



## HOUSE OF LORDS REFORM

At this stage, seven years into the third millennium, the majority of members of this Association probably feel that the House of Lords and its further reform are now matters of only passing interest. Nevertheless it seems that it is very much back on the Parliamentary agenda, or rather it did so until the Lords and Commons voted in opposite directions. The Commons, having voted for a totally elected Upper House, or, alternatively, an 80% elected one as second choice, passed Jack Straw's White Paper up to their Lordships. The latter voted overwhelmingly for an all-appointed House. Pause for thought and maybe quite a long pause! It is difficult to imagine that the Prime Minister in his remaining term of office will wish to bring about a serious confrontation between the two Houses or that Gordon Brown, if he is to be the new Prime Minister will see the matter as an early priority for his administration.

One thing that seems to emerge from all the discussions is that the voting system by which the hereditary peers remaining in the House since 1999 are replaced, is likely to come to an end fairly soon. The original thinking was that the right for 92 hereditary peers to remain in the House and be periodically replaced by by-election was a quid pro quo for accepting the 1999 settlement and that such an arrangement was intended to endure until the Government put forward a universally acceptable plan for a fully reformed House. The difficulty of course is to determine at what stage the House could be said to be fully reformed. No doubt reform of the, or an, Upper House will continue over the centuries and it will be impossible to claim that any particular change in the formula for the composition and powers of the House (Senate, or whatever) or particular moment in time will represent a 'fully reformed' House. The by-election system for replacing hereditary peers should therefore in logic endure indefinitely. This is unlikely however. The Government wants to see it go and even the hereditary peers remaining in the House seem split between those who feel the maintenance of the replacement vote is an article of faith and those who feel it should be allowed to lapse (the 'I'm alright 'cos I'm in' brigade).

The debate will no doubt continue but in the meantime, our congratulations must go to the Earl Cathcart as the winner of the latest Conservative list by-election.

## IN MEMORIAM

That by-election was the result of the sad death of Lord Mowbray, Seagrave and Stourton. Charles Mowbray was one of the more flamboyant and entertaining members of the House. After war service in the Grenadier Guards, he pursued a long parliamentary career, serving as Conservative Deputy Chief Whip and as a junior Minister. His other interests included business and heraldry. He will be greatly missed by us all. He is succeeded by his son, Edward.

Also since our last Newsletter, we have been informed of the death of Lord Strathcarron who was a leading advocate of the motor industry both within and outside the House and is succeeded by his son, Ian.

## THE RIGHTS OF PEERAGE

The delay in producing this Newsletter was partially occasioned by the White Paper and its attendant Lords and Commons votes but also in the hope that an excellent paper entitled "Peerage Privileges since the House of Lords Act 1999" by Dr Noel Cox, Professor of Law at Auckland University and visiting Fellow at Wolfson College, Cambridge would achieve publication so that it could be recommended as mandatory reading to your Lordships. Sadly, Dr Cox has not yet published it and to do so in this modest Newsletter would both give it too narrow a circulation and stretch our modest publishing resources.

Nevertheless, Dr Cox has been kind enough to say that the paper may be copied to any member of the HPA who would like to see it. In the meantime, an attempt is made herein to highlight one or two aspects, which emerge from the paper. In it Dr Cox sets out the Privileges of Peerage tracing their origins and evolution up to the passing of the House of Lords Act 1999, which effectively, for the vast majority of hereditary peers, removed those privileges which related to membership of the

House, essentially similar to those of membership of the House of Commons

While hereditary peers retain the right to use the style and dignity that goes with the original grant of their peerage, Dr Cox asserts:

In many respects the most important privilege of peerage remaining – if not, in fact, the only one (we of course exclude here the parliamentary privileges available to members of the House of Lords) – is perhaps also the least understood. It was generally accepted that peers, being the hereditary counsellors of the Sovereign, have freedom of access to the monarch in relation to public affairs. Members of the House of Commons enjoy this right collectively, but only those individual members who are Privy Counsellors or members of the Royal Household enjoy it individually. This privilege is not, for peers, a parliamentary privilege, but a privilege of peerage. It is also unaffected by the House of Lords Act 1999, and arguably would survive the final expulsion of the remaining hereditary peers (or even life peers) from the House, since it is unrelated to membership of the House of Lords.

Dr Cox goes on to say:

It is probably difficult to be sure what the precise scope of this privilege is, but it would appear to allow individual peers the right of access to the Sovereign. Eldon thought that peers could only tender advice, not, as of right, carry an address or petition to the Sovereign. In practice, an audience must be sought through an officer of the Royal Household, but there would appear to be a strong argument that such a request should not be declined without good cause to do so.

Dr Cox goes on to mention a number of minor privileges. These include special positions in the order of precedence, the right to certain distinctions in their coats of arms, to wear coronation and robes, and of course to use the style and titles of peerage, but he makes the point that these are not legal privileges in the same sense as exemption from jury service for Parliament. Dr Cox however asserts:

There is one exception to this, however, where a “minor” privilege actually reflects the constitutional role of the peerage, and which may indeed be said to be an example of the right of peers to have access to the Sovereign. This is the right to attend a coronation. This remains a very great privilege, and one that, like the privilege of being hereditary counsellors to the Sovereign, would appear to be distinct from the right of membership of the House of Lords – indeed it predates the House, and Parliament itself, by many centuries. This privilege is one which may well be challenged in the not-too-distant future. The coronation of our next Sovereign can realistically be expected within the next two decades.

Attendance at a coronation is dependent upon invitation by the Earl Marshal. However, for some seven hundred years a Court of Claims has been held to hear petitions relating to attendance and service at coronations. Indeed, at an earlier stage, a new Sovereign is proclaimed by the Accession Council, which although ephemeral, is one of the oldest institutions in the kingdom. This comprises Lords Temporal and Spiritual, the Lord Mayor of London and many others by long-standing custom if not strict right. It would be dangerous to exclude hereditary peers from such a body merely on the assumption that, as former members of the House of Lords, they had no further constitutional role. This may be true, but for the sake of constitutional legitimacy, it is a dangerous assumption to make.

Certainly there would be many peers who would petition the Court of Claims for an invitation to a coronation, and it is doubtful that the Court could rightly exclude them. Aside from the Archbishops and Bishops, the peers have been the most regular participants in the coronation service for a thousand years – and arguably not in their legislative capacity.

As members will be aware, the principal purpose of this Association, as defined in Article 3.(ii) of its Constitution is:

To identify the remaining rights and dignities of the hereditary Peerage and to establish the means whereby any attempt to diminish these rights and dignities can be defeated.

It is with the aim in mind of defending the right of peers particularly to attend future coronations, that the funds of the Association have been built up (see the Financial Statements below).

Finally, Dr Cox makes the point that peers are hereditary councillors of the Sovereign and that this role is not connected to the right to sit in the House of Lords. Historically, Sovereigns have summoned peers to the Magnum Concillium (the last time was in 1640) but such a council is still arguably one of the great Councils of State. To attend such council is a privilege of peerage and not a privilege of Parliament. The revival of the Magnum Concillium might provide a modest basis for a formal manifestation of the continuing link between the Sovereign and her now non-parliamentary peers.

### ROLL OF THE PEERAGE

Members may be interested to know that approximately 77 new peers have been added to The Roll of the Peerage (or have proved their titles) since November, 1999. The list of new peers will be published shortly on the website at [www.hereditarypeers.com](http://www.hereditarypeers.com).

Members are asked to encourage any new hereditary peers of their acquaintance who have not yet established their succession with the Department of Constitutional Affairs and been inscribed on the Roll, to do so. Advice on the procedure is available on the Association's website.

### SUBSCRIPTIONS

While there is to be no change to the annual subscription of £15, certain members have enjoyed varying subscription holidays by virtue of having made large founding donations to the AHP, one of the two original bodies which were merged to create the HPA (the other being 'TOPs'). The number of years holiday is roughly based on the formula Original Donation divided by 15, plus 1. As subscription holidays progressively end, the

Association will send out Bankers' Orders for future subscriptions to the relevant members, and hopes that it can count on their continuing support.

### EMAIL ADDRESSES

The Association is particularly keen to be able to communicate with its members by email and the Hon Secretary would be most grateful if all members who have email addresses could refresh the Association's records by sending an email to [secretary@byng.net](mailto:secretary@byng.net) with HPA in the subject line and just their name in the text.

### SOCIAL

The Association continues to hold a regular lunch at 12.45 pm on the last Tuesday of each month at the Boisdale Restaurant in Eccleston Street, London SW1. Attendance is open to all members who may bring a guest provided the guest is either another hereditary peer or heir to a peerage. The Association also invites official guests from time to time. Members wishing to attend lunches may do so without prior notice but are requested if possible to call 07785 282436 a day or two beforehand indicating their intention to attend. The cost, including drinks is about £32. Attendance has recently ranged between 3 and 16 attendees.

Details of intended official guests are published on the Associations website at [www.hereditarypeers.com](http://www.hereditarypeers.com).

### FINANCIAL STATEMENTS

#### INCOME & EXENDITURE ACCOUNT Year to 30<sup>th</sup> April, 2006

	2006 £	2005 £
Income		
Subscriptions	1,185	1,320
Interest	88	80
Other	0	0
	-----	-----
	1,273	1,400
Expenses		
Entertainment	165	0
Administration	85	326
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	(250)	(326)
	-----	-----
Surplus	1,023	1,074
	=====	=====

BALANCE SHEET  
Year ended 30<sup>th</sup> April, 2006.

	2006 £	2005 £
Surplus Brought Forward	12,264	11,190
Surplus for year	1,023	1,074
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Accumulated Surplus	13,287	12,264
	=====	=====
Represented by:		
Cash at Bank	13,537	12,264
Liabilities	(250)	0
	-----	-----
Members Funds	13,287	12,264
	=====	=====

Subscription income for the year to 30<sup>th</sup> April, 2006 amounted to £1,185 (2005:£1,320). Interest income after tax was £88 (2005: £80). Expenses consisted of £250 (2005: £326) principally covering the cost of producing and despatching the newsletter (£88) and, entertaining the Association guests at Boisdale lunches and providing the Hon secretary with the occasional lunch (£165).

The surplus carried forward at the year-end amounted to £13,287.

The liabilities at the year-end of £250, represented the administration costs of producing and despatching the 2006 Newsletter and the entertainment costs due to the Joint Chairman. The cash at bank was held at C. Hoare & Co., Lowndes Square, London SW1.

## ANNUAL GENERAL MEETING

The AGM of the Hereditary Peerage Association will be held at 12.15 am on Tuesday, 29<sup>th</sup> May, 2007 in the Jacobite Room at the Boisdale Restaurant, Eccleston Street, London SW1 for the purposes of:

1. Approving the Accounts for the year to 30<sup>th</sup> April, 2006
2. Considering Appointments to the Committee
3. Considering nominations for President of the Association

4. Considering the future policy of the Association

All paid-up members of the Association are entitled to attend and vote.

Given that a lunch will follow the meeting, business will ideally conclude by 13:00.

## GENERAL INFORMATION

### *Joint Chairmen*

Viscount Torrington                      Lord Newall

### *Committee*

Viscount Torrington                      Lord Newall  
Lord Kilmaine                              Lord St Oswald  
The Earl of Erroll                      Viscount Trenchard  
    Lord Glanusk

### *Secretary*

The Hon. Mrs Nicolson

### *Bankers*

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This Newsletter is published by the  
Hereditary Peerage Association.

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