of privilege at being present during the maiden speech of the noble and learned Lord, Lord Carswell. It was a thoughtful and a cautious speech, which will commend him to the attention of his fellows in this House.

In the short time which is available to the individuals who are speaking in this debate-and it is good to see that so many have chosen to do so-I want to confine my remarks to what I believe is an overriding issue for our constitution and for the re-establishment of confidence in our system of government as well as focusing sharply upon matters which I believe can be influenced, and can be influenced now, by our Government. We have had wide-ranging debates on political reform for the past 13 years, since the Government came to office. A number of important steps were taken early in the life of the Government, including the introduction of the Freedom of Information Act, the Human Rights Act and the devolution Acts; the first steps towards the reform of the House of Lords; and, subsequently, the

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separation of the House of Lords sitting in its judicial capacity and the creation of the Supreme Court. That is a remarkable record in a relatively short time.

It is partly with the awareness of the Prime Minister's continuing expressed interest in reform that I feel emboldened to say that there are just a few months left for the Government to take forward the reform of the institutions of Parliament itself. It is central to our decision-making process; it is under attack; and, I beg to suggest to the Minister-I am very glad that he is replying to the debate-it is causing the greatest sense of public disaffection from the political process.

There is a serious risk that we shall have a very low turnout in the next general election because so many people are turned off by Parliament. There is no single silver bullet that would put this right, but some practical proposals have been made by a number of institutions. Most importantly, the Government should pay proper and full attention to the report of the committee on the reform of Parliament chaired by Mr Tony Wright. Those suggestions could be given effect now. What was said in Business Questions-which my noble friend Lord Tyler mentioned-was not entirely encouraging regarding what the Government intend to do about this. The last I heard, a debate is to take place on the Adjournment, which is not normally when you have a vote on the spectrum of issues raised by that committee. They are important propositions: they include the setting up of a business committee to ensure that Parliament-the House of Commons in particular-is devoted principally to scrutiny of the Executive and is not there just to be a rubber stamp. This most

important report also proposes that the membership and chairmanship of committees should be decided by that House. I very much hope that that can be acted upon by the Government and by Parliament before the House is dissolved.

I must say that I object very strongly to the Minister sitting there and looking at his watch. I heard the Government's proposition at the beginning of this debate that people should be allowed six minutes in which to speak. That does not mean six minutes interrupted by a sedentary Minister. I hope he will apologise for treating me in this way. The time allowed is too short; I am addressing his colleague with seriousness, and he clearly just wants to wind the clock on. I have had long experience of the noble Lord, Lord Bach, and I have no doubt that he will take that very simple point to heart. I hope that he will be able to give us some assurance that the Wright committee report will be acted upon.

2.48 pm

**Lord Howarth of Newport:** My Lords, I do not believe that the cure for the ills of our democracy is more democracy. Indeed, one of the problems for the proponents of more democracy is that the people of this country do not seem to want it; when given an opportunity in a referendum to vote on whether there should be an assembly in the north-east, the people in that part of the country voted no by a large margin. The Hansard Society tells us that research shows that the public appetite for direct involvement in politics is low, and falling. You can take horses to water, but you cannot make them drink.

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It is observable that discontent with politics has risen, *pari passu*, with the deepening of democratisation in our country over the past 40 years. During that period we have brought in referendums, devolution and varieties of proportional representation. Rights have been extended through equality legislation. We have introduced citizens' charters and incorporated the European convention, while audit, freedom of information and the extension of choice in the public services have empowered our people *vis-à-vis* politics, government and public services. Polling and campaigning have become almost continuous, as has what the Wright committee refers to as the "relentless" communication of Members of Parliament with their electorate, soliciting their views and their approval.

During that period, Governments have been successful. The wealth of the nation has greatly increased and public services have greatly improved. Yet, at the same time, we have witnessed rising contempt for politics and Parliament, and falling turnout at elections. It is no consolation that the same pathology is apparent in other Western countries.

Against that background, ill thought out, populist or techie reforms will not restore trust in our political system, nor do their authors any good. Certainly, scuttling around to appease the media will not. We must think rigorously about how to make our democracy work better.

We need more constitutionalism; more checks and balances. I suspect that we went wrong when we embraced the Diceyan heresy of the omnicompetence of Parliament. That paved the way to the elective dictatorship. Every Government since the war that has had an overall majority have felt free

to do anything they fancied. The volume of legislation has hugely increased, reaching a point where the House of Commons has largely stopped scrutinising it. How are we to restrain parliamentary government? The House of Commons reform committee, chaired by Tony Wright MP, in its report *Rebuilding the House*, would seek to enhance the House of Commons' control of its own agenda, timetable and proceedings. The chairs and members of Select Committees would be elected and, very importantly, the House of Commons would devote more time and energy to scrutiny of legislation on Report. Here, charmingly, the report proposed that the House of Commons should exercise the same rights as the House of Lords. That was a daringly radical proposal-clearly too radical for the Government.

The proposals of the Wright committee are good; but one must doubt whether they would transform the proceedings of the House of Commons, herald a new era of limited government and reorientate MPs' ambitions away from ministerial office. The Wright committee is wisely cautious, in its desire to reconcile Parliament with the people, about the extension of participatory democracy. The Scottish Parliament is very good at handling petitions, but I note that the people of Scotland have no more exalted a view of their politicians than the people of England, so this is unlikely to be a cure for political disaffection. With considerable hesitation, the Wright report proposes that there should be an opportunity for the public to influence the content of

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draft laws, and that there should be an experiment in "agenda initiative"-the public initiation of proceedings in Parliament.

Like the members of the Wright committee, I believe in representative democracy. We need more deliberative parliamentary government, and more decisions made insulated from the pressures of politics and the 24-hour news media. The Monetary Policy Committee of the Bank of England was established in order that decisions on interest rates should be taken out of politics, and it has worked very well. California, which pioneered citizens' initiatives and the recall of elected politicians, provides an awful warning. Universities are deprived of public funding, yet the deficit is incurable while politics is manipulated, in that state even more than elsewhere, by lobbyists and big money. If that is the future, it does not work. Policy-making and legislation are complex and difficult.

I am not enthusiastic about other fashionable nostrums. A written constitution would ossify our polity. An elected second Chamber would be dominated by the party machines and would lose much of the wisdom of the present House. Respectable arguments can be put forward for varieties of electoral reform, but they are irrelevant because the decision will always be taken by parties on an assessment of their electoral interests.

Where should our reforming energies most usefully be applied? In the House of Commons: that is most important, but that is not for us. We shall see whether the new intake of MPs after the election will, like their predecessors, fall over each other to become parliamentary private secretaries, or whether they will wish to be strong parliamentarians. The choice is for them. The people in Parliament matter much more than the mechanics.

I shall be very interested to see the evolution of the Supreme Court. We are told that the change of address will make no difference to the way in which the judges work, but I am not so sure. Parliament should be relaxed about judicial activism. The noble and learned Lord, Lord Carswell, in his excellent speech, was almost apologetic at any suggestion that the judges might take their own initiatives. However, the record of the judges in recent decades on the development of judicial review and the defence of civil rights has been nothing but good. We should not be petulant if the

judges wish to correct our errors of omission or commission, and to overthrow crass or illiberal decisions taken by government or Parliament. I hope that we shall see more judicial ebullience, with its authority based on the common-law tradition, vigorously renewed for the circumstances of our time.

We need more checks and balances, so we should stop railing against unelected quangos, at any rate those set up to do sensible and necessary things. Quangos provide an opportunity for knowledgeable and good citizens to participate in government and give public service, and do so at a bargain price. We should strongly support the development of the voluntary sector, and government should bear down on it much less. Just because in many cases they pay the piper, they should not call the tune. The arm's-length principle needs refreshing and reviving, so that the Government attach far fewer conditions to their funding of universities and the arts. Just let them flourish.

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Let local government flourish, too. Central government, exploiting its dominance of Parliament, has in the last half-century trampled on historic institutions and local identities and loyalties, arrogating power to itself. In a new concordat, there should be a presumption that local government is free to do anything unless it is expressly forbidden. We need more independent centres of power in England. We should disperse significant decision-taking. If we can do that in local government, we may have the prospect of a new generation of people coming into politics, widening the political class beyond the cliques of professionals who have occupied the House of Commons and, in the view of many people, pillaged it. These are some of the ways in which we could renew our democratic culture.

**2.57 pm**

**Lord Wallace of Tankerness:** My Lords, I join other noble Lords in congratulating the noble and learned Lord, Lord Carswell, on a distinguished maiden speech. Like the noble Lord, Lord Howarth of Newport, I will also say that there is no need to apologise for judicial activism. Because the Human Rights Act 1998 had an effect on the Scottish Government some 15 months prior to its effect on the UK Government as a whole, I was the first Minister to be on the receiving end of a judicial pronouncement under the Act. However discomfiting or awkward the rulings could be, it is far better that the Executive are subject to the rule of law than that Ministers can override the law. The Human Rights Act has been one of the achievements of the Labour Government since they came to office in 1997.

The other issue that I wish to talk about is the Scotland Act 1998, which led to the establishment of the Scottish Parliament in 1999. The architect of that Act, Scotland's first First Minister, Donald Dewar, said that devolution was not an event but a process. It is the continuing process that I will reflect on, particularly in the light of the Calman commission on Scottish devolution, which reported last year and on which I was privileged to serve. The commission was established and given its remit by a resolution of the Scottish Parliament, and was supported by the United Kingdom Government. Its report last June was followed by a United Kingdom Government White Paper, *Scotland's Future in the UK*, published on 25 November. The title of the White Paper is significant given that the commission's remit was, among other things, to secure the position of Scotland within the United Kingdom. The other key parts of the remit were to serve the people of

Scotland better, and to improve the financial accountability of the Scottish Parliament. I will say a brief word about each of these.

It was a unanimous report. The commission comprised, among others, Labour, Conservative and Liberal Democrat representatives, trade union representatives, someone from CBI Scotland, a retired judge from the European Court of Justice, a professor of Islamic studies and the chief executive of the Telegraph media group, with everyone acting in an individual capacity. Nevertheless, we managed to produce a unanimous report. It fell short of my party's ultimate goal of a federal United Kingdom; and it fell short of the proposals that emerged from the commission chaired by my noble friend Lord Steel of Aikwood. But I have

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always believed that politics is the art of the possible. It was my party's involvement in the constitutional convention that helped pave the way for the Scottish Parliament and the Scotland Act 1998. We have been right to embrace the recommendations of the Calman commission, and to see them as a starting point for the further reforms in devolution that Liberal Democrats would like to see.

I also believe that the commission report moves the debate forward. It provides a set of proposals around which the debate on devolution now revolves. It is ironic that the minority SNP Government at Holyrood, who for the most part poured cold water on the establishment of the commission and derided our activities during the months when we were deliberating, came forward last month with a resolution for debate in the Scottish Parliament which welcomed the recommendation of the Calman commission,

"that responsibility for the law across a range of areas be devolved to the Scottish Parliament and also welcomes the recommendations for closer working between the Scottish and UK Ministers".

In a further ironic twist, the Labour and Conservative Parties, which were each represented on the commission by two distinguished Members of this House, did not vote for the resolution on the grounds that it called for the implementation of such recommendations, where there was a clear consensus across all parties, before the dissolution of the present Parliament.

I was profoundly disappointed that the United Kingdom Government were unwilling to show sufficient eagerness to transfer the current reserve powers recommended for devolution—the drink-drive alcohol limits; the law in relation to speed limits; the law in relation to air guns; and the administration of Scottish parliamentary elections. They were unwilling to devolve those powers by order to the Scottish Parliament ahead of the election—I rather suspect now, given the timetable, that it is not feasible. There is a further suspicion that the Conservatives would kick the ball even further into the long grass, as they have advocated a further White Paper after the election. Any commitment or reassurance which either Front Bench can give us today would be particularly welcome.

I note with particular satisfaction, however, that yesterday the Secretary of State for Scotland promised that, in the event of a Labour victory in the election, there would be a Bill in the first term of the new Parliament to give effect to these changes. That commitment was given in an interview reported in the *Times*. If we heard a similar commitment from the government Dispatch Box, it would be very welcome. Indeed, the report states that the Scottish Parliament would also be given power over the proportion of income tax raised in Scotland as well as stamp duty, aggregate tax and



air passenger duty, consistent with the Calman commission's recommendations. I note particularly the inclusion of air passenger duty, as the Government did not attach priority to it in their White Paper. Perhaps the Minister could clarify whether there has been a change of position.

The important point is that, under these proposals, the Scottish Parliament would be obliged to make annual decisions on a range of taxes, including the Scottish income tax rate. The commission proposed

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that the rate levied by the United Kingdom Government be 10p less than the standard rate, with the block grant reduced accordingly. Indeed, the reduction of grant would apply also to all other taxes devolved, and it would be up to the Scottish Parliament to determine a tax rate to make up the shortfall. That, together with enhanced powers in relation to borrowing, would change the deficit in democratic accountability which has been the feature of the first 10 years of the Parliament under the existing powers, where the overwhelming focus has been on spending taxpayers' money rather than considering the discipline of raising it. The proposal would go a long way toward addressing the point made by my noble friend Lord Steel of Aikwood in his Donald Dewar lecture of 2003, when he said that no self-respecting Parliament can exist permanently on a grant from another Parliament.

Equally important is the relationship between the Scottish Government and a UK Government, and between the Westminster Parliament and the Holyrood Parliament. Part 4 of the report has a number of recommendations. Time prohibits my going through them, but I recommend that those responsible for procedures and administration in this House identify ways in which the relevant co-operation between the two Parliaments can be established and strengthened by what we do here, not just to serve better the people of Scotland but also to help anchor Scotland even more firmly as part of our United Kingdom.

**3.04 pm**

**Lord Morgan:** My Lords, like other speakers, I congratulate the noble and learned Lord, Lord Carswell, on his maiden speech, especially on uttering the sacred names of Barry John and Gareth Edwards, which I never thought I would hear spoken in this House. It was very heart-warming.

I shall address this welcome and admirable Motion from the standpoint of an academic and, more particularly, from that of a member of the Labour Party, which I have been for even longer than I have been an academic. As an academic, one sees the constitution in a state of some disarray and issues left unresolved, the old constitution of Bagehot and Dicey clearly having gone but it not being clear what has replaced it. We see power being both dispersed and concentrated at the same time. We have a Government who promote devolution and restrict civil liberties. This state of constitutional anomie, as it has been called by academics, I find really quite worrying.

As a member of the Labour Party, however, I see the Government as having been one of sweeping reform early on. Gordon Brown has been intellectually engaged with the topic as no previous Prime Minister has been. I should like the Labour Party to highlight itself as the party of change in democratising government, making it more accountable. It is not sensible to say that nobody discusses particular topics on the doorstep; for example, the alternative vote. There is clearly a widespread sense of constitutional and institutional crisis, and Labour should respond to it.

What do we do? Following the crisis over parliamentary expenses, we had a kind of "57 varieties" of reform proposed. More specifically, Labour should in the first instance build and defend the admirable reforms that

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it has produced. It should be quite unequivocal about the Human Rights Act. It should be resolute on the Freedom of Information Act. As my noble friend Lord Parekh, mentioned, there are signs that the Chilcot inquiry is being hamstrung on that side. Like the noble Lord, Lord Wallace, I shall mention devolution. He spoke wisely about Scotland. In the case of Wales, I ask my noble friend-I did not get a reply from the previous Minister, so I shall try again-what the Government will do about the Jones Parry report on a possible referendum in Wales. The present status of the Welsh Assembly is patronising and humiliating. There is no transparent system of law-making, and the rule of law is being devalued. What will the Government do? Peter Hain himself supports the committee's proposals.

The present Constitutional Reform and Governance Bill is modest. Several of the valuable features of the previous measure, which was pretty miscellaneous, have gone-for example, war-making powers and powers of the Attorney-General, on which a somewhat lurid light was shed yesterday just across the square-but it does not get to grips with what is widely accepted as being a serious crisis in the prestige and respect with which our institutions are treated.

This is in the tradition of the Labour Party. It has a great tradition of taking the democracy element of social democracy very seriously. Tawney, in his famous lectures on equality, talked about not only equality of means but equality of power and he showed how the two are related. The Labour Party is well placed ideologically, as in other ways, to take advantage of this issue and connect reform with democracy.

One way of doing it would certainly be to take up Tony Wright's admirable report, *Rebuilding the House*. I agree that the Government have been dilatory on that. We are having a debate of some sort on 23 February, but it is clear that nothing is being done. The report proposes an important way of democratising the House of Commons and making it more effective. Other democratic reforms should be pursued. I do not agree with what was said earlier about a kind of malaise about politics. There is a malaise about the major political parties and about some of our institutional processes, but that is very different. There is a great sense of urgency about politics. Some of the proposals of the Wright report should therefore be acted on; for instance, the idea of e-petitions, so that people outside the House could revitalise and bring new issues into the debates of the Commons, seems admirable. I should like the Labour Party to take on board electoral reform, not just in its manifesto but by having a referendum at the time of the general election. It is an issue of which the Labour Party could take ownership, and there would be a great deal to gain electorally. I think that some of us were very heartened when Jack Straw-not always a radical figure-took up this issue at the PLP the other day.

One word has always been missing in this debate-citizenship. If we were debating this matter in France or America, we would hear it. Our late and much lamented leader, John Smith, talked of a citizen's democracy. We still have the tattered shreds of the Royal prerogative, dating from late medieval times; it

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is extraordinary that we flattened Baghdad and killed a large number of its citizens in the name of

the unfortunate Queen. We should celebrate a different order and a different sense of citizenship as a component of a social as well as a political democracy. A written, codified constitution would take too long and be difficult to achieve in our case-law legal culture. We should build incrementally on existing reforms and make a democratically socialist-if that is not an unparliamentary term-Labour Party the vanguard of change.

The noble Lord, Lord Tyler, introduced this admirable Motion. The Liberal Democrats should work with the Labour Party on this. They will get no change from the Conservatives, whose phobia about Europe alone means that they will find it very difficult, for example, to incorporate European law into our own arrangements. They were opposed to all previous changes and do not want any electoral reform. If the Liberal Democrats have any doubt, they should go through the portals of the National Liberal Club and see the imperishable words of the greatest ever liberal that his opponents represented,

"distrust of the people qualified by fear".

3.11 pm

**Lord Greaves:** My Lords, it is always a great pleasure to follow the noble Lord, Lord Morgan, but I thought that he thought that the greatest Liberal was Lloyd George. We learn differently now-and of course he is quite right. I was not sure whether he thought that the unparliamentary word was "democracy" or "socialism", but I shall not pursue that. Instead, I shall talk about local democracy and public involvement; representative democracy and participative or direct democracy, done properly, go together. In doing so, I declare an interest as a member of Pendle Borough Council and sundry local groups, some of which are in the Register of Interests.

My problem is that local democracy in England is being slowly but systematically abolished. The noble Lord, Lord Howarth of Newport, said that in the past decade there had been a lot of democratisation within this country. At local level within England that is not the case; the opposite has been happening-there has been a sort of de-democratisation. Representative local democracy is slowly being closed down, with the formation of larger and larger unitary councils, which are being told that they have to run themselves like businesses. They may be democratic, but they are certainly not local. Participative democracy is much more difficult; the further that the institutions get away from the citizen, the bigger they become. The proliferation of partnerships and quangos, populated by professionals, means that it is much more difficult for ordinary citizens to get involved.

One example of the trend towards much bigger authorities is Northumberland, which is now, apparently, the largest unitary authority in England in area. It has the lowest population density, with 310,000 people, and a combination of the largest area and lowest population density, with just one local authority for that huge area, which is some 100 miles from end to end. That is not local government as I understand the term.

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I should apologise to the Liberal Democrat leadership of Northumberland since the initial elections, led by Councillor Jeff Reid, for criticising it. I am certain that it is doing a much better job than if

control of the authority was in the hands of the Labour or Tory party, but the job that it is being asked to do in local democracy is impossible. It has set up three area committees, which was agreed when the unitary was set up, called north, south-east and west. How on earth do people associate themselves with south-east Northumberland? They are not even the old districts, of which there used to be six. There are now 67 councillors when there used to be more than 300. That is a significant reduction in democracy. I have a sheet here that sets out all the functions of the area committees; they are all consultative and advisory, and the first function is to,

"enhance the reputation of councillors".

That says a great deal about the system.

I compare that with an area committee that I sit on in Pendle, where we represent 16,000 electors-an area of a small district council-but make real decisions that have a real effect on the lives of local people, who can come along because we are there in Colne where people live. They do not have to travel 40 or 50 miles to a meeting of an authority.

I wish the Liberal Democrat leadership of Northumberland all the best in its aim for better services, greater efficiency and easier access to local services. I think that it will find it extremely difficult. When the Northumberland unitary was set up, the Government promised around £17 million a year savings and lower tax bills. Now there are no lower tax Bills-they went up, and the savings have all been swallowed up. My right honourable friend Alan Beith MP said that it was nonsense at the time, and the public did not believe them. Can we trust the Tories on this issue? There are not many Tories here to ask, but those who are here will perhaps listen.

In Lancashire three or four years ago, the Labour county council set up a system of Lancashire Locals, which were area committees, one for each district in Lancashire-the 12 districts. We thought that they were a bit big, but they have made some decisions. They are only very local ones, such as on traffic management issues and allocation of grants, but there has been a forum there and a way in which a very remote and large county could devolve some of its public discussion and decisions. They are now being abolished by the new county regime since the Conservatives got elected last June. Whatever words we hear from the Tories about localism and devolution, the experience in Lancashire is that they will do the opposite if and when they get into power.

The future is the reinvention of democratic, representative local government. No party at the moment has a blueprint for this, or knows the way to go exactly, but it has to take place. At the moment, it is going in the wrong direction. Alan Beith said in Northumberland that we have to devolve responsibility for town councils and give them a bigger role. I am sure that that is part of it. It is no secret that "civic", used in expressions such as civic society, refers to towns. When the Victorians invented democratic local

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government, a great deal of it was concentrated and based on towns-large cities, smaller towns, including very small towns. Towns have a presence and an existence, and I believe that probably local government will have to be reinvented on the basis of the towns that exist, not large arbitrary areas that do not really represent anybody.

My noble friend Lord Wallace of Saltaire is currently chairing a group in the Liberal Democrats looking at devolution and localism. I look forward to his report, but even we in our party have not begun to think about the radical evolutionary changes that will be necessary at local level if we

want to reinvent local democracy. That will be a major task for this country over the next 10 to 15 years.

**3.18 pm**

**Lord Butler of Brockwell:** My Lords, your Lordships' interest in this subject is shown by the number of speakers today, so we have every reason to be grateful to the noble Lord, Lord Tyler, for initiating this debate.

In his notably, but not unexpectedly, wise maiden speech, the noble and learned Lord, Lord Carswell, reminded us that we have a flexible constitution and reminded us of the words of Lord Hailsham: if you are considering constitutional change, be careful. I agree, but I want to make the point that in some ways our constitution can be too flexible for its own good, so that changes can take place in it that we scarcely notice. I shall illustrate that: over a long period, the Executive have taken means of getting control of the elected Chamber of our Parliament to the extent that it cannot properly fulfil the role that it ought to.

When we last debated this issue in the debate on the gracious Speech in November, the Wright committee in another place was about to report, and the report came out the following day. Like other speakers, such as the noble Lords, Lord MacLennan and Lord Howarth, I was impressed by that report. It made valuable proposals for reinforcing the influence of Back-Benchers over the House's business while maintaining the ability of the Executive to get their business through. It is also encouraging that the Prime Minister has said that the Government will support the committee's main recommendations. I hope that the Minister will be able to give us an assurance that the Government will also provide the procedural means of implementing the Prime Minister's statement.

As I said in the debate on the gracious Speech, while the procedures of this House are not subject to the stranglehold of the Executive apparent in another place, we would be complacent if we thought them incapable of improvement. The noble Lord, Lord Brooke of Alverthorpe, who is not in his place today, has proposed that a working group should be set up in your Lordships' House to consider this matter, and I support his proposal. The Leader of the House did not react adversely to that, and if there is anything further that the Minister can say about it, that would be very good.

The role of Parliament is important-I would say vital-in keeping the Government up to the mark. The fact that the Executive have had things too easy for their own good for too long in getting legislation

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through Parliament has meant that there has been too much legislation, not just recently but over many years, and it has been inadequately prepared and justified.

I shall illustrate that by mentioning just two Bills that are about to come to your Lordships' House. One is the Personal Care at Home Bill, on a subject that is of great interest to many of your Lordships: how the state should provide for citizens in their old age. It has long been a matter of debate how that cost should be divided between the individuals themselves and the state. There was a royal commission on it, there was a committee under Sir Derek Wanless and there has been a Green Paper, which is still out for consultation. The Green Paper ruled out free care entirely paid for by the taxpayer, but even during the period of consultation, out of the blue, the Prime Minister announced at the Labour Party conference that all individuals with the highest needs for free

personal care in their own home would have it provided by the taxpayer—that announcement, as I say, made while the consultation procedure on a Green Paper that ruled it out is still continuing. The cost of that proposal will be £570 million a year, and that is the Government's estimate.

The Bill was rushed through all its stages—First Reading, Second Reading, Committee, Report and Third Reading—in the House of Commons in a single day, and it comes to your Lordships next week. That is no way to propose policy and to give Parliament the chance to comment on it.

The second example is the Constitutional Reform and Governance Bill, which contains legislation on the Civil Service, in which I take an interest. We have waited 150 years for that legislation. The Committee stage took four to five hours in another place, under the guillotine, and there was simply not time for important amendments, some of which the noble Lord, Lord Tyler, referred to, about whistleblowing, special advisers and other matters. That, again, is no way to cause the Government to be careful in preparing legislation about important constitutional issues.

Last night, with other noble Lords from all political parties, I took part in the launch of a report by the Better Government Initiative, on whose executive committee I have served. One of that group's central recommendations is that the Government should commit themselves to better procedures of preparation and consultation of legislation—standards of preparation against which government proposals can be judged. Parliament should also be the proper and effective judge of whether those procedures have been observed.

In the short term, I recognise that this might be more troublesome for the Executive, but I firmly believe that it is in their long-term interests as well as those of Parliament. It is to nobody's benefit to conduct government poorly, least of all the interests of the Government who want to be re-elected. The tools are there to support good government in the Executive, the Civil Service and Parliament, if they are all used properly. Yet if they are all to be used properly we need, to quote an old political slogan, "Action, not just words".

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**3.25 pm**

**Lord Plant of Highfield:** My Lords, I want to use the short time available to argue in favour of supporting a referendum, or some kind of national debate, on a choice between first past the post and the alternative vote. I believe that that view is supported by my right honourable friend the Prime Minister and many other members of the Cabinet. Taking my cue from my esteemed teacher and noble friend Lord Parekh, I say this not for theoretical reasons but because the alternative vote would be a way to answer two quite deep problems that we have in British politics at the moment.

First, after the expenses scandal, we need to do as much as we can to repair the legitimacy of individual Members of the House of Commons, but in a way that does not destroy constituency accountability. That is one risk, at least, with the single transferable vote in multimember constituencies and it would certainly happen under a national rigid closed list system. The alternative vote would keep the constituency link while enhancing the individual legitimacy of successful candidates, because they would have to gain 51 per cent of the vote in their constituency.

Secondly, the alternative vote would mean that candidates had to broaden the appeal of their electoral pitch in order to have a chance of collecting significant numbers of second-preference votes. That would be ideal. It would allow an individual candidate to preserve his or her political identity-as a member of the Labour Party, say. However, they would also have to reach outside that form of identity to engage with other people with different points of view in order to secure second-preference votes. That would break down some of the tribalism of British politics, which people who are not political nerds find completely maddening. That tribalism does not in any case map on to what, in non-electoral terms, we know about how people generally perceive political issues.

The alternative vote would also help us to deal with two other problems that will be intractable for the next generation: climate change and international terrorism. They are challenges of a quite different sort from those that previous Governments have faced because they are general, highly complex and long term-they are likely to be, anyway-yet they are also less obvious, palpable and tangible. Terrorism is not like having an army facing you in northern France, or something like that. Climate change is about the balance of probabilities and the precautionary principles that we have to follow in the light of that for the long-term future. Yet facing terrorism and climate change will require us to change our behaviour now, and make sacrifices now, in favour of some rather intangible challenges in the future.

In order to do that, it seems to me that we cannot pursue the policies to meet those challenges on a highly partisan basis. We need an electoral system that will allow and give an incentive to parties to reach out to other groups, so as to create greater strength and legitimacy for the policies that they are devising to tackle some of those very problems. We need to mobilise more consent and legitimacy around those policies if, as I have suggested, they are to be able to do the work that we need them to do.

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Of course, it is perfectly possible that an electoral system such as the alternative vote would lead to cross-party or coalition government. It is argued strongly by those who believe it that this means weak government. That is not true. There is a distinction to be drawn between effective and strong government. We have had two or three examples in the past 15 or 20 years of strong government. The poll tax was an exercise in strong government. The Iraq war was an exercise in strong government. However, these constituted some of the greatest misjudgments in modern British politics. Exercises in strong government of that sort we could do without. We need effective government, which needs a high level of consent behind it.

Germany has had extremely effective governance. It was in the front line during the Cold War. It managed to deal with an unforeseen reunification process in an extremely capable way. You cannot just say that coalition Governments are always weak; that is ridiculous. Coalition Governments can be extremely effective. If they rest on an electoral system that gives parties an incentive to reach out beyond themselves while retaining their own strong identity, they could mobilise a great deal more consent behind the policies that we need to deal with some of the long-term and intractable difficulties that we face.

**3.31 pm**

**Lord Alderdice:** My Lords, as the only other Peer from Northern Ireland to be speaking in today's debate, I add my welcome to the noble and learned Lord, Lord Carswell. It is a delight to have him here and to hear his welcome accent. He and his wife Romaine, as Lord Lieutenant of my home city of Belfast, have played an extremely distinguished role in Northern Ireland public life. If he has held to that motto "Be careful", it is characteristic that there is one good reason why he should have done so that he has not mentioned. He and other members of the judiciary in Northern Ireland have had not only to have a clear judicial mind and wise judgment, but also to be careful for their lives and personal security over the whole of their professional careers, because they were under attack from terrorists. Even now, with the peace process, there are dissidents who would target noble and learned Lords and other judicial figures in Northern Ireland. The noble and learned Lord's courage and conviction, as well as his wisdom and judgment, are to be commended and will undoubtedly be an adornment to your Lordships' House.

In today's debate it has been noted that the Government of the past few years have brought forward substantial constitutional development. There has been devolution to Scotland, Wales and, in a hiccupping way, Northern Ireland. The independence of the Bank of England has its own implications. The Human Rights Act has of course been welcomed from these Benches and other parts of the House.

However, it is a characteristic of this country that we go by evolution rather than revolution. Indeed, with the Glorious Revolution of 1688, we moved from one kind of monarchy to another. We do not tend to have revolutions in this country, which is not necessarily a bad thing. There has been significant progress over a

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period, which has been welcomed from these Benches. There have been positive developments in your Lordships' House, such as the disappearance of the hereditary principle and the development of the principle that no governing party should have a majority. That is an important constitutional development. If it is indeed the case that, after the next general election, there is a largely Conservative Government, it will be the first time in modern party political history that a Conservative Government will have come in with a majority in the other place but not in your Lordships' House. These are significant developments, so why does considerable disenchantment remain in the country?

There are two reasons. The first is this apparently contrary movement of centralisation and devolution. It is quite clear that, without great legislation, a major constitutional change has taken place: the move towards an increasingly presidential style of government by Prime Ministers. This is not just to do with the current or previous Prime Minister; it has been going on for some time. More and more power is brought to the Executive so that not only those in opposition parties but many of those on the Back Benches in a government party—that is evidenced by some of the speeches made in your Lordships' House today—do not feel that they have a real part to play. Why is that? It is because we now have a presidential style of government without the checks and balances of a presidential constitution.

Why was this able to take place while at the same time there was devolution? It happened, first, because part of it was motivated by the notion that if we could have devolution to Wales, Scotland and Northern Ireland we would get these difficult people at a distance and off our backs, so that people in this part of the world could simply get on with their own business. Therefore, I do not think that devolution was done necessarily with a sense of simply increasing democratisation. Of course, there were other pressures that moved things in that direction. If there had not been, we



would have to assume an incoherent approach to politics, governance and constitution and I do not think that we should.

Secondly, devolution allows for different experiments and approaches to government. That is of great value if they are then taken into account, but not if they are ignored or simply ruled out because, well, they do silly things in Scotland, Wales and Northern Ireland. We may take up some, but not all, of the different things that the devolved Administrations and Parliaments try out. Not everything will constitute progress or be appropriate to take up on a wider front, but there is an opportunity to do that if we pay attention and take these things into account. The same is true of our friends in the rest of the European Union, in the European Parliament and in other Parliaments in Europe. We can look to others if, of course, we are not completely closed in on ourselves. I was interested to note when the noble Lords, Lord Steel of Aikwood and Lord Elis-Thomas, and I were present at a Commonwealth Speakers conference that the Speaker in another place and the Lord Chancellor sent deputies. Speakers from all the rest of the Commonwealth countries were present. Was that because this place has nothing to learn from anywhere else?

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There is another reason why there is disenchantment. It is because parties have got into a way of promising things at elections and not delivering them subsequently, sometimes because they found it inconvenient to do so but on other occasions because they knew from the start that they were promising things that they had no intention of ever delivering. The *Financial Times* editorial of Wednesday last week referred to the fantasy budgeting whereby political parties put forward financial propositions that they know could not possibly be put into operation. I think it fair to point out in passing that my right honourable friend Nick Clegg and the Liberal Democrats were excluded from that criticism.

The population will inevitably become disenchanted if we promise them things that are not delivered and worse still promise them things that there is no intention of delivering. They will become disenchanted if consultation is carried out not in order to listen and make changes but to hear and then ignore. That makes people feel that there is no point in voting. We need changes in electoral systems and more transparency as regards changes in institutions and regulations. People feel that there is no point in voting because there is no intention of taking into account the representations that are made. There has to be an attitude of respect—not the sort of respect with which a parliamentarian starts off a parliamentary speech by saying, "With all due respect", and then goes on to make a speech that is characterised by something wholly different, but a true respect that listens to others and takes their views into account, as a result of which one changes one's approach and position. If we can achieve that, I believe that we will find ourselves not breaking the law, as our Government have clearly done domestically and internationally, and not pushing it to the limits, as in the expenses fracas at the other end, in which people said, "I am only going by the rules", when the spirit was obviously absent. We will build respect in the population and a wish to engage in political life when people see it as something exciting rather than disenchanting, honest and honourable rather than something of which at times to despair.

**Lord Tunnicliffe:** The House has resolved that this debate should last three hours. We started the debate with a nine-minute buffer. That is now all used up. The extent to which speeches exceed six minutes will be taken out of the Minister's response.

3.39 pm

**Baroness Murphy:** My Lords, I am the only woman to speak in this debate, so it is perhaps appropriate that I take the "pouring the tea" role of looking at domestic matters inside this House.

This House is not in a shape to be able to respond swiftly and effectively to the public's pressing demand that our democracy should be reinvigorated. We do not adhere to the fundamental principles of good corporate governance-clear leadership, overt lines of accountability, fit-for-purposes processes, and clear mechanisms for proper engagement by Members. Unless we get our own House in order, we will never be able to assert the important role of Parliament in relation to the Executive, play our proper complementary role to the Commons or become a modern, proactive second

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chamber, whether or not we change the membership. Members need to develop a sense of ownership of the House in relation to its administration and the way that we determine the business. I fully understand that the Government are entitled to get their business through this place in a timely manner.

Before coming here, I had naively believed that the government Executive and Parliament were two separate things and that the House of Lords would have governance and accountability systems in place that would be explicit, written and connect me as a Back-Bencher with the business of the House. I was given the Grey Book. On this parliamentary route there is only one double-decker bus and the driver and conductor are the Government and their inseparable mates, the usual channels-of whom of course there is no mention the Grey Book, and they are a total mystery for at least five years after you arrive.

We are said to be a self-governing House, but that should not mean a House where everyone has the power to be awkward, as it frequently seems to mean. It should mean that we elect respected leaders of our choice and allow them to govern our House on terms that we have decided.

Wherever there is a power vacuum in a corporate body, any well organised group will inevitably rise up and take that power. In our case the better organised group is the usual channels. I hasten to add that I do not blame individuals, political parties or the Government for this; it seems to be an inevitable consequence of our history, but we need to do something to reverse it. Even the desk that I am allowed to sit at is determined by the usual channels. That goes for everyone here. Is that common sense? The usual channels are the lead weight that keeps the moribund body of self-governance from floating to the surface for some air.

The role of the Management Board as the executive implementation of House Committee strategy and policy is clear. We are served by a talented team of clerks and directors of services who, to give them their due, have been in the vanguard of developing the annual plan, the strategic planning round, the risk register and so on, and who are improving daily the ways in which they serve us. It is we who let them down by the dead weight of our time-worn procedures. Most of the time, this House runs well-until there is a crisis. This is what someone has called the problem of the car crash scenario, when the question "Who really decides?" is horribly sticky.

We have created the new post of the Lord Speaker but have given her few powers. She chairs the House Committee, which officially is the strategic governing body of this place but which is dominated, like everything else, by-guess who-the usual channels. There is in reality a vacuum, a

black hole, in which the Lord Speaker, the Leader of the House and perhaps the Chairman of Committees whirl about with insufficient and competing powers. There is no thinking powerhouse with a remit to translate ideas for modernisation into a House strategy. In the absence of a clear parliamentary leader, we fall back on the Government's representative in this House. Should our leadership be someone who we as parliamentarians choose, not a member of the Cabinet? I do not criticise individuals—indeed I am a real fan of the noble Baroness, Lady Royall, and the

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way that she has tackled problems recently. Individuals have to make our difficult systems work as best they can, but the system is crazy.

We should perhaps reassess the potential for the Lord Speaker to play a real leadership role in parliamentary business, both inside and outside the Chamber. It is of pre-eminent importance that we should prise the administration and business of this House, and the connection to Back-Benchers, from the shackles of the usual channels.

**3.44 pm**

**Lord Rooker:** My Lords, we have had a very good example of what the noble Baroness has just been talking about. It should not be a government Front-Bench Member who gets up to tell noble Lords when they have exceeded the time limit for speaking. Today, we have seen a classic case of where the Deputy Speaker should have had the power to stop people who indulge themselves by taking more than six minutes.

I wish to speak on aspects of electoral reform, although it is too late for change to take place before the general election. I am somewhat astonished that those who have never expressed the slightest interest in having a fair voting system should seek to become the champions of fair voting just before an election when the polls are looking bad. It seems a little bit vulgar, to say the least. The credibility of the argument is diminished in the eyes of the public when it is put forward in that way.

In some ways, the real problem is that the Conservative Party has never really woken up to the fact that, for the past 20 years at least, there has been a bias in the first past the post system against the Tory Party. It has never really realised that. The fact that the Conservatives need an 11-point lead in the popular vote to get a one-seat majority in the Commons must be a worry. It is obviously not a worry for the noble Lord, Lord Ashcroft, who has spotted the way to deal with it within the present system.

In the early 1990s, the Tories recognised this difficulty and thought, "We'll speed up the Boundary Commission timetable because there is a problem with population changes being taken account of under our rigid first past the post system". Their problem was—I know this to my certain knowledge—that the Labour Party took control of the Boundary Commission process in the early 1990s in order to create an extra-large number of marginal seats. I also know to my certain knowledge that Labour MPs were sent to public boundary inquiries to argue for less safe seats for themselves in order to create some more marginals that we could win. The result, of course, was 1997.

None of that is right or fair for the voters. Taking an example almost at random, I can say that Tory voters in Sutton Coldfield will be taken for granted by the Tories, and Labour, even with its excellent candidate, will not put any extra resources into that seat. Likewise, Labour voters in Ladywood will be taken for granted by the Labour Party and the Tories will probably not appear.

Having this great swathe of safe seats where the electorate is taken for granted means that the battles are all happening in the marginals, which is what the

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battle with the Boundary Commission was all about. That means that people's votes are not of equal value, and in our modern constitution that has to be wrong. The solution would be to have the Tory Party fighting its case in every back street of every inner-city ward in this country, in the same way as it would in rural areas, because then the votes would have equal value. The same applies to the other political parties. That fairness can occur only in a system based on one of the many variants of proportional representation.

The alternative vote system is not proportional representation but is as fixed and rigid as first past the post. It is a stopping-off point for every person I have ever known who has moved away from first past the post and towards PR. I did it myself for a few months in the late 1980s. Then, from 1988 to 1992—here I declare an interest—I became chair of the Labour Campaign for Electoral Reform.

The alternative vote is a majoritarian system, with all the problems that that entails, and it still leaves us with safe seats and marginal seats. My noble friend Lord Plant set out the advantages of AV, although I was a bit surprised by that because I would rather have the German system, as that would solve our problems. I would prefer the system that we imposed on Germany after the war, rather than AV, because we would get the best of both worlds. AV, on the other hand, would leave millions of people in this country unrepresented. They would have voted for a party but would have no link whatever with representation. If AV is ever brought before Parliament for approval, I shall oppose it, and actively so, because in reality it is as fixed, rigid and unfair as first past the post. The Liberals need to be warned about that and warned not to buy a pig in a poke. They may be everyone's second choice and they may think they will gain a few extra seats, but they will still leave millions unrepresented, so they should not buy it if it is offered.

**Lord Wallace of Saltaire:** My Lords, it will not be offered.

**Lord Rooker:** My Lords, the situation will be the same: huge party majorities in the Commons based on a minority of votes. When the going gets tough and the leaders look round, there will be no voters behind them. The fact is that they were never there in the first place because they got in on a minority vote.

It is time for a change in our approach. To its credit, this Government, with all the changes they have made, have not brought the first past the post system in anywhere. No one in eastern Europe bought it; the South Africans did not buy it; Wales, Scotland and the London Assembly did not buy it. If the Tories wake up soon, they might see that first past the post is not a winner. I want the voter to be the winner. I also want my vote back when this place is reformed. I want the voter to be the winner and that is why I support a move to proportional representation.

3.50 pm

**Lord Rennard:** My Lords, in today's wide-ranging debate, I wish to concentrate on electoral reform in the context of cleaning up the reputation of Parliament,

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giving power to the people where it belongs, rather than to politicians, and aiming at a realistic appraisal of the prospects of progress towards what we on these Benches really want to see.

This week, the Cabinet was due to consider whether the voters of this country should have a vote on the system by which their Members of Parliament are chosen. I understand that those discussions have not yet taken place. In recent times, what has been actively under consideration is still a very weak and watered-down alternative to what was promised in the Labour manifesto of 1997. In that manifesto, people were promised the opportunity to vote for a proportional system to replace the first-past-the-post system at Westminster.

Last October, the Prime Minister promised that the next Labour manifesto would contain a promise to hold a referendum on the alternative vote system. Many of us asked what would be the difference between this promise and the one made in 1997. Of course, cynics—there are perhaps plenty in this Chamber—could easily say that a promise in Labour's next manifesto would be fundamentally different to that of 1997, in that Labour now has no realistic expectation of being in a position to deliver it. The Government's prevarication, posturing and repositioning have damaged the reputation of our political system.

In the past 13 years, we should have seen action to enhance the reputation of Parliament by ensuring a proper public debate and a public vote on this issue. There is still a glimmer of light at the end of the tunnel of obfuscation on electoral reform. Some people say that it may be a death-bed conversion. Others will criticise action at the 59th minute of the 11th hour. Indeed, it is only in the past few months, in the 13th year of government, that Labour has given serious consideration to partially fulfilling its promise to give people some say in the matter. The proposition that I understand it may put forward falls a long way short, as the noble Lord, Lord Rooker, illustrated, of a properly democratic and proportional solution which would ensure that votes in at least one Chamber of Parliament reflect votes in the country.

However, if that proposition is made, it is one that I believe all supporters of more radical electoral reform will have to support. The alternative of denying people a say and maintaining the status quo will mean that we kick consideration of the issue even further into the long grass. I am not generally an enthusiast of referenda. Too often the question that people vote on is different to the question on the ballot paper. A representative democracy, rather than a direct democracy, maintains important safeguards, but the strongest case for a referendum that could be made must surely be one for the voters to vote on how they elect their representatives.

It cannot be democratic for those elected under the existing system—which, in reality, in safe seats often means being appointed by the parties—to choose the system by which they themselves are re-elected or, effectively, reappointed. A referendum on some reform is better than no referendum and no prospect of people being allowed to consider change.

The AV system is not proportional, and can turn large majorities into very large majorities, but the present system does not even guarantee that the party

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that wins the most votes wins the most seats. It means that most MPs are elected with a majority of votes cast against them. Under the AV system, at the very least, as the noble Lord, Lord Plant, pointed out, MPs would need the majority support of their voters to be re-elected or elected. For those people who put the single-member constituency link at the top of their priorities, that would be preserved with the alternative vote. There would not be the problems of party list systems

identified by many noble Lords in a debate initiated by the noble Lord, Lord Alton of Liverpool, last week. That is why, however belatedly and inadequately, it must be right to put the issue to the people. I hope that the Minister, in whatever time he has left, will confirm to us this afternoon what process of deliberative thinking the Government are now going through to decide on this most important democratic issue.

**3.56 pm**

**Lord Luce:** My Lords, this is a good time for us to be taking stock of political and constitutional reform. Therefore, we should be very grateful to the noble Lord, Lord Tyler, for providing us with this opportunity.

We have discussed the question of reform against the background of what this Government have achieved in areas such as devolution, the Lords reform of 1999 and the Freedom of Information Act. Notwithstanding those changes, and whatever our view of them, there has been a steady, ineluctable decline in trust in the Government and in Parliament. One can attribute that to many reasons—partly Iraq and the breakdown in trust in the Government about that, partly the manner in which Governments have taken decisions, and, not least, the expenses issue in Parliament. All that is reflected in lower voter turnout.

Moreover, if we take into account worldwide evidence from organisations such as Transparency International and Freedom House, we have seen a serious decline in liberal democracy in the past few years compared to the early 1990s, and greater instability worldwide. We in this country, along with our democratic colleagues in other countries, need to put across very strongly the arguments in favour of democracy. It becomes much more difficult to do so if we do not have sufficient confidence in the management of our own democratic system. We cannot afford to be complacent on this matter.

Against that background, what should our attitude be? There have been endless ideas today about reform. If we try to implement all those ideas, nothing will happen at all. In my view, we need to be more focused, as the noble Lord, Lord Norton, said. I suggest that the overwhelming need is to strengthen the parliamentary system to enable us to scrutinise and hold Governments to account more effectively, while identifying the public more fully with the process, and accepting and recognising that elected Governments have a right to govern. To achieve that, we need an overall strategic framework. If we are to bring about coherent, consistent change, it will have to be incremental, pragmatic, continuous and over a long period. It must not be populist; for if it is, we will achieve nothing. Improvements must be justified on their merit.

Of course, the Commons—the other House—and the Lords are different and need different treatment, but what happens in one House affects the other. For

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example, if a new Government decide to reduce the size of the other House, that will affect the overall relationship between the Commons and the Lords. If the Wright proposals on Select Committees are introduced, there will be a strong read-across to this Chamber. Therefore, my main remarks will, for the moment, be on the Lords.

If we assume that the choice between an elected House and an appointed House will come a bit further down the road, we ought to concentrate on making the present system as effective and efficient as possible. We had the Wakeham report, the Steel committee and other considerations in

the past, but we now have the Constitutional Reform and Governance Bill, which deals with only part of this problem. It deals with hereditary by-elections, expulsions and disclaiming peerages, but it does not deal with statutory provisions for the Appointments Commission, the length of service we should do in this House, the retirement policy and the size of the House; so there are many things that need dealing with.

There is also the question of Select Committees and the Wright proposals in the other Chamber. They are designed to strengthen Select Committees, which are one of the ways in which we can strengthen the legislature in challenging the Executive. There is a big read-across there, and I agree with everything that my noble friend Lord Butler said about them. There is the scrutiny of legislation. I think there is far too much legislation, but whatever legislation there is, we ought to scrutinise it better. We do not do it badly here, but it needs to be better done in the other place and better done here as well.

We then come to procedures. This is an ongoing process here. It is interesting to note the number of changes that have been made—there have been adjustments to the way in which we manage Question Time—but we have to examine the powers of the Lord Speaker before the five-year term is up in July 2011. There is internal governance, which my noble friend Lady Murphy raised. We are handling the expenses situation and the code of conduct, but there is the structure of the House and whether it has the right system of accountability and lines of responsibility. They always need examining and improving.

Finally, there is the relationship between the two Houses. We work in considerable ignorance of each other and each other's affairs. There is a remarkable lack of mutual understanding. I hope that the Speakers in the new Parliament will take a lead in trying to get the two Houses to work more closely together. All this needs to be done against a background of buttressing the communications and link between Parliament and the public, which is needed more than ever and can be effective only if this Chamber and the other House are more effective.

4.03 pm

**Lord Grocott:** My Lords, I really am grateful to the noble Lord, Lord Tyler, for introducing this debate. It is becoming a part of our unwritten constitution that every few months he introduces a debate such as this. We all have an enjoyable discussion, and today has been no exception. We do it with the imminent election

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in mind and in the certain knowledge that virtually none of the issues that we have been discussing today will be mentioned on any of the doorsteps that we will be standing on in the next few months. That is not necessarily a bad thing, but the next time the noble Lord introduces a debate such as this, in two or three months' time, it will be interesting if he and other noble Lords can report on the number of occasions when any of these issues were raised with them on real doorsteps in real parts of the country.

However, last time, the noble Lord did me the honour—I regard it as a note of affection—of calling me a dinosaur for my views on some of these subjects. As other noble Lords have reminded us, dinosaurs are remarkable creatures from a bygone age. To me, that pretty well describes the Liberal Party on the 100th anniversary of the last time it managed to persuade the people of this country to elect a Liberal Government. I gently suggest that one of the reasons may be that it concentrates rather too much on these issues and rather less on more practical issues. However, I take the

accusation seriously. I do not want to be a dinosaur any more, so I will do something different today. Perhaps this will be an innovation; instead of addressing all my questions to my noble friend on the Front Bench, which is what we normally do, and bearing in mind the imminent election, I will address them first to those on the Conservative and Liberal Front Benches, and then to my noble friend.

Let us deal with those on the Conservative Front Bench first. I do this very much against the background of knowing that there is a problem with trust between Parliament and the people and that things must be done to repair it, and being alarmed by something that the Conservatives are proposing, and which I am certain the Liberals will propose, that will further undermine trust between Parliament and the public.

What alarms me about the Conservatives is their suggestion that we can connect better with the public by reducing the number of Members of Parliament. That is a bewildering argument, and I speak with a little authority, because if you reduce the number of MPs you obviously increase the size of constituencies, both geographically and in the number of constituents. When I was in Parliament, I represented the fifth or sixth largest constituency, and believe me, representing 92,000 or 93,000 people is very hard work. With the best will in the world, you cannot do as good a job as you can with a smaller electorate. I want to hear from them how that will improve our democracy. I am particularly interested in their suggestion that somehow it is justified because it will reduce the cost of democracy.

I simply cannot understand how a party can propose on the one hand reducing the number of MPs in the Commons by about 100, and on the other proposing 300 or so elected Members of the House of Lords to reduce the cost of democracy. That is one thing that it will not do. Directly elected Members of the House of Lords will certainly need the same support as properly elected Members of the House of Commons. The Conservatives will also have to address costs such as those of the boundary commission, which costs about £12 million and takes about six years to deliberate, so this needs a bit of work.

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I turn now to the Lib Dems, although I will also have to address my remarks to one or two colleagues on my side of the House. What they all had in common, including my very good friend the noble Lord, Lord Rooker, was that they all talked about proportional representation. However, not one-I listened carefully-mentioned our experience of it in this country in the past 10 years. I find that quite astonishing. They make all sorts of assertions about the joys of PR without pointing out the faults that have occurred in the systems that have been introduced. My noble friend Lord Rooker played with the idea of all these people waiting to vote in all these areas of the country where they have so far been disfranchised. That simply has not happened. It did not happen in the European elections, for which the turnout was even lower than under the first-past-the-post system, and-I have said this before but will say it again because it needs a wider audience-it clearly has not happened mathematically. Where the two systems-the first-past-the-post system and the list system-exist side by side, as they do in Scotland, wonder of wonders; more people vote in the first-past-the-post system than in the list system. That is exactly what happened in Scotland in 2000.



How on earth can you say that a list system liberates people and they all turn out and vote, when the clear mathematical evidence is that people prefer to participate in the first-past-the-post system? That is demonstrable. I wish that some attention could be paid to this. The Labour Government should be thanked—they should not thank me because I did not want it—for the changes that have been made in relation to PR, but please let us know what all the benefits have been and let us see the letters of thanks from the electors and the other bits of evidence, which no doubt they simply omitted to pass on to us.

My final request is to my noble friend on the Front Bench. I know he will be able to say yes, so I put it to him. Please will he assure us that the Ministry of Justice will approach constitutional reform on the basis that one or two speakers have already mentioned: identifying a problem and finding a solution? That is the way to do it. Let it not look for the joyous solution to all problems, which is the implicit promise of people who look at this in a grandiose way; let it address the problems and find the solutions. That is what my noble friend always does, so I thought that I would end with an easy request.

4.09 pm

**Lord Wallace of Saltaire:** My Lords, I remember reading one of the wonderful short essays by Francis Bacon when I was a student. It starts by stating that money, like muck, is best when most widely spread. One of the principles of liberal democracy is that power and wealth should be as widely spread as possible. Our first debate today was about fairness in income and wealth. Now we are talking about fairness in power.

We have a concentrated, overcentralised system. That is the other side of popular alienation, which most people in this country see as the introverted gain of Westminster, Whitehall, Millbank and Abingdon Green. Ministers offer a new initiative each day. Shadow

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Ministers offer alternative initiatives. There is ministerial churning and 150 ministerial posts. The average length of time a Minister spends in a ministerial office is between 12 months and 18 months. The average length of time that a department of state exists has fallen to somewhere between four years and five years. That is grossly inefficient and ineffective government. We cannot deny that we have deep, popular disillusion with democratic government as a whole, which is part of the problem we all have to address.

We may be facing a Conservative Government in the next few months who would be very much not concerned with this issue. There is a small group of people who are determined to get back into power and who are quite willing to override their own party. I cherish the memory of someone quite close to David Cameron who, 18 months ago, said in a debate with some of us, "You can forget about the Conservative Party. We have taken it over". In the way in which it is forcing candidates onto constituency associations, we can see the highly centralist authoritarian way in which it is performing. I recall with real pleasure the speech of the noble Lord, Lord Strathclyde, when we said goodbye to the Law Lords. He suggested that it was a little too soon to move towards the establishment of a Supreme Court, indicating deep resistance to change of any sort.

On these Benches, we are much more disappointed with the sliding back of Labour over the past 12 years from its initial mild enthusiasm for constitutional reform to what we now face. This morning, I looked at the 2007 Green Paper, *The Governance of Britain*, which I am sure that the noble Lord, Lord Bach, knows off by heart. He will recall that paragraph 10 states:

"The Government has these goals: to invigorate our democracy, with people proud to participate in decision-making at every level; to clarify the role of government, both central and local; to rebalance power between Parliament and the Government, and give Parliament more ability to hold the Government to account; and to work with the British people to achieve a stronger sense of what it means to be British"-

meaning citizenship and all that-

"and to launch an inclusive debate on the future of the country's constitution".

That was stated in July 2007 and we have had very nearly four years since then.

**A noble Lord:** Two years.

**Lord Wallace of Saltaire:** Let us say three years. We have the Constitutional Reform and Governance Bill limping through the Commons with much delay in the calendaring of additional Committee days, which will come to the Lords when we will have very little time to consider it. There is much argument within the Labour Party about whether it could make a promise to have a referendum on the alternative vote, apparently having forgotten that that was one of its clearest pledges in the 1997 Labour manifesto, on which some Members on the Labour Benches of this House were standing for election to the other place. It is now agonising over whether it can get quite as far as it did 12 years ago. That is not a bad definition of a dinosaur; namely, someone who is not quite sure that he wants to stay where he was a long time ago.

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As regards this House, there is one particular thing on which I should like to ask the Conservatives Benches to make a pledge. I refer to the question of making it easier to retire from the Lords. We know that after the election we will have a substantial addition of new Members nominated to this Chamber. The Conservative Benches will need reinforcement. It is the oldest group in the House. Others will come in to sit on other Benches. We will become well over 800 again and all the talk about economy and the costs of the Lords will come back to bite us unless we keep in a reform of that kind. I think I know the noble Lord, Lord Strathclyde, well enough to suggest that he will want to knock it out. I should like the noble Lord, Lord Luke, to have a quiet word with him and say that the effectiveness and reputation of this House depend on getting through that interim reform.

We are badly governed as a country. One looks at the churning of ministerial departments; we have had a number of education Acts-one a year since 1997-and two or three Home Office Bills a year since then. We recognise that the myth of strong government does not provide us with effective government. We have fast government which, rather like fast food, gives the people indigestion. We need slower and more considered government. I recommend to those who are interested the speech that Nick Clegg gave to the Institute of Government on Tuesday, which set out very well my party's views on the direction in which constitutional reform needs to move. It includes a rebalancing of central and local government relations; a radical decentralisation of power; control over executive dominance; voting reform, of course; and a number of other measures.

On voting reform, I welcome the comments of the noble Lord, Lord Rooker. I was in Yorkshire last weekend discussing our targeting of seats there. We are targeting about one in five of the seats in Yorkshire and-what really strikes me from the discussions-so are the other parties. This means that there will be quite a lot of seats in Yorkshire that no one will do much work in. They are almost all Labour safe seats. It is a part of the democratic desert in Britain, and that should worry us. The Labour Party introduced the single-member constituency-we used to have multi-member constituencies-and it ought to think seriously about whether it wants to retain a system which allows you to parachute people in. There are several former Islington councillors in Labour safe seats in Yorkshire-indeed, several members of the Cabinet have been parachuted into seats in Yorkshire-and that is not very democratic.

I say to the noble Lord, Lord Grocott, that if we had had a single-member constituency system for the European elections, perhaps only two or three Labour MEPs would have been elected-probably fewer than UKIP-and that might have left us all a little uncomfortable.

Executive dominance is a real problem for all of us. The Government promised to do something about it but have not; they retain their prerogative powers, including those in relation to the dissolution of Parliament. Some Members who were at the last Ecclesiastical Committee meeting may remember David Cameron's parliamentary private secretary raising the question of

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whether we could go back on having the Prime Minister choose between different candidates for bishops. That is a real reassertion of prerogative powers. After the next election we could have a Government with a bare majority-or even without an effective majority-taking executive power and choosing to have an early second election without a parliamentary majority vote, thus increasing popular cynicism about politics as such.

I regret that, in power, the Labour Government have done so little to spread power and wealth and to increase fairness. On democracy and constitutional reform, I do not believe that the current Conservative Party benefits from being a liberal Conservative Party, as David Cameron loves to say. The principles of liberal democracy are, I repeat, to spread power, wealth and income as widely as possible, and we have failed to do that in the United Kingdom over the past several decades.

**4.19 pm**

**Lord Luke:** My Lords, like others who have taken part in this important debate, I thank the noble Lord, Lord Tyler, for tabling this Motion. It has obviously been justified by the number of Peers who have put their names down to speak, even though there seems to be a rather disproportionate representation by the Liberal Democrats.

Many of us think that this country has suffered from rather too much constitutional upheaval over the past 13 years to be hungering for even more. We have had longer statute books and more regulations than ever before. We have also had so-called political reform. We have more proportional representation than ever and thus more electoral confusion than ever. We have also had more electoral fraud than ever.

Many issues of interest have been raised in this debate, but we cannot go on like this. We think that our urgent priority must be to get to grips with our economic, social, employment and educational crises rather than piling a host of further constitutional changes on the upheavals that we have had these past two years, whether in this place or anywhere else.

For 250 years we had an unwritten constitution of unique flexibility that allowed us to accommodate unparalleled economic advance and social change without civil conflict, without revolution and without civil war, alone among all advanced nations. With all the problems facing our country, tearing that up would not have been my top priority. However, that was the choice that the Labour Party made, with the eager support of the Liberal Democrats, who thought, somewhat naively as it proved, that Mr Blair had given them a referendum on PR.

Some of the changes made to our constitution will endure, such as the Scottish Parliament. Others were dead ends, such as the completely unnecessary idea of English regional government. Other changes have proved damaging, such as the overproliferation of unelected advisers in government and the power given to a certain spin doctor to direct civil servants. Our priority will be to pick up the pieces and try to render them coherent, not to knock more of them off the board.

Of course, we understand the Liberal Democrats' fascination for what they call political reform, or fair voting. Talk of proportional representation attracts

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noble Lords on those Benches like wasps flock to jam. That is because PR stands not for proportional representation but for permanent representation for the Liberal Democrats. It is a way for the third most popular party to get a permanent stranglehold on political power. I fail to see the logic of that, along with the noble Lord, Lord Grocott, who added a dose of common sense on that subject.

Under the current system, the Labour Party supplanted the Liberal Party in the 1920s. It did so for a simple reason—it was more popular. If the Liberal Democrats were to win enough votes, they could supplant the Labour Party, or even my party, as the second party, and reap the benefits in representation. But in nearly 90 years they have failed to do so for a simple reason—they are not popular enough. I see no urgency in the present crisis in passing legislation to give one party permanent power that the people of Britain have decided, over generations, to withhold.

There have been, and always will be, sensible changes that can be made to our constitution. After all, it was a Conservative Government who introduced life Peers to this place. The Labour Party opposed it. It was a Conservative Government who introduced female Members to this place. The Labour Party opposed it.

We must pay close attention to the non-political parts of the body politic. One of the greatest assets of this country, ever since the Northcote-Trevelyan reforms, has been a skilled, impartial Civil Service—well trained, well trusted and confident enough to warn as well as to advise Ministers on the implications of policy proposals. It has had sound and tried procedures and proper papers, records and minutes, which have served successive Governments well. We also have a cadre of highly trained, professional officers in local government. At both levels, we have seen creeping politicisation in the past 13 years and the erosion of good practice. Whatever else we may agree or disagree about in the debate, I hope that we can all agree that a proper Civil Service Act is something that the Government should have put in place long ago. We must restore the standing and the independence of the Civil Service. It is one of the great institutions of state that balance executive power, along with, for example, the monarchy, an independent judiciary and the established church, which, I assure the right reverend Prelate the Bishop of Ripon, we on these Benches strongly support and wish to see well represented in this House.

Nothing that I have said denies the right of the Executive, as represented by an elected Government deriving their authority from a majority in another place, to pursue their business as mandated. Their authority may be exercised incompetently, wastefully or, at times, arrogantly, as it has been over the past 13 years, but recognition of the authority of the elected House is a fundamental principle of representative democracy. I ask the noble Lord, Lord Tyler, to state clearly whether the Liberal Democrats accept the principles of the Salisbury convention, as set out in the report of the noble Lord, Lord Cunningham, on the conventions of the UK Parliament. This convention has served our Parliament well since 1945. Can we be assured that this is one political and constitutional change that the Liberal Democrats would not make?

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**4.27 pm**

**The Parliamentary Under-Secretary of State, Ministry of Justice (Lord Bach):** My Lords, I congratulate the noble Lord, Lord Tyler, on securing this debate and leading us into a fascinating discussion of a well trodden subject. Some interesting new ideas have been put forward. I also congratulate the noble and learned Lord, Lord Carswell, on his maiden speech. Some noble Lords treated the noble and learned Lord as though he were a new Member of the House, but he has probably been a Member for longer than some of those who congratulated him on becoming a new Member. He had taken the decision not to speak until today, but it was a joy to hear him. Many years ago, when he was Lord Chief Justice of Northern Ireland, he took me round the High Court in Belfast. We enjoyed his speech very much and look forward to hearing from him a lot more in future. I also note that one of the best points made today—it was made by the noble Lord, Lord Alderdice—was that what often goes unsaid is the pure courage that judges and their families in Northern Ireland have had to show over many generations.

Listening to the noble Lord, Lord Tyler, one would have thought that there had been no reforms in the constitutional field for the past 12 years. I know that he knows that that is not true. The noble Lord referred to "13 wasted years". If he can be so passionate about a reforming Government, I would hate to see the state that he might be in if there happened to be a non-reforming Government. Of course, between 1979 and 1987 the noble Lord was a distinguished Member of the other place. I am sure that he must have taken a great interest in these matters and I wonder what his response was then to a non-reforming Government. I do not think that this is likely, but if by any chance there was to be a Conservative Government in the next five years, I wonder what his attitude would be to them. My feeling is that he would not be as hard on them as he is on us, even though we have been a reforming Government of the first order.

The Government have brought forward major reforms to the constitution, including to your Lordships' House. The House has played a key role in these reforms, passing many significant pieces of legislation put to it since 1997. The Government have made a reality of devolution. I thought that the noble Lord, Lord Alderdice, was uncharacteristically churlish about the motivation for devolution, although what he said may have been tongue in cheek. We made devolution a reality in Scotland, Wales and Northern Ireland and we established the London Assembly. I was a little surprised at the comment of the noble Lord, Lord Wallace, that we have not spread power. Whatever the motivation may have been, no one can deny that the devolved areas have more power

now-it may not be as much as they would like-to conduct their own affairs than they had when we came to office in 1997.

The Human Rights Act has been mentioned. We have embedded that into United Kingdom law. We have created a new Supreme Court, separating the highest appeal court from Parliament. We passed the Political Parties, Elections and Referendums Act 2000, which created the Electoral Commission and introduced

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a comprehensive regulatory regime for political party and election finance. That Act also set a framework for the conduct of referenda. Further legislation last year strengthened the Electoral Commission better to equip it as an effective regulator, along with other reforms. We have created the Freedom of Information Act, a fundamental measure necessary for increasing the transparency of government-it is sometimes embarrassing to government but it is none the worse for that-therefore reinforcing the ability of concerned citizens to hold this and any future Government to account.

Of course, the noble Lord, the Lord Tyler, would have liked us to have gone further, but I think that he would have to agree that it is a simple and undeniable fact that we are in a different world following this programme of reform. Indeed, what we have achieved has been described by Professor Vernon Bogdanor as a "quiet revolution"-it is quite a well known phrase now. I refer also to a *Guardian* leader of 19 October, which said that we should,

"look at the last 12 years. Labour's dispersal of power, had it been set out as a blueprint, would have appeared revolutionary".

I think, therefore, that noble Lords should just calm down a bit when they consider whether this has been a reforming Government. Of course, noble Lords want more, but they have had a great deal already and there will be plenty more in the next five years, too.

The past nine months have seen the passage of the Parliamentary Standards Act-vital legislation necessary for the creation of an independent body outside Parliament to oversee allowance schemes for Members in another place. They have also seen the introduction of the Constitutional Reform and Governance Bill, currently in Committee in another place. That Bill includes measures that will help to rebuild trust in our democratic and constitutional settlement by reinforcing the principles of probity, transparency and accountability across government. Each part of the Bill contributes to this wider programme of reform. Important amendments to that Bill have recently been tabled to give effect to our commitment that the recommendations of the report on MPs' expenses and allowances by the Committee on Standards in Public Life should be implemented.

It is important, too, that the Government have now committed to holding a referendum on the alternative vote system early in the next Parliament. I have to say that I am rather more Plant and Rennard than I am Rooker on this point. The Government consider it a crucial step and we hope and expect that the preparations for such a referendum will do a great deal to help the engagement of society in the political process. When a referendum should be held and the merits of various electoral systems are not simple matters. I want to make it clear-there was some doubt on the matter, as the noble Lord, Lord Rennard, was asking me about it-that following considerable reflection the Government have committed to holding a referendum on the alternative vote system early in the next Parliament.

Alternative voting offers voters the chance to express as many preferences as they wish. Where a candidate does not have majority support, these further preferences can determine the outcome. Under AV, therefore, MPs

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will have broader support than under first past the post and we should see more MPs elected with support from a majority of voters. We believe that the system is the best way to increase the electorate's stake in their representative, encouraging parties and candidates to reach out beyond their core support while crucially maintaining the essential link between an MP and a single geographical constituency. Speaking personally, I think that that is the most important principle of all.

So far I have mentioned the Government's initiatives and plans, but there is another, equally important, aspect to political and constitutional reform, which was referred to by many noble Lords in this debate—the noble Lords, Lord Butler and Lord Luce, and the noble Baroness, Lady Murphy, among them. That is reform of Parliament itself. It is the same issue but slightly different. It is a very important issue, although perhaps one that the country understands the least, because it seems so far upstream. I speak of reforms to the procedures and internal workings of this House and of another place.

The report produced by the committee chaired by the honourable Dr Tony Wright has been mentioned frequently in this debate. I am pleased to say that the Leader of the House of Commons has announced that time will be made available on 23 February for Members in another place to debate that important report. We are keen to continue the reforms by taking forward the recommendations contained in the report of the Wright committee, which the Prime Minister of course set up, but the Government's preference is for these reforms to be agreed on a widely based consensus and taken forward as soon as possible. We are committed to providing time for a debate next month and are proposing 21 specific recommendations for implementation. The report was wide-ranging but not unanimous; indeed, the report from the Liaison Committee of another place showed that there is not unanimity. It is not a question of the Government against the wishes of the other place; we are facilitating the House with an opportunity to come to decisions on it.

**Lord MacLennan of Rogart:** Is the Minister suggesting that there will be an opportunity for another place to vote on these 21 proposals seriatim or in any way, or is he saying when he speaks of consensus that they will go through on the nod if no one objects? If the latter proposition is the case, it must be an impossible hurdle for the other place to effect reform along the right lines.

**Lord Bach:** I have gained as much information as I can while sitting here on what was said this morning. I do not want to mislead the noble Lord or the House. I understand that the 21 recommendations will go before the other place; for those that are objected to, the Government are committed to bringing them back to the House in the form of amendable resolutions. My right honourable friend the Leader of the other place said:

"At the point at which they are amendable, any recommendation from the Wright Committee's report can thereby be attached".

I do not think that I should say any more about the noble Lord's pertinent question.

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As for reforms of this House's procedures, the noble Lord, Lord Butler, and others made a strong plea that the equivalent of the Wright committee should be set up here. My reply, I am afraid, is perhaps more "Yes Minister" than it ought to be: it is a matter for the House authorities-I mention to the noble Baroness, Lady Murphy, that they are not quite the same as the usual channels-whether a similar review should be carried out in this House. There is clearly quite a lot of feeling that it should be.

**Lord Butler of Brockwell:** My Lords, will the Minister explain to a rookie what the difference is between the House authorities and the usual channels?

**Lord Bach:** As I said that, I realised that I had probably made a mistake that the noble Lord might well come back at me about. No, I cannot explain the difference. I am sure that, with his experience, he will understand that there probably are some subtle differences, but they are well beyond me.

Comments were made about when provisions of the Political Parties and Elections Act 2009 will be commenced. The noble Lord, Lord Tyler, was particularly annoyed about the provisions not being brought in in due course. I have to point out that that matter, which was discussed by both Houses, was very complicated and we made it clear during the passage of the Bill that it would not be commenced before summer this year. What are the problems? We need to consider further precisely how the system would be enforced, how individuals would verify their tax status, and the roles of the Electoral Commission and Her Majesty's Revenue and Customs. He will know, though, that there is now an amendment down on the CRAG Bill-not the same amendment, of course, as the provision has already passed into law-that deals with the issue of deeming taxation in Parliament.

I shall deal with a couple of points that were made in relation to the Prime Minister's *Governance of Britain* commitments. I have a list of the 12 areas where the Prime Minister, in his speech in the other place on 3 July 2007, pledged to give up executive powers. It would take up too much of the House's time to read it out but there has been progress on practically every one of those 12 pledges, and we as a Government can be proud of the fact that they are being put into effect.

The noble Lord, Lord Wallace of Tankerness, asked about devolution. He served with distinction on the Calman commission. We think that devolution has been a great success for the past 10 years. We want to make it better and more accountable. Our proposals will set out a new deal. We are committed to bringing forward a single piece of primary legislation as soon as possible in the next Parliament to ensure that people in Scotland have robust legislation, grounded in proper analysis, to deliver this enhanced devolution. As the House will be aware, the Calman recommendations were designed as a package and are being treated as such. Our feeling is that any attempt to cherry pick a small number of recommendations while simply dismissing the vast majority of proposals ignores the deliberations of the commission, evidence-based as it was, and disregards the need to ensure that these recommendations are carefully and coherently introduced.

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With regard to Wales, my noble friend Lord Morgan asked what view the Government took of the Jones Parry commission. I argue that we have proved our commitment to devolution in Wales. The Secretary of State for Wales and the First Minister have been working closely together over the past weeks as discussions have continued about a referendum. I understand that the First Minister will be laying a Motion in the Assembly on 2 February to be debated on 9 February. We believe that devolution has also been a success in Wales up to this point.

Among the points that other noble Lords made, the noble Lord, Lord Greaves, made one about local authorities and the importance of town councils. I am proud that I was a mayor of a town council some years ago. It is a very useful unit of local government, in my view. There was the attack, if I may put it like that, in beautiful language from my noble friend Lord Harrison on the role of the Bishops in this House. That was a marked feature of his speech, on which I do not intend to comment. The noble Baroness, Lady Murphy, made her equally articulate attack on the usual channels, while the answer to my noble friend Lord Grocott has to be yes. I dare not say anything else.

In all, this has been a very good and timely debate. It will be interesting to see whether this debate is remembered and acted on after the election. We have put in place major electoral and constitutional reforms, but our work is not completed. There should not be constitutional change for constitutional change's sake, but it must never be off the agenda and it is certainly not off ours. In this House, we have the power to debate and review the ways in which we work and make proposals to ensure that they are most effective. Today's debate has moved us forward by giving us the space to reflect carefully and consider the views of our peers. I thank all noble Lords who have taken part, particularly the noble Lord, Lord Tyler, who introduced the debate.

**4.46 pm**

**Lord Tyler:** My Lords, I cannot attempt to respond to such an interesting and wide-ranging debate in just a few minutes, but there are one or two issues that I must address very briefly. First, the noble Lord, Lord Luke, asked about the views on these Benches of the issue of the so-called Salisbury/Addison convention. I must refer him to the Joint Committee on Conventions, of which I was a member; paragraphs 105, 107, 109 and 115 are where our attitude is set out in full. I entirely endorse that, and I hope that that deals with that matter.

I want to be absolutely certain, but I think that the Minister said, in his very interesting response—and I am grateful to him—that the Government intend to legislate to hold a referendum in the next Parliament on the issue. Is he shaking his head? Am I to understand that that is not the case?

**Lord Bach:** I did not say that.

**Lord Tyler:** Well, my Lords, that puts us in a very difficult position, because given what has been said on all sides of the House about the value of manifesto

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commitments—and bearing in mind our experience in 1997—I fear that there are major questions still arising from that issue.

This has been a very wide-ranging debate, and I could not expect the Minister to respond to all the points made, but I hope that the Government will look very carefully indeed at *Hansard*. That is because from all parts of the House there have been really serious contributions on what I regard as

a major issue-even if the noble Lord, Lord Grocott, does not-which is the confidence of our fellow citizens in how we operate. I hope that the Minister will therefore look at that again.

From the very interesting speech made by the noble and learned Lord, Lord Carswell, whom I welcome very much to our deliberations-he has obviously had time to examine them with some care-it sounded to me as if he thought that some of my colleagues were dangerous radicals in a great rush. His cautionary tone was very appropriate, but I am reminded that Mr Gladstone was attacked for being an old man in a hurry. Somebody told me today that once you are over the hill, you can accelerate. Well, some of the issues that we have been addressing today have been around with us for many years, and if ever there was something that might be a useful motto for this House, it would be that we could accelerate before this House or, indeed, its individual Members are over the hill.

What I thought particularly interesting in the contribution of the noble and learned Lord, Lord Carswell, was his reference to evolution, evaluation and experimentation. I may be paraphrasing what he was saying about not rushing into things. One of the great experimentations undertaken, over many years, has been the use of the single transferable vote in Northern Ireland, which has been an unqualified success in making sure that people feel that, in that multi-party context, they have a representational system that they can accept. It has gone through some difficult times during the Troubles, but the three 'e's in that context-experimentation, evaluation and evolution-are appropriate to today's discussions. As I set out in my opening speech, there is a real danger that we could end up with a curious result from the coming election: a Conservative Government which is really only a southern England Government. That would be a problem.

With those few words, and with grateful thanks to all who have contributed to the debate, I beg leave to withdraw the Motion.

*Motion withdrawn.*