



# HOUSE OF LORDS

## THE LORD SPEAKER'S LECTURE TO THE HANSARD SOCIETY

The Robing Room, House of Lords

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### **“Ermine, ethics and engagement – evolution in the House of Lords”**

At the height of the global economic meltdown, Rahm Emmanuel warned President Obama not to risk letting “a serious crisis go to waste”. Well, we have had a serious crisis of our own in Westminster this year. In the toxic political climate created, reactions have seemed incoherent and unconsidered. Some would argue, more focused on party political interests than on the future of Parliament, and that we have actually made the situation worse, rather than taken advantage of the opportunities for constructive change.

To say that we need to rebuild public trust and confidence in Parliament has become a cliché but that doesn't stop the task being one of overwhelming importance. Tonight, I want to talk about that task from the House of Lords perspective – about what has been achieved so far, (and I'd argue that that has been a great deal), and about what still needs to be done. But first I think it must be recognised that it is not only external confidence that has been undermined. The firestorm of public contempt unleashed when both individual and institutional behaviour has been put under scrutiny and found wanting has also damaged Parliament's confidence in itself.

And if we are not only to survive this crisis, but to come out of it stronger, we need to tackle the task of rebuilding confidence within Parliament as well as externally. Parliamentarians are deeply demoralised. The majority have not been individually at fault and there is indeed an element of collective punishment at work. But then there has been an element of collective failure in our neglect to address the systemic flaws and weaknesses which have been so clearly exposed this year. Why we need to have that confidence rebuilt is not simply a matter of applying emotional arnica to soothe badly bruised political egos. Rather we need self-confidence to adopt the steely determination necessary to put our own Houses in order, to sort out the mess in which we are now mired. And to do that, we need – to return to Obama – a belief that “yes we can”.

The key, I would argue, lies in taking control of our own destiny. In proving that the self-regulation which is so fundamental to parliamentary democracy can be made to work in line with 21<sup>st</sup> century expectations of openness, transparency and accountability. In a brilliant maiden speech in the House of Lords two weeks ago, Jonathan Sacks, the Chief Rabbi, spoke of the necessity of ‘keeping faith with our past whilst honouring our obligations to the future.’ Achieving that balance in an institution as old, and as steeped in tradition, as the House of Lords, is a real challenge and pervades the issues I am talking about tonight.

Let me start with the change in the ethos and ethics of the House brought about in turn by changes in the membership which began in 1958 with the Life Peerages Act and accelerated in the decade since the 1999 House of Lords Act.

First and most obviously, these changes – the departure of the hereditary peers, the 282 new appointments over the last ten years - have brought a greater sense of professionalism to the House. That absolutely does not mean that we are now a House of professional politicians. Indeed, one of the greatest strengths of the Lords, [and one of the reasons that I believe those who understand the House are so positive about it], is the fact that so many members are NOT party politicians. The experience and expertise here is deep and diverse and goes far wider than conventional politics. What I do mean by professionalism is a more workmanlike approach to the legislative role, which brings with it the sense of expecting support to enable one to do the job well – of proper induction, of offices, of IT equipment. And of governance arrangements which are responsive to members' needs.

The other change comes from the fact that membership is no longer as it was in the past, literally a birth-right. That pre-ordained passport to Parliament no longer applies, and the disappearance of that sense of the right to be here puts added emphasis on a culture of responsibility being integral to membership of the House.

This cultural change was very clearly articulated in the Eames Report, debated and agreed in the Lords a week ago. Lord Eames had chaired a group looking at the code of conduct for members in the wake of the episode last year when four members of the House were accused and two found to have broken the House's rules in relation to paid advocacy. Even under the old system, the House found a way both of having a thorough investigation of the allegations and, drawing on a centuries-old precedent, suspending the Members concerned. But it was also obvious that we needed to re-examine all our arrangements in relation to conduct and make sure that our rules were clear and defensible – 21<sup>st</sup> century proofed. To ensure that they did not inhibit the contribution of members with current external experience - which really would have been to undermine the whole basis of this House - but did give public assurance of the propriety of the behaviour of members.

Significantly, the new code of conduct that has emerged from this process, starts off with a description of the role and functions of this House as a Parliamentary chamber and with the explicit expectation that every member should contribute to its work. It then sets out the ethical principles, as well as the specific rules, that should guide Peers. Over-arching all else is the commitment that members should always base their actions on consideration of the public interest – and personal honour. Each member is to be required to sign up to the new code when they join the House, and again when they are sworn in at the beginning of a new Parliament.

But, honouring the Chief Rabbi's precepts, whilst the mechanics may be new, the principles are not. Every day in the Parliamentary prayer read in the House before we start our work, there is a collective undertaking to "lay aside all private interests, prejudices and partial affections". As the Report put it, "this House does not need to invent new principles, but to reinvigorate old ones" and in Onora O'Neill's wise words to be "heavy on focus". The code does not try to legislate in detail for every particular circumstance, not least because the defence of 'what I did wasn't against the rules' has become completely devalued – today's equivalent of "only obeying orders" - and something that the public has found most difficult to swallow from Parliamentarians.

Crucially, the Report recognised that if self-regulation is to survive and flourish in the future, it has to be commensurate with the environment and expectations of Britain in the 21<sup>st</sup> century. And that involves an element of external validation. So for the first time this House is to have an independent Commissioner for Standards with the responsibility of

investigating complaints against members - not only of breaches of the code of conduct - but also a range of other issues, significantly the rules governing financial support available.

That financial system – the missing e-word in my title, ‘expenses’ - has been the other area of controversy this year. There have been specific allegations of misbehaviour against a small number of members and a much larger sense of unease about the system as a whole, which has undermined the reputation both of the House and of individuals. The current system has evolved over the last fifty years in a series of small ad hoc steps rather than through any coherent design. It is now manifestly unfit for purpose, having failed to provide any clarity over what has constituted reimbursement for actual expenses and what was an allowance, and having been regulated with the lightest of touches. The system was an accident waiting to happen and happen the accident did.

In the past a variety of forces had militated against change. The system was simple, cheap and easy to administer involving little bureaucracy. The argument was made that there was no point in undertaking the difficult task of devising a new system for what was seen to be a transitional House. We were all always waiting for the Government Godot of comprehensive reform of the Lords that has been “just around the corner” since 1911. Next year it will be a century since that reform was first promised. Surely, as David Steel recently remarked, the only time in history that a political pledge has qualified to receive a congratulatory telegram from the Queen.

But all those arguments for doing nothing disappeared this year with the scrutiny to which the scheme, and every member of the House who has used it, has been subject, and in the wake of the expenses debacle in the Commons. This House recognised in May that the system was not sustainable and we took action. We commissioned the Senior Salaries Review Body to report. They have now done so and their conclusion said simply what I think we knew in our hearts: that ‘the previous system did not meet the standards of governance, precision and transparency now demanded for the use of public funds’.

For many members, I know, the changes in the new scheme pose great difficulties and that they feel the pendulum has swung too far from under-regulation to over-prescription aimed against those who work very hard for no salary. But I hope members will also see that the new scheme gives us the opportunity for a new start, and is central to protecting the reputation of the House as a whole, as well as that of individual peers.

I would emphasise again that if self-regulation is to be acceptable and meet the challenges of 2009, it must involve an engagement with the outside world. We must demonstrate that self-regulation doesn’t mean no regulation, it doesn’t mean ‘soft’ regulation, and it doesn’t mean regulation solely by members in the interests of members. I believe it would be fatal to this institution if we retreated into our gilded bunker and ignored the views of those outside - even, challengingly, when we feel they are unfair - whom we serve through our work and who fund us to do so. Like it or not, the whole political class has been tried in the court of public opinion and found wanting. Regardless of our view of the role of the media in all this, we have to show that both corporately and individually we understand what has happened - that we actually do “get it”.

I believe it’s essential that the House next week accepts the recommendation from the leadership on all sides; that we act speedily on the SSRB report in order to implement a completely new system in time for the new Parliament.

But we do need to look at the detail very carefully both before and after implementation. One of the dangers of new arrangements both in the Commons and in the Lords is that in our desire to tighten financial controls, we drive from politics those who do not have private incomes. We do not want a House of Lords in which only the retired or the independently wealthy can participate. So monitoring the effect of the new system and involving the House of Lords Appointments Commission in that monitoring and a thorough review is in my view essential. One of the strengths of the House in its current form has been the increasing diversity in its current membership. We simply must not, to strangle metaphors, throw out that particular baby with the bathwater in which our dirty linen has been washed.

I have spoken so far this evening on the areas of internal governance where we are taking steps to rebuild trust and confidence. And that absence of that trust and confidence is a feature of the current disengagement of the public from Parliament could only be denied by those who haven't read a newspaper or turned on a television during 2009. But we have to keep some sense of historic perspective. Politicians have seldom been loved or come top of the pollsters' "most trusted professions". You only have to read Tristram Hunt's piece in the Guardian today, on the horrific reputation of Parliament in the early nineteenth century, and what John Russell described as, "the growing want of confidence in public men" when introducing the first reform bill in 1831, to know that Henry Kissinger spoke for generations of sceptics when he commented, "It's 90% of politicians that give the other 10% a bad name".

But no-one could say the current situation is a comfortable one. And that nineteenth century outrage resulted in the seismic change of the 1832 Reform Act. Those of us born in 1948 and '49 are told we are the golden generation – the beneficiaries of the Beatles and the Pill, and the death of deference. But, in the still of the night forty years on from the swinging 'sixties, I suspect I'm not alone in wondering whether that deference has been replaced by a cynicism so corrosive that it runs the risk of destroying institutions and values, for individuals and for institutions, which are central to our liberal democracy; and in preferring a world where respect is a possibility, and where respect is given when it has been earned - where journalists' default position is not always and automatically 'what is that lying bastard lying to me about tonight?'

And if I ask myself how Parliament could legitimately earn that respect, my answer is that putting our internal House in order – on conduct and expenses - is absolutely necessary but absolutely not sufficient. We also have to find ways of doing our job as Parliamentarians better. And to put more effort into engaging with the public about what that job is, and arguing our case that it is central to a functioning democracy. It is ironic and a little depressing that at a time when Parliament has put more resources than ever in its history into communication with the outside world, it is still such a struggle to connect. There is a tremendous amount going on and as the House of Lords Information Committee Report, "Are the Lords Listening" showed, plenty of new proposals fizzing around. Yet despite all the initiatives and innovations, all the effort, all the expenditure, all the new media gizmos, we actually have a greater disconnect between public and politicians than I can ever remember in forty years in politics.

It's not simply a result of the expenses furore. Underpinning public anger is, I believe, a diminished sense of what Parliament is and what it is for. A vague but persistent feeling of under-performance. The 'what did the Romans ever do for me?' question. I suspect this may reflect the combined effect of a decline in shared constitutional understanding and the

predominance of governments with large majorities since 1979. This has led to a blurring in the public mind between Parliament and Government. And this is where we need the help of the Hansard Society and others in this room tonight, to recreate an understanding of the difference between the executive and Parliament. A large part of what I mean by doing our job better is about both Houses being more assertive and explicit in our job of holding the executive to account. Tony Wright's strengthening Parliament committee in the Commons has in its recent report, "Rebuilding The House" adopted this approach, setting out a series of proposals aimed at creating "an effective and vital House of Commons, improved by stronger accountability, that is also the best antidote to the disengagement and anti-politics that characterises our age".

In the Lords we also have no shortage of good ideas as to how we could up our game. Many were apparent in the recent debate on the Queen's Speech when Robin Butler, Jeff Rooker, Bruce Grocott, Paul Tyler and others came up with a range of proposals:

- The use of Select Committees for all bills that start their life in the Lords
- The certification of bills leaving the Commons of which parts had not received any scrutiny;
- A new role for the Lords in undertaking post legislative scrutiny;
- For sharpening up Question Time and for new Select Committees on regulators and on treaties;
- We are adopting proposals for new formats for holding Lords' Secretaries of State to account – an issue also being explored by the Commons.

And members here, too, are interested in taking more control over the agenda of the House. What we need now, I believe, is to take up the idea that has been put forward for a committee of our own, so that we can take a comprehensive and coherent approach to our own 'Strengthening Parliament' agenda. Many will say that we already do as good a job as any second chamber in the world, scrutinising legislation, holding government to account, playing to the strengths of our expert and diverse membership in committee and enquiry. I am proud of the performance, but this is not a time for resting on our laurels. Rather it is a time to meet Roy Jenkins' aspiration of, "rising to the level of events".

And in taking on that aspiration, we need to explore how we achieve a bicameral approach. Parliament comprises two Houses and we need to look at ways in which we can complement and add value to each other's work, not just providing checks and balances. When one House changes its way of working, it has an effect on the other – timetabling of legislation in the Commons leading to the Lords taking on its line by line scrutiny role, is a prime example. Close working between the Commons and the Lords needs to go beyond the current joint committees. Too often, relations between the two Houses are not an example of creative tension, but simply a failure to take a whole Parliament approach.

Sometimes the Palace of Westminster feels divided into colour coded territories, inhabited by rival gangs, though whether we in the Lords are the Sharks or the Jets, I couldn't say. Some of this is down to a lack of mutual understanding. While it is hard to escape knowledge of the Commons in the Lords, where many members have come from the Lower House, the same is not true of the green benches. I think there is a real opportunity here, when we see large numbers of new members coming into the Commons after the

next election. I know the Hansard Society is to be involved in the induction process of those new MPs and hope very much to ensure that the work of the Lords will be included in that induction, as the basis for a more productive relationship between the two Houses. Improved induction, and indeed our current joint committee work is a start, but beyond that we need to look at mechanisms to ensure the two Houses work together on strategic issues affecting Parliament as a whole.

Another part of this agenda of doing our job better relates to public engagement. Unless the public understands what we're meant to be doing and what we are actually doing, it will be hard for them to feel confidence that we are doing it well.

Public engagement has become one of the motherhood and apple pie aspirations of the last few years. Perhaps we need to be a bit more precise about what we actually mean by the phrase, "public engagement". There is better information for the public, (perhaps the simplest task to tackle) with a huge amount available and accessible and the Parliamentary website key, with important developments like the BBC's *Democracy Live* site which we launched in the House of Lords last night. Then there is interaction with the public – Select Committees meeting outside London, inquiries holding online consultations, YouTube videos and Lords of the Blog – and I'm sure someone in Parliament, although not in this room, I hope, is tweeting somewhere, even as I speak.

Then there is the much more thorny issue of public influence and participation. A delicate area in which to tread where I think we need to be much clearer about what expectations can be fulfilled before we raise them; perhaps more robust in our defence and explanation of representative democracy.

And in all of this public engagement work, we have to evaluate and make sure that we don't just make, in Mr Speaker's phrase, "the super informed" into the "über-super-informed". The recent Hansard Society Report into Parliamentary engagement and participation is worth reading in full. Its conclusion that the public's views on political engagement and participation are 'complex, sometimes contradictory and rarely uniform' is a salutary reminder that it is not clear exactly what needs to be done.

Interestingly, the two proposals that emerge most strongly from that report are education in schools about Parliamentary democracy and a petitions committee – where I think we should explore the possibilities. Petitions have a long history, but that history has always involved eliciting a response from Government. Perhaps we in the Lords could look at how we could deliver a response from Parliament – giving the public, as well as Parliamentarians, a chance to set the agenda.

Finally, a word on composition, not the traditional elected / appointed debate, but the issue of length of service. The honour of a life peerage is for one's lifetime. But with the membership of the House currently at 740 and with the potential to rise to over 800 after the election, we cannot avoid the question of the size of the House. That means we have to start asking whether, for the Parliamentary legislative aspects of a peerage, the job of being a legislator, life should always mean life.

I spoke before of the greater sense of responsibility the House was developing about the contribution that members were expected to make. Frances D'Souza, Convenor of the Cross-bench Peers, took up this theme and related it to the issue of non-attendance in her contribution to the debate of the Eames Report. She asked if we needed to create a culture where members felt they should retire if they could not make a contribution to the work of

the House. Of course, retirement has not been a possibility in the past – although people could take leave of absence. But the Constitutional Reform and Governance Bill proposes to change that and introduce such an ability to retire - alongside the possibility of expelling members who have criminal convictions or who have grossly abused the code of the House.

It might be that over time, a culture developed in which there was an expectation that those who could not make a full contribution, [and I don't mean that to be a full-time contribution, but a contribution appropriate to their circumstances], should retire. And we could explore the proposal by Lord Harries of Pentregarth (who, as a retired bishop, has some actual experience denied the rest of us and was a member of the Wakeham Commission). He suggested fixed term appointments for "Parliamentary peers" which could reduce the size of the House in the future. That might also help with the problem of what happens to the front bench goats when they become back bench sheep.

For too long I would argue, a range of issues has been kicked into the long grass until the day of all-singing, all-dancing reform. This approach has not served us well on expenses and it doesn't serve us well in this area either. In line with my theme of shaping our own destiny, we should now take a close look at the Constitutional Reform and Governance Bill and the opportunities it offers the House to progress.

I finish where I began with the turbulent and destabilising political ecology of 2009. I have outlined some of the steps we have already taken in the Lords to address the failings of the past – both individual and institutional, and the work we still need to do to build a stronger and more effective Parliament.

It will take, I suspect, the symbolism of an election and a new Parliament for the public to accept that change has really happened. But whether that symbolism, that sense of a fresh start is sustained will depend on the quality of work we put in now to re-invigorate our Parliament. The great danger, I believe, is that the historian of fifty years hence will reach the judgement that it was on our watch that the reputation of British Parliamentary democracy was damaged beyond repair. Professor Peter Hennessy said to me that at the height of the horrors, he had gleaned some small comfort from the fact that the British public on this subject was still shockable. To his mind that meant that the reputation of Parliament was still redeemable. If we are to achieve that redemption, there is much work for all of us to do in the months and years ahead.

The Rt Hon the Baroness Hayman

Lord Speaker

