

# Power, politics and democratic renewal: lessons from the UK and Canada

Unlocking democracy event

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Speech by Lord Chancellor and Secretary of State for Constitutional Affairs

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Good morning - and thank you for inviting me back to Macdonald House. I was here last in May 2006 to say goodbye to Mel Cappe, the former High Commissioner, and it is my great pleasure today to be welcomed by Jim Wright here today.

For ours is a particularly important relationship; historically, politically, culturally. I visited Canada in 2003, and saw three aspects of the Canadian political system of relevance for Britain. First, Canada's Charter of Rights has been sensibly applied, and we have much to learn from that. Secondly, Canada has an all appointed Senate and thirdly, in Canada judicial diversity has been taken very seriously. It took a generation to make the change, but it was achieved.

I have been asked to talk briefly this morning about our experiences of constitutional reform and democratic renewal here in the United Kingdom, and we meet on an important day, as the House of Commons is debating reform of the House of Lords.

Constitutional reform and democratic renewal are subjects whose importance belies the lowly coverage they are afforded.

We are seeing record results in schools, with ever more people having access to further education; the economy is the strongest in Europe, the pound is riding high; hospital waiting lists are down, employment is up. I believe that this is a good time to be in Britain, and in part down to the achievements of this government.

But some of the most significant achievements of this Government lie in how we have gone about improving the building blocks of our democracy and transforming the relationship between the citizen and the state.

This is something that is often lost, overlooked, disregarded in the face of other political issues - foreign and domestic. Terrorism, Iraq, climate change, integration.

We came into power following a period of constitutional gridlock. And in 1997 we injected some much needed momentum and indeed fresh air into a constitution that had stagnated. The pace of reform before 1997 had been slow - glacially slow, and we had inherited a log jam of much needed reform.

What we did, from the first moments in power - was to consider and to treat constitutional reform as a priority. No longer would making our public institutions reflect the expectations of a modern, vibrant, liberal democracy be an empty promise:

We must ensure that our constitution reflects the right relationship between citizen and state. That relationship will vary. If the constitution does not adapt to meet the changing demands and expectations placed upon it - ultimately what is undermined is an essential component in the successful functioning of our democracy - trust.

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A constitution needs to achieve 4 things:

### **1. Effective Government**

Firstly, to enable effective Government. In the United Kingdom, we look to the Government to do things. Federal models remain unattractive for us. Government must be able to govern. The public want politicians to be acting, not arguing. A constitution must provide for proper safeguards, but not for gridlock. This is the essential balance that must be struck. Effective governing does not come through an unfettered Government - nor does it come through the imposition of unworkable restrictions.

For example, the House of Lords is now as a result of the reforms so far an effective revising chamber. We must now make it democratic too.

In the House of Lords Act 1999, we reduced the number of hereditaries to 92, 10% of the original total, with the condition that the remainder will go following the second stage of reform. The effect on the House of Lords of that change has been significant. No party has a majority in the House. If two out of the three parties coalesce the Government can be defeated. The Lords accepts its role as a revising chamber, so will normally give way on points of principle to the Commons. But will hold firm on second order points and points of detail. Frequently the Commons will accept the change, because they improve the Bill and there is little controversy. On more controversial issues, sometimes the Commons prevails sometimes the Lords. Often there is compromise. But since the change there is rarely if ever gridlock. Legislation progresses - the Government gets its business - but often significantly changed. Lord Cunningham's report shows in detail how the relationship produced revision without gridlock; it is a very important document.

Stage two of Lords Reform gives the chance of greater democratic legitimacy to the second chamber, whilst retaining and maintaining its effectiveness. It is an aim shared by all three main parties. The question now remains - how do we get there.

It is important for democratic renewal that this is a matter for Parliament to decide - built on the principle of cross party consensus. The Government, as expressed in the recent White Paper, believes that the centre of gravity on the make up of the second chamber is for a hybrid-house - part elected, part appointed. A chamber that is complementary to the commons; one that represents the regions; one that is democratically legitimate, while ensuring that it continues to be effective in revising legislation without gridlock.

My personal view is that we should have a House that is 50% elected, though I would be content with up to 80%. I believe the appointed element is important because it brings a dimension absent from any other part of the legislative process.

And I am in agreement with the views expressed in the Lords Reform White Paper;

There should be no overall majority - I think it is important that no party should have a majority of either the party political members of the House or indeed the House as a whole. The Second chamber must be complementary; neither a place for rubber-stamping nor obstruction

Nor should there be any hereditary peers - ancestry should no longer mean eligibility. I do not believe that an elected element will lead to conflict with the commons. There will continue to be disagreements. But people and politicians alike want a House to scrutinise and revise - not confront. We want the arrangement that Cunningham describes. So how do we get it?

Do not think that if people and politicians want it - that it is beyond our ability to construct an arrangement on an elected element that abides by Cunningham.

There should be a long transition leading into the new system to allow existing life peers, who have been and continue to be an asset to Parliament should remain. This is not out of sentimentality but rather because I think it is important in providing continuity between models.

Non-party-political appointments must remain, which will be crucial in maintaining the wide range of experience and expertise that is currently of such benefit to the House.

Essential in maintaining trust in our public institutions must be transparency and accountability of appointments; all appointments to a reformed House should be made by a new Statutory Appointments Commission.

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## **2. Connecting citizen and state**

The second prerequisite is a constitution that connects the citizen to the state - one that allows the views of the people to be heard, and not just heard, but to be effective.

People have different views. Different parts of society differ - look at issues like the Iraq war; road pricing. Connected does not mean populist; it does mean people accepting the authority of the state. In particular accepting the authority of the executive to rule even when you didn't vote for them. For that acceptance to continue, people have to accept that the Government is selected in a way that leads to it striving in the interests of the community. Two examples

Firstly devolution. The creation of devolved administrations has protected and preserved the interests of the Scots and Welsh - and prevented their issues becoming marginalised in a UK parliament. The Government responded to a clear public desire for more local decision making - our constitution has changed and has the flexibility to accommodate moving with the times. The all important connection between citizen and state was strengthened as a result, and I hope that very soon Northern Ireland will experience the benefits felt by Scotland and Wales.

Secondly, electoral reform: votes of well under 50% and in 2005 under 40% produce majorities of well over a hundred. Does this suggest no connection? No. I do not get the sense people wanted a different Government - they wanted labour to govern effectively. They did not want a coalition. They do want a process where, without loss of effectiveness, the Government is held appropriately to account, and shows an ability to change where necessary, without abandoning principle. The increasing ability of the Lords to change legislation is one way

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## **3. Openness**

Number three is openness. Openness needs to be the norm. This Government took the unprecedented step, in the UK, of introducing the Freedom of Information Act.

It has been the single most significant act of any Government, in improving transparency, accessibility and accountability. It is the platform for building an improved relationship between the citizen and the state - in which the public can have a greater stake in how they are governed, because they have better information and a legally enforceable right to information.

FOI was introduced to fundamentally alter the relationship between citizen and state. To re-establish trust in Government, to break down the cultural and institutional barriers that had historically put the public on the outside. A modern liberal democracy is grounded on much more than the intermittent right to vote. It must also be based on increased participation from the people. Enabling the public to see how and why the decisions impacting on them were made - is crucial in improving this relationship.

We are currently consulting on FOI regulations. We are listening. And while the consultation is still

ongoing we will continue to consider a range of views from across the board. I am glad that the newspaper editors and media organisations are taking such an interest in this issue.

I was particularly heartened to see yesterday both The Times and The Guardian being so fulsome for the first time in their praise of the FOI Act - that has "vastly improved local lives" and is "working to the benefit of citizens". I agree completely. And only this morning the Daily Mail of all people described it as a "monument to a more open society" - while they referred to me simply as "a cheeky chappie" - considerable progress on both fronts I feel.

In spite of their issues with the Act, it is encouraging that they welcome what the Government is trying to achieve through Freedom of Information.

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#### **4. Respect**

Fourthly and finally respect: there needs to be mutual respect between state and citizen. For the state that respect must be ensured by quality and connection. Parliamentarians, the executive (ministers and officials alike) and judges all have to act in a way which engenders respect. Propriety, commitment, openness and connection. For the citizen, he should be treated with respect by the state - he has responsibilities in return. The respect he is shown increases, the greater his or her role in the decision making process. And also by the rights he has. The HRA has at its heart the concept that citizens are entitled to respect by public authorities. That respect involves minimum standards of treatment.

The Human Rights Act is often the target of abuse - by those who accuse it of being a terrorist's charter, or prioritising the rights of criminals over communities. But, as I have said many times recently, these myths and misperceptions are not the fault of the Act but of its application.

Some very high profile cases of where the HRA has been wrongly given as the reason why a rioting prisoner was given KFC on the roof, or why police couldn't release the photographs of two escaped murderers, or tragically when Naomi Bryant was murdered following the early release of Anthony Rice on human rights grounds. In the first two incidents - the HRA was never a factor, and to claim it was is wrong. In the Rice case, the official enquiry questioned whether too much weight was put on the rights of the individual rather than the protection of the community. There is clearly a problem that needs addressing here - and it is not one of legislation but one of understanding and application.

Canada's charter of rights, enforced by the Courts, gives people the right to be treated with respect. Like our HRA it is not either lacking in common sense or out of tune with the times. Of course people will attribute to it meanings or consequences it does not have, or will misapply it. But the respect that the charter and HRA bring and the transformation they will effect over the years as they embed in our system the concept that the courts will protect everyone from the excesses of the state will be significant.

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#### **Conclusion**

To wrap up, these are reforms to our constitution that rarely garner the coverage, acknowledgement or understanding that they deserve.

It is difficult for many people to look past some of the big issues, but it is impossible to ignore them when the Government has done so much.

This Government has made some historic, fundamental, revolutionary changes to our democracy in modernising our constitution. And continues to do so.

I believe that we need to continue our programme of constitutional reform. I believe that we will

continue our programme of constitutional reform. Reforms which will continue to ensure the effectiveness, connection, openness and respect between the citizen and the state. Those are the values which will continue to guide us in our reforms from 2007.