



10 DOWNING STREET

THE PRIME MINISTER

9 December 1981

Dear John,

I was extremely grateful for your letter of 26 November enquiring, on behalf of the Association of Independent Unionist Peers, for guidance as to the Government's attitude towards Lord Alport's Constitutional Referendum Bill.

I understand that since your letter you have discussed this Bill with Janet Young, and that she mentioned to you that its handling was due to be considered by Ministers on 8 December. I have accordingly delayed replying to your letter until after that meeting had taken place.

The Government's attitude towards Lord Alport's new Bill remains essentially the same as it was to his similar Bill last session. This view was expressed by Christopher Soames in the course of the Second Reading debate in the Lords on 8 December last year - broadly, that, detailed criticism apart, it would, in the Government's judgment, be inappropriate to proceed in a constitutional matter of this importance on the basis of Private Members' or private Peers legislation.

As regards the possibility of Government legislation, Lord Alport was, as you know, subsequently informed, in a Parliamentary Reply (OR (Lords) 19 May, 1981, Column 831) that the Government had decided not to come forward "at this time" with proposals to afford some form of statutory protection to the House of Lords without reference to the broader issues of powers and composition. Taking account of the views subsequently

/expressed,

expressed on Lords reform at the Party Conference, we do not now propose to pursue any form of "entrenchment" legislation, whether by referendum or otherwise, during the present Parliament.

Janet Young will be the Government spokesman during the Second Reading debate on 14 December. There are a number of technical and procedural defects in the Bill to which she proposes to refer. More generally, however, I understand she intends to stress the virtual impossibility of satisfactorily encapsulating in a referendum procedure the wide range of alternative viewpoints posed by any proposals for 'Lords reform' legislation. For example, although Lord Alport has now introduced two possible questions into this proposed procedure, they would still not provide an opportunity for the expression of a view in favour of a limited change in powers or composition.

Janet also intends to make the point, to which you draw attention in the annex to your letter, that a prior referendum verdict in favour of an 'abolition' or 'reform' Bill introduced in the Commons would inhibit subsequent consideration in the Lords. Moreover, any general question of the growth of referendum procedures apart, Government acquiescence in the introduction of a referendum procedure in this field might well be interpreted as a weakening of our total commitment to a bicameral Parliament.

One final point, as Christopher Soames said last year, a commitment to the principle of a Second Chamber is one thing, but legislation which would be represented as a means of protecting a Second Chamber in precisely its present form is rather different.

As regards the more general aspects of the Government's attitude towards House of Lords reform we remain, of course, totally committed to the maintenance of a Second Chamber. Beyond

/that

That I can assure you that reform will not be embarked upon or achieved in the lifetime of this Parliament. I need hardly tell you that there are other more pressing priorities over the next two years. We shall certainly continue to search for changes in the House of Lords which would be widely acceptable to the parties. But, as Janet Young said at the Party Conference, such changes can only proceed on the basis of all-party talks which in turn must depend upon some measure of agreement on the type of reform which might take place. At present there is no sign of this agreement at all.

I am sorry that I was unable to see you before the meeting on 10 December. I trust it goes well and that this letter provides a sufficient guide as to the Government's viewpoint. I hope I may have an opportunity of seeing you and David shortly.

Yours ever,

M

The Rt. Hon. Lord ~~Boyd-Carpenter~~

Bx



PRIVY COUNCIL OFFICE
WHITEHALL, LONDON SW1A 2AT

8 December 1981

See Mike,

LORD ALPORT'S CONSTITUTIONAL REFERENDUM BILL: LORD BOYD-CARPENTER'S LETTER TO THE PRIME MINISTER OF 26 NOVEMBER - *not in CF*

The Home and Social Affairs Committee (Sub-Committee on the House of Lords (H(HL))) considered the handling of Lord Alport's Constitutional Referendum Bill briefly at its meeting today, 8 December.

The Committee endorsed the Chancellor of the Duchy's proposal (H(HL)(81)9) that no support should be given to the Bill; that, as necessary, steps should be taken by the Business Managers in the Lords to defeat it; and that if it reached the Commons it should then be blocked.

The Chancellor of the Duchy of Lancaster had already seen Lord Boyd-Carpenter and had informed him that Lord Alport's Bill was to be considered by Ministers on 8 December. Lord Boyd-Carpenter indicated that he remained available to see the Prime Minister about this matter, but that he would be content to be given guidance following the Ministerial meeting, provided this was in time for the meeting of the Association of Independent Unionist Peers on 10 December.

Yours ever,

DCR

D C R HEYHOE
Private Secretary

M Pattison Esq
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9 DEC 1981

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Privy Council Office,
Whitehall,
London, SW1A 2AT

Attachment to D Heyhoe's
letter re Lord Alport's
Bill

With the Compliments
of the
Private Secretary
to the
Lord President of the Council

LPC's Off to
MAP 8/12/87

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I understand that since your letter you have discussed this Bill with Janet Young, and that she mentioned to you that its handling was due to be considered by Ministers on 8 December. I have accordingly delayed replying to your letter until after that meeting had taken place.

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Janet Young will be the Government spokesman during the Second Reading debate on 14 December. There are a number of technical

and procedural defects in the Bill to which she proposes to refer. More generally, however, I understand she intends to stress the virtual impossibility of satisfactorily encapsulating in a referendum procedure the wide range of alternative viewpoints posed by any proposals for 'Lords reform' legislation. For example, although Lord Alport has now introduced two possible questions into his proposed procedure, they would still not provide an opportunity for the expression of a view in favour of a limited change in powers or composition.

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7/12

Lord Boyd-Carpenter

27 November 1981

On its way, I believe - ringed back.
letter coming today.
9/12
MAP of XII.

I enclose a copy of a letter to the Prime Minister from Lord Boyd-Carpenter. You will see that Lord Boyd-Carpenter seeks guidance for the Independent Unionist Peers on Lord Alport's Constitutional Referendum Bill.

I should be grateful if you could let me have a draft reply for the Prime Minister's signature. In view of the timing of the Second Reading Debate, I hope that you can get something to us by Monday 7 December.

MAP

David Heyhoe, Esq.,
Lord President's Office.

Handwritten initials

jfh

27 November 1981

I am writing on behalf of the Prime Minister to thank you for your letter of 26 November.

I will place this before the Prime Minister and you will be sent a reply as soon as possible.

MAP

The Rt. Hon. Lord Boyd-Carpenter.

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106 PARK STREET
LONDON
W1Y 4JL

FROM
LORD BOYD-CARPENTER

TELEPHONE: 01-493 4272

26th November 1981

JCB

My dear Prime Minister,

I am writing to you as Chairman of the Association of Independent Unionist Peers and on behalf of our President, David Eccles, to seek your guidance as to the guidance which you would wish us to give to Conservative peers as to their attitude on Lord Alport's Constitutional Referendum Bill.

This is now down for Second Reading in the House of Lords on Monday 14th December. I attach a copy of the Bill and a brief note as to its contents.

Two major questions appear to arise :

- (1) Whether in present circumstances it is sensible to go ahead with legislation on House of Lords reform at all;
- (2) Whether, on the assumption that it is in general sensible so to do, the provisions of this Bill are sound or not.

...

It is worth noting that the recitals in the Bill state inter alia "whereas it is expedient that the present Second Chamber should be reformed".

David and I would very much value a word with you about this and would be most grateful if you could let us know whether and when you would let us come and see you.

In view of the fact that, as I have mentioned, the Second Reading is now fixed for Monday 14th December it would be most helpful if from our point of view this could be before Thursday 10th December which is the last meeting of the Association of Independent Unionist Peers before the Second Reading debate.

We both feel that the delicacy and possible importance of this matter justify our seeking to ascertain what your wishes in the matter are.

Your ever
Truly
B-C

The Right Honourable Mrs. Margaret Thatcher, MP,
10 Downing Street,
London S.W.1.

CONSTITUTIONAL REFERENDUM BILL

The Constitutional Referendum Bill would after reciting inter alia "that it is expedient that the present Second Chamber should be reformed" provide that no Bill either to abolish the Second Chamber or which would diminish its legislative powers shall proceed beyond Third Reading in the House of Commons without the holding of a referendum in which more than 40% of the persons entitled to vote have answered affirmatively one or other of the two questions set out in the Schedule. An endeavour to entrench this Bill is made by enacting that any Bill to amend it shall be brought within Section 2(1) of the Parliament Act 1911.

The provision that such a referendum shall be held after Third Reading in the Commons and before therefore the Bill goes to the Lords might well have the effect, if the necessary 40% yes vote were obtained, of making resistance by the Lords and the exercise of their power of delay in respect of it very difficult in as much as any such action could be said to be defying not only the will of the elected House but the specific and clear decision of the electorate as a whole.

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INTITULED

An Act to make obligatory the holding of a constitutional referendum before a Bill which contains provisions to abolish the Second Chamber or to diminish its legislative powers may proceed beyond third reading in the House of Commons and to amend section 2(1) of the Parliament Act 1911. A.D. 1981

WHEREAS it is requisite that the Parliament of the United Kingdom should possess a Second Chamber with powers to revise and initiate legislation:

And whereas that Chamber should continue to possess the power reserved to the House of Lords under section 2(1) of the Parliament Act of 1911 to reject a Bill containing any provision to extend the maximum duration of the Parliament beyond five years:

And whereas it is expedient that the present Second Chamber should be reformed:

Now, therefore, be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

15 1.—(1) No bill which is endorsed with the certificate of the Speaker of the House of Commons under subsection (2) of this section shall proceed beyond third reading in the House of Commons unless more than 40 per cent. of the persons entitled to vote in a referendum under section 2 of this Act shall have
20 voted "Yes" in that referendum in reply to either of the two questions posed in the Schedule to this Act or if a majority of the answers given in the referendum have been "No".

Bills to abolish
Second
Chamber
subject
to referendum.

(2) If the Speaker of the House of Commons is of the opinion that a bill contains provisions:—

- (a) to abolish the Second Chamber, or
(b) which would diminish its legislative powers,

he shall, except as provided for in subsection (3) below, endorse the bill with a certificate to that effect after it has been read a third time in the House of Commons.

(3) For a period of five years from the date on which the result of a referendum under section 2 is announced, the certificate of the Speaker given under subsection (2) above shall be endorsed on a bill after it has been read a first time in the House of Commons.

(4) Any certificate of the Speaker of the House of Commons given under subsection (2) of this section shall be conclusive for all purposes and shall not be questioned in any court of law.

Referendum.

2.—(1) A referendum under this section shall be held in accordance with the Schedule to this Act.

(2) If 40 per cent. or less of the persons entitled to vote in a referendum under this Act vote "Yes" in that referendum or the majority of the answers given in that referendum have been "No", no further Bill certified by the Speaker under section 1 of this Act shall proceed beyond first reading in the House of Commons for a period of five years from the date on which the result of the referendum is announced.

Amendment
of s. 2(1) of
Parliament
Act 1911.
1911 c. 13.

3. In subsection (1) of section 2 of the Parliament Act 1911 (which defines the powers of the House of Lords as to Bills other than Money Bills) there shall be inserted after the words " (other than a Money Bill or a Bill containing any provision to extend the maximum duration of Parliament beyond five years " the following words:—

" or a Bill which contains provisions to amend or repeal the Constitutional Referendum Act 1981 ".

Interpretation.

4. The Second Chamber for the purposes of this Act means a House of Parliament, however composed, which is additional to the House of Commons.

Short title.

5. This Act may be cited as the Constitutional Referendum Act 1981.

SCHEDULE

REFERENDUM

Section 2.

Date of Referendum

1. The referendum shall be held on such day, not less than three months after the making of the Order, as Her Majesty may by Order in Council appoint.

Persons eligible to vote

2. Those entitled to vote in the referendum shall be:—

- (a) the persons who, at the date of the referendum, would be entitled to vote as electors at a parliamentary election in any constituency in the United Kingdom;
(b) peers who at that date would be entitled to vote as electors at a local government election in any electoral area in the United Kingdom.

15 *Questions to be asked and form of ballot paper*

3. The question to be asked in the referendum and the front of the ballot paper to be used for that purpose shall be in the form set out in the Appendix to this Schedule.

Conduct of Referendum

20 4. Subject to the following provisions of this Schedule, Her Majesty may by Order in Council make provision as to the conduct of the referendum and apply in relation to it, with such modifications or exceptions as may be specified in the Order, any provision of the Representation of the People Acts, any provision of the enactments relating to returning officers and any provision made under any enactment.

30 5. An Order in Council under this Schedule shall not charge any sum on the Consolidated Fund but may provide for the expenses of the returning officers to be defrayed as administrative expenses of the Secretary of State.

35 6. The functions which, in relation to a parliamentary election, are conferred on returning officers by any provision applied by an Order in Council under this Schedule shall in relation to the referendum be discharged by the persons who, in England and Wales under section 40(1)(2) of the Local Government Act 1972, in Scotland under section 17(2) of the Representation of the People Act 1949 and in Northern Ireland under section 17(3) of the Representation of the People Act 1949 are or may discharge the functions of returning officers, at a General Election.

40 7. There shall be appointed a Chief Counting Officer, who shall appoint a counting officer for each county, and each counting officer shall conduct the counting of votes cast in the county for which he is appointed in accordance with any directions given to him by the Chief Counting Officer.

SCH. 8. The counting officer for each county shall certify the number of ballot papers counted by him and the number of respective answers given by valid votes; and the Chief Counting Officer shall certify the total of the ballot papers and the respective answers for the whole of the United Kingdom. 5

9. Every county council shall place the services of its counting officers at the disposal of the counting officer for its county; and if the council of any county or the counting officer for any county so requests, the council of any district situated in that county shall place the services of its officers at the disposal of the counting officer for that county. 10

10. For the purposes of this Act the Province of Northern Ireland shall be deemed to be a county and the duties imposed on a county council in Great Britain by this Schedule shall be carried out by the Secretary of State for Northern Ireland.

Exclusion of legal proceedings 15

11. No court shall entertain any proceedings for questioning the numbers, as certified by the Chief Counting Officer or any counting officer, or any ballot papers counted or answers given in the referendum.

Orders in Council

12. No recommendation shall be made to Her Majesty in Council to make an Order under this Schedule until a draft of the Order has been laid before Parliament and approved by resolution of each House of Parliament. 20

APPENDIX

FORM OF BALLOT PAPER

In the case of a Bill to abolish the Second Chamber

Do you want the House of Commons to be the only legislative chamber of the Parliament of the United Kingdom? 5

In the case of a Bill to diminish the legislative powers of the Second Chamber

Do you want the legislative powers of the Second Chamber to be diminished?

10 Put an (X) in the appropriate box.

YES	
NO	

Constitutional Referendum [H.L.]

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INTITULED

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The Lord Alport

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