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HOUSE OF LORDS

Fact vs. Fiction

JESS GARLAND & CHRIS TERRY

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INTRODUCTION

Days after the latest crisis in the House of Lords, the Prime Minister announced he intended to appoint even more Peers over the summer.

The fact this is being planned when the Lords is already the second largest chamber in the world (after China's) – and the only completely unelected legislature in Europe – has shocked many. But it raises once again the need for urgent reform of our bloated second House.

The Electoral Reform Society has long campaigned for a fully-elected Upper House. If you vote on laws affecting the public, you should be accountable to the public.

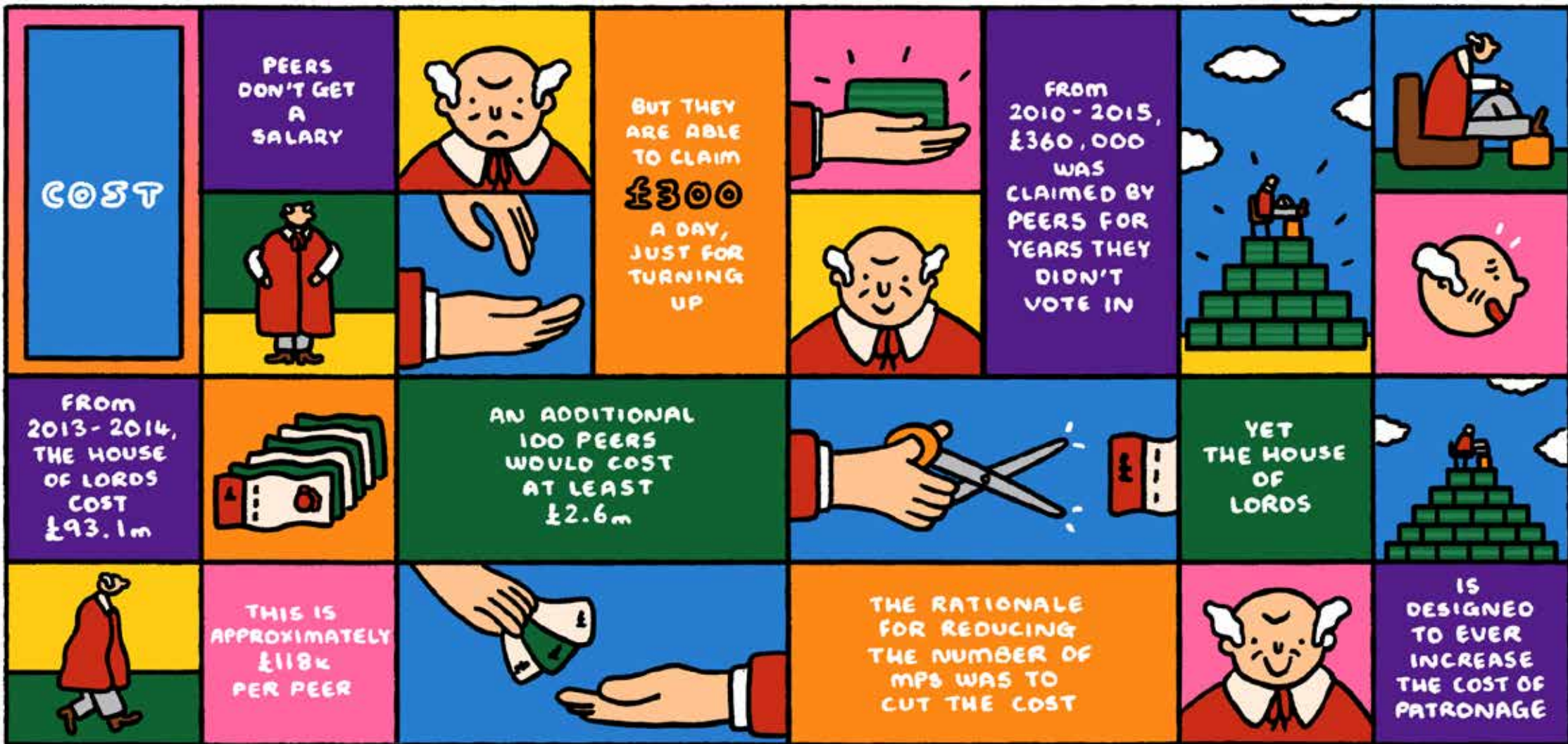
But often when Lords reform is mentioned, it is batted down with claims the House is independent, and an elected chamber would not offer adequate scrutiny. We're told the Lords is packed full of experts who revise our laws without partisan influence, or its size and cost are manageable or irrelevant. We even hear – though more mutedly – this chamber can make up for a lack of representativeness in the Commons.

In this major report however, we shatter these myths about our unelected legislature. We show that Lords are not, on the whole, independent – political peers vote as party blocs, while the minority of non-aligned Crossbenchers turn up less frequently. Far from being a chamber of experts, the Lords is more often a chamber of ex-politicians.

On top of that, we show David Cameron's plans to produce a Conservative majority in the Lords would require hundreds of new appointments at a cost of millions. Far from reflecting the UK's diversity better than the Commons, the Lords look even less like the public it is supposed to serve.

The Prime Minister said he 'regrets' not reforming the second House in the last Parliament. It's time for him to act – and finally fix our broken upper chamber.

Darren Hughes, Deputy Chief Executive, Electoral Reform Society



While Peers are unpaid, they are able to claim a £300 a day tax-free allowance for attendance plus expenses for limited travel costs. Between February 2014 to January 2015, £21 million was spent on Lords allowances and expenses, with the average Peer receiving £25,826.

In the 2010-2015 parliament, £360,000 was claimed by 62 Peers for years in which they did not vote once. **In the last session of parliament alone, over £100,000 was claimed by Peers who did not vote at all.**

The net operating costs of the House of Lords in 2013-4 was £93.1m, approximately equivalent to £118k per Peer.

On this basis, an additional 100 Peers would cost almost £2.6m in expenses and allowances. But this is likely an underestimate of their true costs. Firstly, new Peers are likely to attend the house more frequently being, on average, younger. Secondly, these figures do not include office costs, including the extra staffing, food and additional costs associated with extra Peers.

The rationale for reducing the number of MPs from 650 to 600 was to 'cut the cost of politics'¹ yet the House of Lords is designed to ever increase the cost of patronage.



The House of Lords is said to be a house of experts who have been chosen because of their specialist knowledge. Expertise is used as an argument for what makes the House of Lords different from the House of Commons, and also for its legitimacy.

However, the field from which the Upper Chamber brings the most experience is politics. In the current House of Lords, 27% of Peers have representational politics as their main profession prior to entering the Lords, the majority former MPs. A further seven percent of Peers are former political staff or held senior positions in political parties.

The legal professions are well represented (7%) as is business and commerce (9%) and banking and finance (6%). Two Peers worked primarily as staff of the Royal household prior to entering the Lords,

whilst only one Peer has a manual trade as their former profession.

Non-political appointments have sought to correct the gaps in areas of expertise, but the Crossbench Peers appointed to bring their professional experience to inform debate and improve scrutiny attend, and vote, far less than party-political Peers. **Nearly half of all Crossbenchers participated in ten or fewer votes in the 2014/15 session.** Peers with backgrounds in politics attend far more regularly than those with professional experience.

Whilst health debates in the Lords can boast doctors, medical research fellows and surgeons, the Commons can also draw on the experience of GPs, NHS managers and medical professionals from across the NHS.



The House of Lords is growing in size with each new government. Each new Prime Minister uses political patronage to readjust the party balance in the Upper Chamber in favour of their party.

The 2010 Coalition agreement formalised this aim stating that ‘Lords appointments will be made with the objective of creating a second chamber that is reflective of the share of the vote secured by the political parties in the last general election’². More recently the Prime Minister has suggested it is seat share rather than vote share that matters stating ‘it is important to make sure the House of Lords more accurately reflects the situation in the House of Commons’³. This would not only replicate the grossly unfair translation of votes

to seats in the Commons, but would create the dangerous precedent of the governing party in the Commons always having a majority in the revising chamber. Combined with the strict partisan loyalty of political Peers, this undermines claims that the Lords can be a truly effective and critical revising chamber and a check on the government of the day.

Without the ability to forcibly retire Peers, adjusting party balance means increasing parties’ numbers of Members. This means the House of Lords can only increase in size, creating a strain on resources and importantly, increasing the ratio of unelected to elected members of the legislature.



The House of Lords is often assumed to be more independent than the Commons because it is less strongly whipped and because it contains Crossbench members who do not have a party affiliation. However, it is a mistake to assume that this makes the Lords a non-partisan chamber.

Over seventy percent of members of the Upper Chamber take a political whip. Many political Peers are former MPs, or former elected representatives of other legislatures. A quarter of political appointments to the House of Lords between May 1997 and March 2015 were former MPs.

Those who have gained their position through political appointment are generally more active, regular attendees. The phrase ‘working Peer’ is used to describe those Peers who have been appointed by parties to boost their respective parties’ strengths in the Lords; expectation of regular attendance goes hand in hand with this.

Despite less whipping in the Lords, party appointees vote cohesively. Between 1999 and 2009, Conservative Peers voted against the Labour government in an average of 97% of votes in whipped divisions. Labour Peers voted against the coalition government in 99% of whipped division between 2010 and 2015.



Whilst the Upper Chamber is unelected and therefore not representative of public choice, it is sometimes claimed that the Lords does a better job at addressing representational deficits; the appointment system helping to directly address representational imbalances. However a detailed look at the existing House of Lords suggests this is simply not happening.

It is unsurprising given the nature of peerages that the House is unrepresentative in age. Life peerages are precisely that - Lords have only recently been given the ability to retire, but are eligible to sit in the Lords for the rest of their life.

Despite having power over appointments, only slightly over a quarter of peerages made between May 1997 and March 2015 were women. Female representation in the Lords has only recently reached 24% (199) - five percentage points lower than the Commons.

The structure of the Lords works against increases in women's membership. Hereditary peerages automatically pass to the first born son⁴ and the House has reserved places for Bishops - a position only opened to women last year. These positions make up 14% of the chamber. Moreover, the predominance of former MPs in the Lords means the under-representation of women in the Commons is also replicated in the Upper Chamber.



CONCLUSION

The Upper Chamber, at its best, performs a crucial role in scrutinising and revising government legislation and providing a check on prime ministerial power. But this report has highlighted the reality of politics in the House of Lords – its essential functions have to date been performed by unelected appointees, given this position by accident of birth or political patronage.

Lacking democratic legitimacy, the House of Lords has tried to defend itself over the years by making claims to greater political independence, expertise and representativeness. Yet we have shown that this is not the complete picture. The Lords is highly partisan: the majority of Peers, and particularly active Peers, take a political whip. Its independent experts, the Crossbench Peers, are dwarfed in number by political appointees and turn up for only half of the votes. Despite being appointed, the Lords still fails to reflect the diversity of the country it supposedly represents.

The formation of a coalition government in 2010 also demonstrated how easily the political balance of this revising chamber can switch, creating a government majority in both houses. With the power of appointments, Prime Ministers have both the power and political impetus to shift the political balance of the House of Lords. This is not only unsustainable in terms of size and resources, but it's also constitutionally dangerous.

The size and cost of the House of Lords is growing at a time when the size of the Commons, our elected house, is being cut. If the aim is to reduce the cost of politics, increasing the cost of patronage is impossible to justify.

When the part of our Parliamentary system designed to keep a check on Executive power can be used as a partisan plaything, when it lacks the legitimacy of democratic election, when it can be so easily brought into disrepute, it is surely time to reform this out of date institution. This report has laid out the facts about our Upper Chamber. Now, in the midst of growing public distrust in our legislature, it's time to put the fiction to bed.

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