

CONFIDENTIAL

PRIME MINISTER

Reform of the House of Lords

We now have, as well as the paper circulated by Lord Thorneycroft at the meeting you held on 23 October (flag A), the paper promised by the Lord Chancellor (flag B).

Lord Thorneycroft's paper argues that the first step in Lords reform should be to entrench the existence of a Second Chamber. He suggests that a bill for this purpose should be enacted in this Parliament. The bill should look forward to further legislation to reform the Second Chamber. He believes that it would be possible to carry the entrenching legislation "without too much difficulty". The second step would be, as he argued at your meeting, so to reform the Second Chamber that it would provide a real barrier against the advance of Marxist socialism. The aim would be a fully elected Second Chamber. But an essential preliminary stage would be a lengthy campaign to win public support for the proposal, which would then be included in the Manifesto for the next election and enacted in the next Parliament. Lord Thorneycroft suggests that by proceeding in this way it should be possible to avoid a major legislative confrontation in the House of Commons.

The Lord Chancellor shares Lord Thorneycroft's view of the need for a reformed Second Chamber as a bulwark against a future radical left-wing government. He too wants an elective Second Chamber, though he does not rule out the inclusion of a small nominated component. There does, however, seem to me to be a basic contradiction in what Lord Hailsham says about the powers of the reformed Second Chamber. On the one hand, he says "... we must safeguard the essential supremacy of the Commons, and its essential prerogatives, which are to determine the political colour of the Government of the day, and to support its executive policy..."; but, on the other, he argues that "in the field of general legislation ..... a rigorous veto must be allowed". I find it hard to see how these two aims can readily be reconciled: if the Second Chamber has an absolute and

/indefinite veto

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indefinite veto on legislation on, for example, nationalisation or the education system, is it not bound to limit the "essential supremacy" of the Commons and the ability of the Commons "to support the Government's executive policy"?

*Thun*  
The Lord Chancellor is sceptical, on political grounds, about Lord Thorneycroft's proposal to entrench the existence of a Second Chamber. I believe that he is right to be doubtful. In particular I think it unrealistic to believe that entrenchment could be carried "without too much difficulty". Plainly, the first question which will be asked about any proposal for entrenchment is "Why are you doing this?"; and this will get you straight into the purpose and nature of the ultimate reform. In short, Lord Thorneycroft's gradual, two-stage approach is unlikely to be feasible. There would almost certainly be major political controversy from the outset. Virtually the whole of the Labour Party, especially in its present internal state, would feel obliged to close ranks and oppose the Government.

There is, however, a more fundamental point about the proposals in both papers. If a radical Labour Government was elected at some future date by a majority of voters at a General Election, presumably a Second Chamber elected at the same time, even if with different constituencies and by different methods, would have much the same complexion. In this event reform of the Second Chamber is not going to act as a brake on the advance of socialism. Both papers are therefore aimed at the situation in which a Labour Government is elected on a minority vote and though unrepresentative of the attitudes of the country as a whole, pursues a radical, left-wing policy which might lead to the establishment of an authoritarian regime. Is this scenario so likely in the foreseeable future as to warrant the Government seeking to reform the Lords, with all the attendant controversy?

Assuming that the answer is 'yes', the question of timing needs to be considered. Does the Government want to take on this issue in the near future, when there is so much else it will be doing? Might it not be better to allow the matter to lie for

/the next two years

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the next two years or so? There would still be time for the Government to work up its ideas over the third and fourth years of this Parliament, if it so wished, so that they could be embodied in the Manifesto and then acted upon in the next Parliament.

Your meeting on 23 October agreed to resume its discussion on the basis of the papers by the Lord Chancellor and Lord Thorneycroft. Would you like me to arrange another meeting?

*Alan Jones*

*JAH.*

*out.*

5 November 1979

*James / Carrington / Heilbrunn / Thorneycroft.*



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PRIME MINISTER

30 October 1979

REFORM OF THE HOUSE OF LORDS

To complete the restoration of a free society, we need, at least two consecutive terms of office, a difficult aim for a party condemned as we are to pursue, at least for a time, policies which in the short run must prove unpopular, and whose beneficial effects will not be seen at once.

But, sooner or later, Britain will have another Labour Government, and, if present trends continue, it may be a Government of extremists. This is what makes the question of the House of Lords more than peripheral to the survival of freedom.

The Labour Party is committed to the abolition of the House of Lords without replacement. This can take either of two forms - the retention of the present structure with the further emasculation of its powers to vanishing point, or its outright abolition without replacement. The former is more probable, the latter more deadly since, to carry out its minimum functions, under a Labour Government, the House of Commons would have to revise its procedure in a more authoritarian direction until it became a mere appendage of the elective dictatorship on an Eastern European model.

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From the present point of view it matters little which of the two models the future Labour Government would adopt. We should be faced with a repeal of all our reforms and a resumption of the progress of left wing Socialism with its total ratchet effect. The reform of the House of Lords is therefore central to the revival, or even the survival, of Britain.

The present weakness of the House of Lords lies in two factors each contributing to total inability to carry out its functions, except as a deliberative body approximately equivalent in influence to a second, or even a first, leader in the former Times newspaper. These are (i) that its structure, not being based on popular election is not acceptable enough to carry authority and (ii) that its membership is unlimited, the Government having it in its power to create an indefinite number of peers. A third factor, its inadequate powers under the Parliament Act, is of smaller, though not insignificant, importance, since experience has shown that even with a small and unrepresentative majority in the House of Commons against it, the existing House is not effective to use adequately the powers which it possesses. It follows that the existing House must be replaced by substituting a Chamber with limited numbers and effective authority in a restricted field.

From this point of view it does not matter whether existing peers are hereditary, or, as in the case of the great majority of regular attenders and speakers, nominated, like first creations, life peers, bishops and law lords. From some points of view the nominative

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principle is the worst. The hereditary peers are at least independent in that they do not owe their position to the Government of the day.

We must therefore look for a House which is wholly, or predominantly, elective. I myself welcome the presence of the law Lords, the cross benches, and even, though with considerably less enthusiasm, the Bishops (though I would prefer to see them replaced by a multi denominational religious element). But I would, if need be, sacrifice all nominated elements to the elective principle if this proved necessary.

The new House must not be elected <sup>for</sup> in the same constituencies, or by the same method of election, as the House of Commons. It would be valueless if it were a mere mirror image of the Commons. The method of election, the timing of elections (which for reasons which will be seen I would prefer to see simultaneous with the Commons) are negotiable provided that the above criterion is met.

We have offered talks with other parties. This commitment must be met. But I do not think the Labour Party will participate, or, if it does, that the talks will prove fruitful. I would suggest, therefore, that we have plans of our own, and should be prepared to implement them by Act of Parliament during the present Parliament. To prevent or make difficult subsequent repeal or amendment, the powers must be such as, at a minimum, to prevent repeal or amendment except by both Houses, and, preferably a subsequent referendum.

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In order to put forward proposals we must safeguard the essential supremacy of the Commons, and its essential prerogatives, which are to determine the political colour of the Government of the day, and to support its executive policy, which must therefore include, as heretofore the complete control of finance. Thus we must avoid at all costs an "Australian" type situation in which the Senate can block supply. But in the field of general legislation (e.g. new nationalisation measures, "Clay Cross" type legislation, and compulsory structures in education on socialist or authoritarian lines) a rigorous veto must be allowed. But the new House of Lords must not be a Court of Appeal from the people. It must be a Court of Appeal from the Commons when and if it seeks to impose the legislative will of the largest organised minority or smaller minorities and individuals. The new body should be set up in time to block authoritarian legislation in the next Parliament. I would hope that the elective element would include a substantial number of existing peers. I would also contemplate that the Lord Chancellor of the day would remain, as now, a nominated figure and on the woolsack. Whether he had a vote (if he were not already a member) would depend largely on whether the membership of the House was wholly elective or partly nominated. The Lord Chancellor's function is to preserve the independence of the Courts and the judiciary. For this purpose it is essential that he should not be subject to the in-fighting in the Commons, or be in the line for Party Leadership. If a proportion of the House of Lords is to be elective, by what means of voting should it be elected?<sup>2</sup> This must be for discussion and must depend partly on the view taken of the function of the new House, partly on the size and shape of the constituencies, and partly on the timing of elections. I myself would favour party lists (in some form or with some modifications), elections at the same time as the

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General Election, with regional constituencies approximately the sizes of Scotland or Wales, and with a maximum membership between 200 and 400, including any nominated members.

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This paper was drafted before we held a discussion, and before I read the powerful document circulated by the Party Chairman. I feel I ought to append a note on both:-

The first point on which I would like to comment is Lord Thorneycroft's suggestion adumbrated at his para 5 that in this Parliament we should entrench the existing House. Technically this is possible - even easy - on condition (i) that we abolish or restrict the power of the Crown to create peers in an unlimited number and (ii) that we amend the Parliament Acts by enacting that, in addition to it being ultra vires the Commons to extend the length of a Parliament against the Lords veto it would be ultra vires the Commons to use the

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Parliament Acts to abolish the House of Lords or further restrict its powers or to amend further either the current Bill or the Parliament Act. There would be no drafting difficulty in achieving this. But is it feasible politically? I would think not. Nothing short of this would be effective to entrench the existing structure.

The second observation is that whilst I agree wholeheartedly with you that the only way in the long run of defeating the ratchet effect of Socialism is by altering public opinion; I emphatically do not agree that it is possible to prevent indefinitely the advent of a radical Labour Government elected by a minority vote on the present system of voting to carry out a radical programme. Whenever this happens we shall lose the present House of Lords whatever we choose to do in this matter unless we create a mechanism whereby it cannot be done. In many ways I share your admiration for the existing structure. But its indefinite retention is not amongst our viable options. We have to choose between its abolition whenever a Labour Government is next returned, or substituting for it something which can only be removed by the will of the people before the next Labour Government is returned. Between these two options there can be no doubt which we should choose. If we choose the former much more than the House of Lords will be lost. We should lose our country as we know it and wish to leave it to our children.

H: of S: M.  
30 Oct 79.

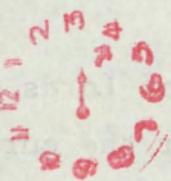
Circulation: PM., L<sup>ds</sup> Carrington, Soames, & Thomeycroft.

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31 OCT 1979



...to follow the House ...  
...the House ...  
...there would be no ...  
...this ...  
...short of this would be ...

The second observation is that while I agree wholeheartedly with  
you that the ...  
effect of socialism is ...  
do not fear that it is possible to prevent indefinitely the advent  
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first much more than the House of Lords will be lost. We should  
lose our country as we know it and I do not think it is our



B/P 1-9-80 → 1.

Delay until September? Parliament  
M.H. 30 vi

MR. WHITMORE  
PRIME MINISTER

When I last mentioned setting up a meeting to discuss the reform of the House of Lords you said could we please delay until some months after Lord Soames' return from Rhodesia. Is this a meeting you wish to have before the House rises in August?

No. no

es.

30 June 1980



file

Parliament



10 DOWNING STREET

PRIME MINISTER

You will remember that we had set up for January a meeting to discuss the reform of the House of Lords. This meeting got postponed as Lord Soames left for Rhodesia. Is this something that you would like set up before his return or should we wait?

*E.S.*

*How about his return in some months of the year? 7*

1 February 1980



*Parliament File*

TMP



Separate letters sent  
to Lord Hailsham  
and Lord Carrington.

c. Mr. Whitmore

10 DOWNING STREET

*From the Private Secretary*

11 December 1979

*B/P 1/2-80*

*to check with Canshine  
for further action*

As you know, there was to have been a meeting on Wednesday 16 January to discuss the reform of the House of Lords but as Lord Soames will be in Rhodesia the Prime Minister would rather delay this meeting until he returns. I will be in touch with you again at a later date.

*CS*

*CS has seen  
11/2/80.*

The Rt. Hon. Lord Thorneycroft

*28*



PRIME MINISTER

Do you wish anyone to replace Lord Soames at the meeting on 16 January when you discuss the reform of the House of Lords? The other Peers attending are Lords Carrington, Hailsham and Thorneycroft.

*E.S.*

*I would rather wait until  
he returns  
no.*

10 December 1979



CONFIDENTIAL



Parliament

10 DOWNING STREET

*From the Private Secretary*

16 November, 1979.

Further to my letter of 9 November, I am now writing to inform you that the time for the meeting to discuss the reform of the House of Lords on Wednesday, 16 January, has been changed from 1900 to 1600.

I apologise for any inconvenience that this may have caused, and would be grateful if your Office could confirm that the new time will be convenient for you.

The Rt. Hon. The Lord Hailsham of  
St. Marylebone, C.H., F.R.S., D.L.

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10 DOWNING STREET

*From the Private Secretary*

16 November, 1979.

Further to my letter of 9 November, I am now writing to inform you that the time for the meeting to discuss the reform of the House of Lords on Wednesday, 16 January, has been changed from 1900 to 1600.

I apologise for any inconvenience that this may have caused, and would be grateful if your Office could confirm that the new time will be convenient for you.

The Rt. Hon. The Lord Thorneycroft

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10 DOWNING STREET

*From the Private Secretary*

16 November, 1979.

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CAROLINE STEPHENS

The Rt. Hon. The Lord Carrington, K.C.M.G.,  
M.C.

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10 DOWNING STREET

*From the Private Secretary*

16 November, 1979.

Further to my letter of 9 November, I am now writing to inform you that the time for the meeting to discuss the reform of the House of Lords on Wednesday, 16 January, has been changed from 1900 to 1600.

I apologise for any inconvenience that this may have caused, and would be grateful if your Office could confirm that the new time will be convenient for you.

The Rt. Hon. The Lord Soames, G.C.M.G.,  
G.C.V.O., C.B.E.

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*Parliament  
House of Lords  
Reform.*



**Civil Service Department**  
Whitehall London SW1A 2AZ  
01-273 4400

12th November 1979

*Dear Miss Stephens'*

Lord Soames asks me to thank you for your letter of 9th of November.

He has put The Prime Minister's Meeting on Wednesday 16th January at 19.00 hours at 10 Downing Street firmly in his 1980 diary.

*Yours sincerely  
No. 10 Chapman.*

Personal Assistant to  
Lord Soames

Miss Caroline Stephens,  
10 Downing Street.



CONFIDENTIAL



ds  
Parliament

10 DOWNING STREET

From the Private Secretary

9 November 1979

Dear Lord Hailsham,

The Prime Minister would like to hold a further meeting on Wednesday, 16 January at 1900 hours at No.10 to discuss the reform of the House of Lords. I am also inviting Lord Soames, Lord Carrington and Lord Thorneycroft, and I would be grateful if you could let me know if you are not able to be present.

Yours sincerely,  
Cecile Phipps

The Rt. Hon. The Lord Hailsham of St. Marylebone,  
C.H., F.R.S., D.L.

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ds



10 DOWNING STREET

From the Private Secretary

9 November 1979

*Dear Lord Thorneycroft,*

The Prime Minister would like to hold a further meeting on Wednesday, 16 January at 1900 hours at No.10 to discuss the reform of the House of Lords. I am also inviting Lord Soames, Lord Carrington and Lord Hailsham, and I would be grateful if you could let me know if you are not able to be present.

*Yours sincerely,  
Rush*

The Rt. Hon. The Lord Thorneycroft

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10 DOWNING STREET

*From the Private Secretary*

9 November 1979

*Dear Lord Carrington,*

The Prime Minister would like to hold a further meeting on Wednesday, 16 January at 1900 hours at No.10 to discuss the reform of the House of Lords. I am also inviting Lord Soames, Lord Hailsham and Lord Thorneycroft, and I would be grateful if you could let me know if you are not able to be present.

*Yours sincerely,  
Carole Phipps*

The Rt. Hon. The Lord Carrington, K.C.M.G., M.C.

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10 DOWNING STREET

*From the Private Secretary*

9 November 1979

*Dear Lord Soames,*

The Prime Minister would like to hold a further meeting on Wednesday, 16 January at 1900 hours at No.10 to discuss the reform of the House of Lords. I am also inviting Lord Carrington, Lord Hailsham and Lord Thorneycroft, and I would be grateful if you could let me know if you are not able to be present.

*Yours sincerely,  
Cecil Stephenson*

The Rt. Hon. The Lord Soames, G.C.M.G., G.C.V.O.,  
C.B.E.

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PERSONAL

PRIME MINISTER

I feel we ought to be considering whether or not we wish to proceed with the reform of the House of Lords in one way or another, and would welcome a talk one day soon.

Some may say that the easy way would be to leave well alone - and it must be acknowledged that the prospects of coming out at the end of the day with a lasting and beneficial reform are not good.

Nevertheless it is my fear that if we do not seek to bring about reform we could be guilty of negligence. For the danger of a future Labour Government going for straight abolition must now be considerable. They would, to say the least, find it harder to do so if a major reform had already taken place.

So the questions I feel we need sooner or later to resolve are:-

1. Are we to set out along the road of reform of the Upper House;
2. If so,
  - (a) should we aim to have done the job during the lifetime of this Parliament and
  - (b) how do we decide what our objective should be and how do we set about achieving it?

I am sending copies to Lord Hailsham, Lord Carrington and Lord Thorneycroft.

S.

SOAMES  
22 October 1979

CONFIDENTIAL



## AN APPROACH TO HOUSE OF LORDS REFORM

### A NON-PAPER BY LORD THORNEYCROFT

1. The approach to House of Lords Reform varies between a desire for institutional respectability and a determination to achieve an important step in Constitutional Reform. It is important to decide what it is that one is trying to do.
2. The options are well discussed in the Report of the Conservative Review Committee chaired by Lord Home and in a useful report by Conservative Action for Electoral Reform. What I think is needed is to consider the principles which should guide us in approaching any of these options.

### THE NATURE OF THE DECISION

3. I believe that it would help us if we were to separate two different but interrelated questions:
  - (a) The need to entrench the existence of a Second Chamber.
  - (b) The nature of the Second Chamber which we should like to see.
4. The wish of the Labour Party is effectively to abolish the House of Lords - either by a straightforward Bill to that effect or by abolishing its power of delay and veto. The only veto now left is to prevent the Commons from self perpetuation. If this goes the road to dictatorship lies fully open.

### ENTRENCHMENT

5. Against this background there appears to be a strong case for entrenching, so far as may be possible, a Second Chamber - almost any Second Chamber, even this one. It is for consideration whether we do not attempt this in this Parliament. The threat is already there. The issue is highlighted by the Labour Party Conference with its decision to withdraw responsibility for the Manifesto from the Parliamentary Labour Party into even more irresponsible and less democratically elected hands. The precedent of a Bill which looks forward to further reform has been set by the 1911 Act. The attempt to negotiate an agreed structure for a new House of Lords within the term of a single Parliament which can be legislated through a House of Commons, and is at the same time effective, is doomed to delay if not to failure.



6. I conclude that for these reasons we should start to draw a skeleton draft Bill to be introduced in this Parliament for the entrenchment of House of Lords as it exists today with built-in provision for legislative reform after full national discussion in the Parliament that follows this one.

THE LONG TERM OBJECTIVE

7. The declared intention to reform the House of Lords is vital to the achievement of its entrenchment in the constitution. The precise nature of the reform is less vital to this objective and can with advantage be a little delayed. It has already been held up for 70 years as the Preamble to the Parliament Act of 1911 said " it is intended to substitute for the House of Lords as it at present exists a second chamber constituted on a popular instead of a hereditary basis, but such substitution cannot immediately be brought into operation...."

8. There are broadly two options open to us in considering reform. They are

(a) to concentrate our minds on its revising function. To tinker with the existing structure - preserving bishops, law Lords, hereditary peerages, trying to buy agreement to the best of our ability between Parties and vested interests.

To square an alternative Prime Minister with the promise of a block of establishment nominees to be introduced at his appointment. To conciliate the House of Commons with a result so weak and ineffective as to present no challenge to their authority.

This option might preserve the House of Lords for a few more years but it would present no barrier to anything.

(b) To concentrate upon the constitutional issue. Can the new Second Chamber be constructed in a manner which will in the years to come present a real obstacle to the advance of dictatorship. Such a Second Chamber cannot achieve such an objective without a price being paid. What is the price and would this new Constitutional safeguard be worthit? Is there any other substitute?



9. I do not believe that the first option really bears examination. Politicians may be interested in revising Chambers. The public should be but plainly it isn't. The public is worried increasingly by the advance of left wing ideas and increasingly by doubts of the ability of the existing system to resist the onward march of corporate and authoritarian Government. It might be persuaded to accept some broadly right of centre check to act as a long stop against these trends. It will not be persuaded to accept major constitutional reform for any other purpose. A Bill of Rights presents major problems and proportional representation for an election to the Commons is open to very serious objections.

#### CONCLUSION

10. The conclusion of this line of argument requires a great deal of study and close constitutional analysis but could be along the following lines.

(1) That we prepare and introduce in this Parliament a House of Lords Reform Bill that entrenches a Second Chamber and looks forward to legislation to reform it.

(2) That we prepare a paper for the reform of the House of which would give us an effective Second Chamber in the sense that it would provide a real barrier against the advance of Marxist Socialism. We would publish it, debate it, sell it boldly as an attempt to meet a threat which the Labour Party are unable to meet themselves. We would include the plan in our manifesto; obtain a mandate for it and introduce it in our second term of office.

11. The nub of this approach is that we would seek to sell this plan not to those who had a vested interest in defeating it but to the British public who are deeply worried and have an interest in securing some arrangements to secure the ends we have in mind. The bishops, the law Lords, the Life Peers have views but very few votes. The same is true even of members of the House of Commons.



12. The option chosen would have to be along the lines of Lord Home's Second Option. The fully elected Second Chamber. It would probably be elected in constituencies co-terminus with the existing European Constituencies and almost certainly by P.R. This should preserve for all time the single member constituency and the first past the post in the House of Commons. The powers would be limited but sufficient to effect a real delay and time for reflection on important issues. They could possibly exceed in some degree those of the 1911 Act. The inclusion of such a proposal in our next Election Manifesto would attract the Centrist, Liberal and Right Wing Labour votes powerfully to our cause. Few of our own members would find it easy to attack such a programme. The Labour Party would be caught in a corner defending single Chamber for a real threat of a left wing dictatorship.

13. The advantage of this kind of approach is that we could limit ourselves at the start to legislation aimed at entrenchment, an issue which we can probably carry without too much difficulty. We could then edge forward on to the much more difficult territory of structural reform through speeches, non-papers, Green Papers, White Papers and possibly a Referendum leading up to inclusion in the next Manifesto without a major legislative confrontation in the House of Commons.

14. If we really want to achieve House of Lords Reform or an effective Second Chamber it seems to me that this type of political tactic would be worth very careful examination.



(F)

OCT 23:



10 DOWNING STREET

PRIME MINISTER

Lord Soames is due to come to see you to discuss the reform of the House of Lords. He has requested that Lord Carrington, Lord Hailsham and Lord Thorneycroft also to be at the meeting. Do you have any objections to this?

None -

C.S.

but

There is no need to discuss this

5 October 1979

up early.

\* Spoke

to Shirley's Sec: