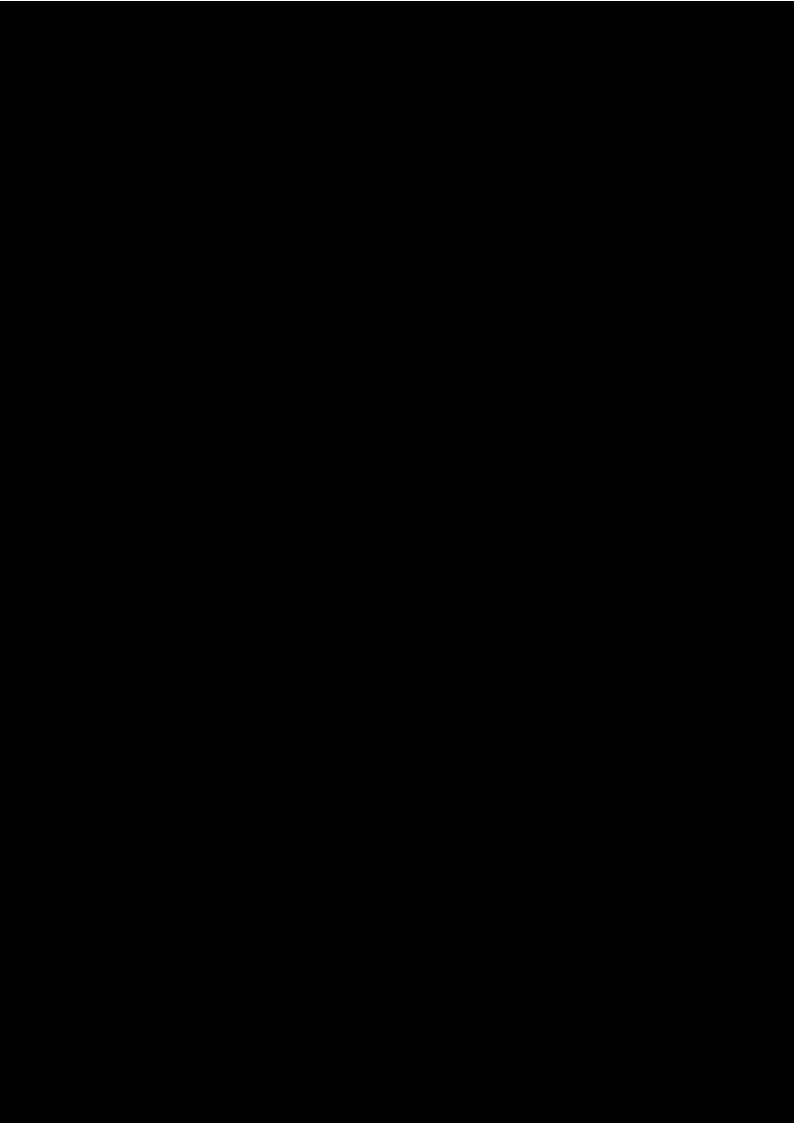
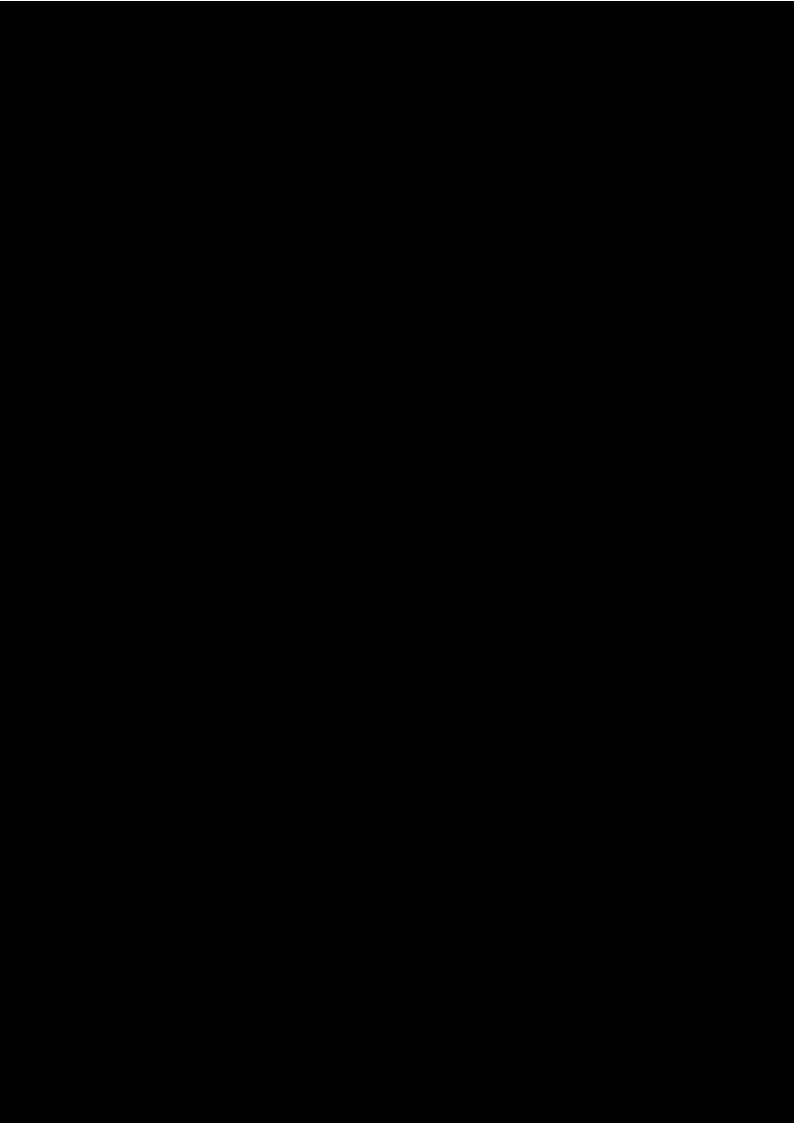
The House of Lords: In defence of human rights?

by

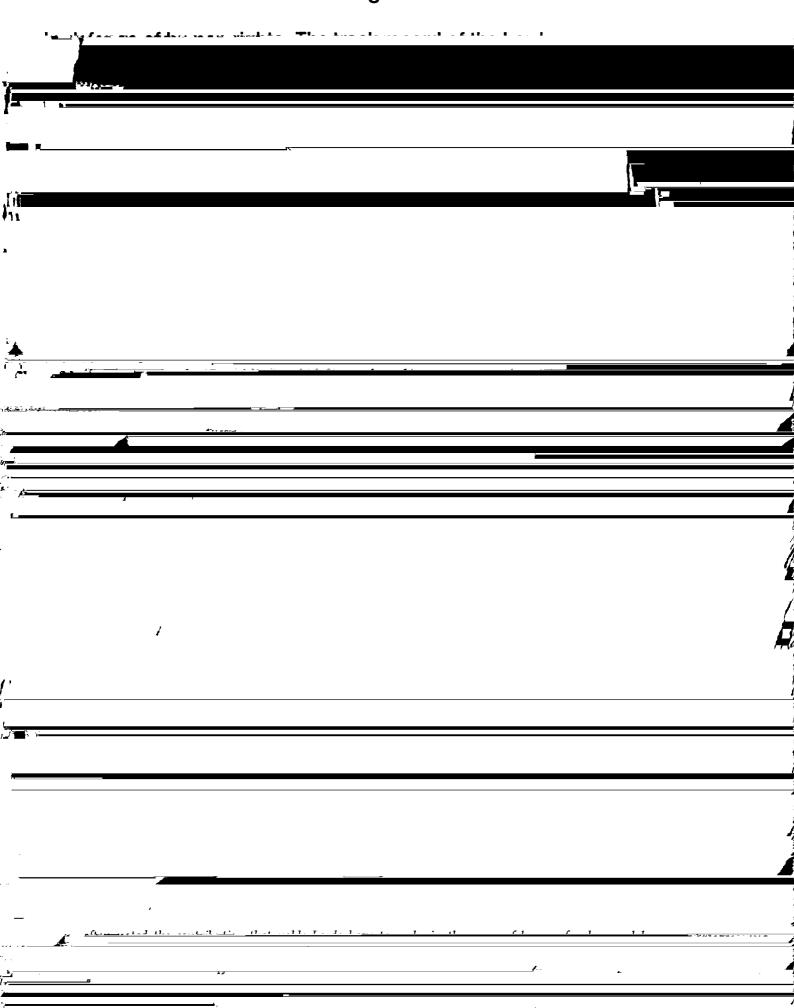


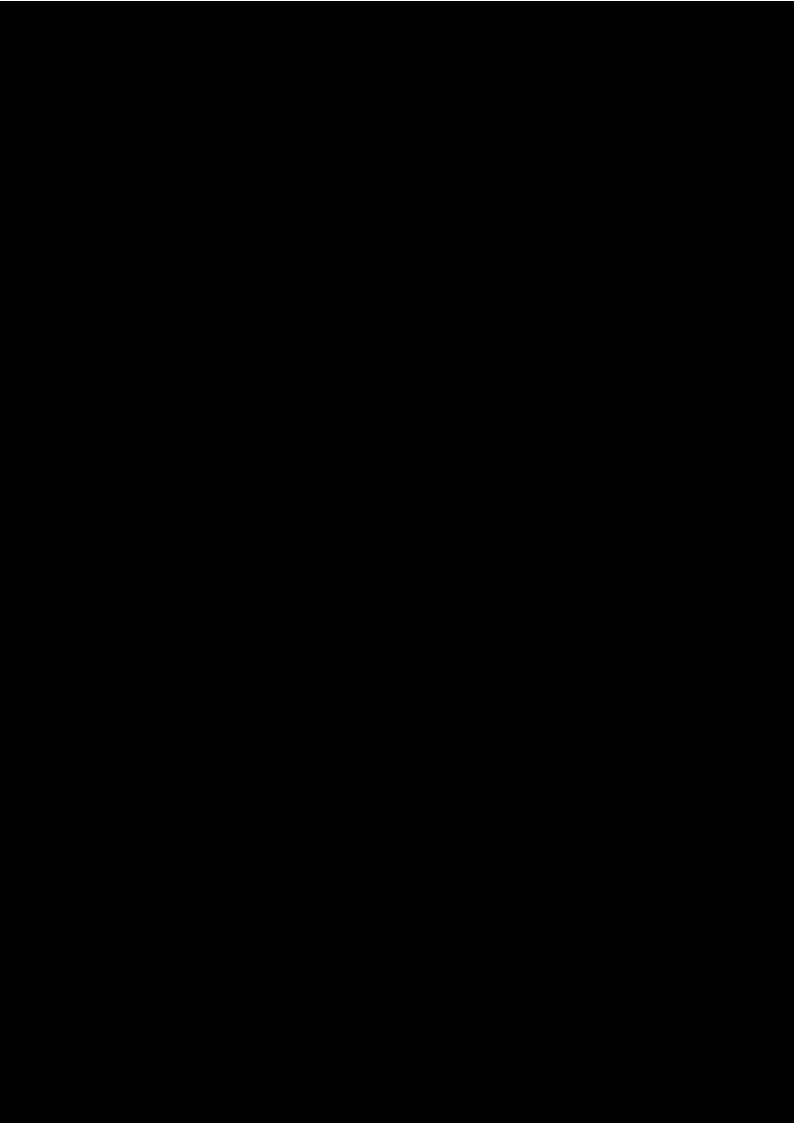
Executive Summary





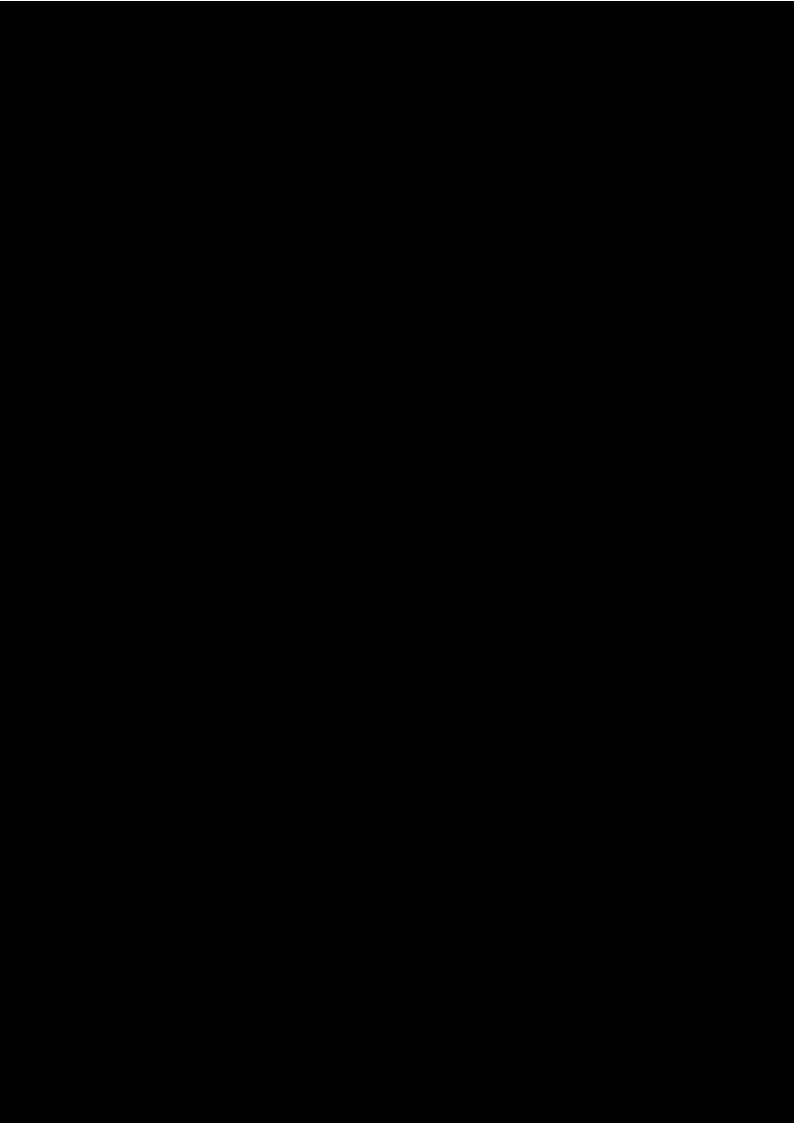
Background



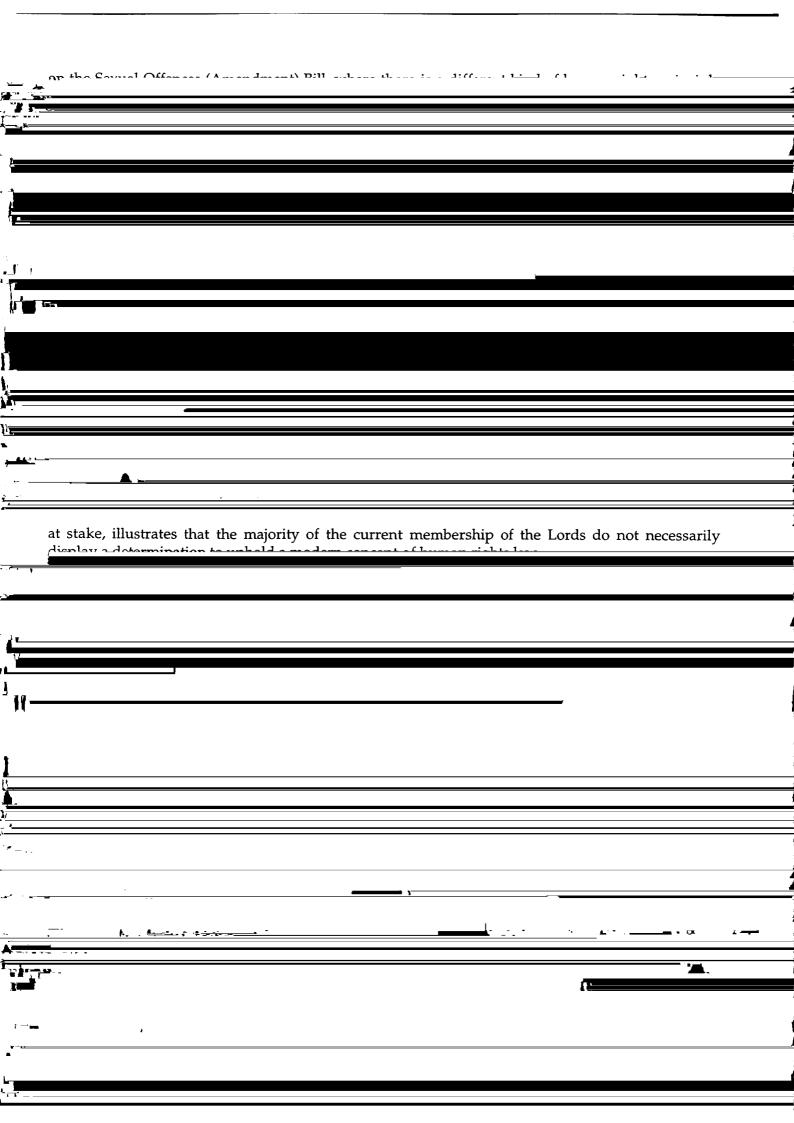


Weedon and Lord Scarman, submitted a proposal to a Liaison Committee of the House of l the appropriate machinery be established in the Lords to ensure that legislation would be s	Lords that
for consistency with obligations under the ECHR. ¹³ In 1996 in another debate on the consettlement of the UK, Lord Bingham (CB, LP), the new Lord Chief Justice, in his maiden spared Donaldson (CB, JP) former Master of the Rolls—spake out on the relationship	stitutional beech, and
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The nattern of activity in the Tords on a Bill of Pichts and the debates on the con-	olim <u>itionol</u>
cottlement, reflect the presence in the Lords of members who bring with them expertise and	d mus sti sal
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The impact which the Lords' contribution can make to the improvement of legislation is however critically restricted by the absence of democratic legitimacy to oppose the will of the elected members of the Commons. The vulnerability of the Lords in either voting against Bills, or in pressing amendments, even where they hold concerns over the impact on fundamental principles, is often attributable to this deficit. For example, during the passage of the Firearms Bill 1997, the legislation was subject to much criticism for the manner in which the scheme was being implemented. Lord Stoddart of Swindon (Lab, LP) called the Bill " .. a thoroughly bad Bill, of which Parliament should be ashamed. ..". 20 All the Lords amendments had been reversed in the Commons. Lord Lester of requirements on property rights. The amendment, although it attracted widespread support, was



The profile of the Peers It has frequently been argued that one of the strengths of the House of Lords is that its members

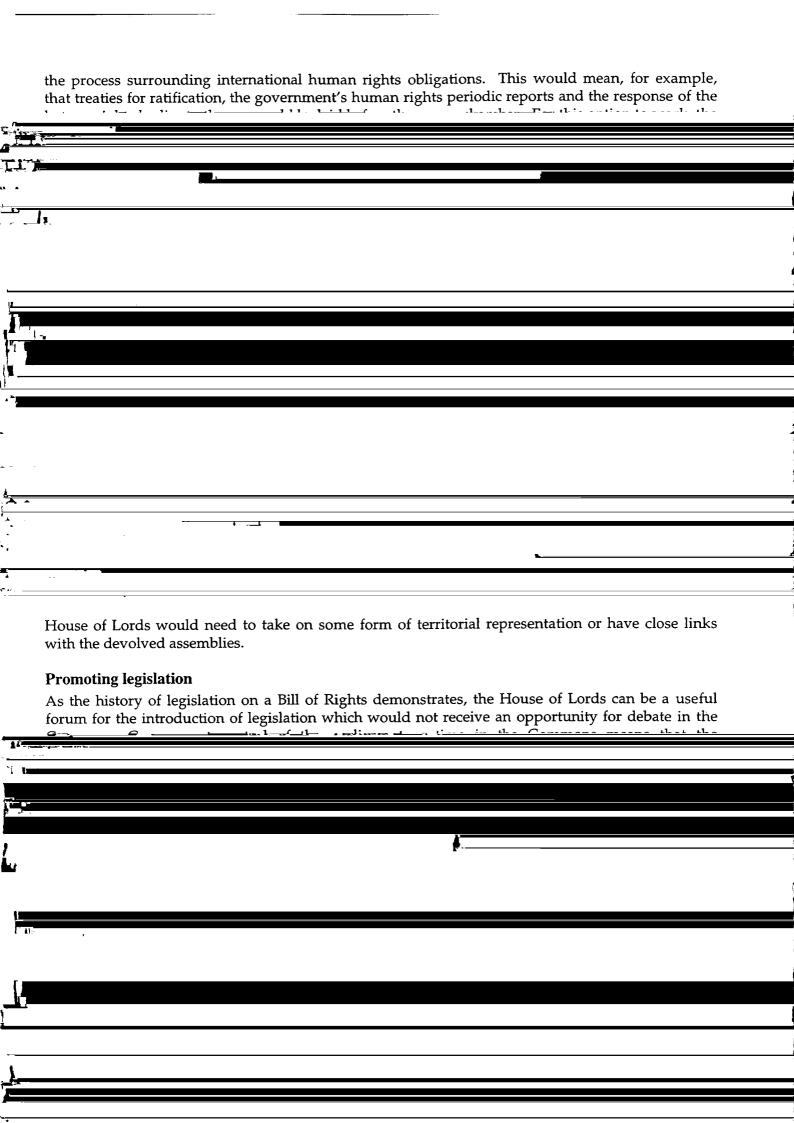


statement that although unable to make a statement of compatibility the government nevertheless wishes the House to proceed with the Bill. Where a section 19 statement of compliance is provided, Parliament should be encouraged to ask questions of Ministers about the measures taken to ensure compatibility and whether those marcures are in fact adoquate. If a Minister is unable to make a statement of compliance this will function which both Houses of Parliament will carry out Hawarons second shambor where role is that of a revising chamber, which is less committed to adhering to the party whip will potentially be

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•	government has also committed itself to ratification of Protocols No. 4 and 7 of the ECHR, 42 after a review of legislation to ensure that UK laws comply with the Protocols. Ratification of those Protocols would affect the devolved territories' constitutional framework. With respect to other international human rights obligations, the Secretary of State has reserved the power to direct the devolved executives to take or desist from action where it is appropriate to meet the LIK's obligations. The Secretary of State can also provide devolved to meet the LIK's obligations. The Secretary of State can also provide devolved to meet the secretary of State can also provide de
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incompatible with the UK's international obligations.⁴³ Changes to international human rights

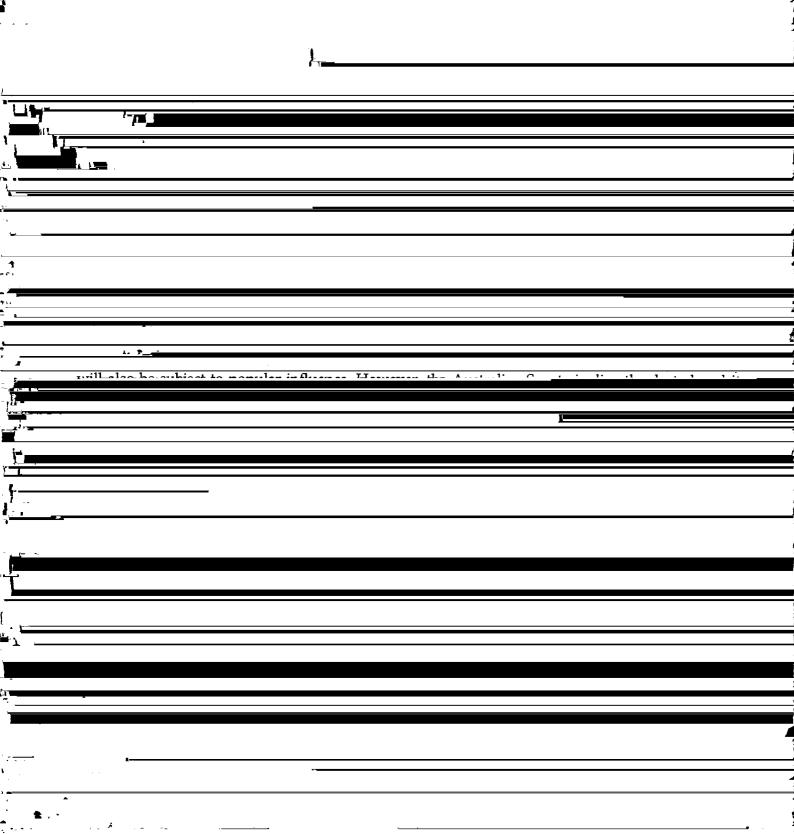
	Access to Justice Bill was deemed compatible with Article 6 of the ECHR. ⁴⁷ The government I indicated that they will explain the thinking behind a Section 19 statement if the issue is raised
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	considered that the provisions of the Draft Financial Services and Markets Bill complied with t
	Convention. ⁴⁹ These are precedents which a reformed upper chamber could draw on to inform t
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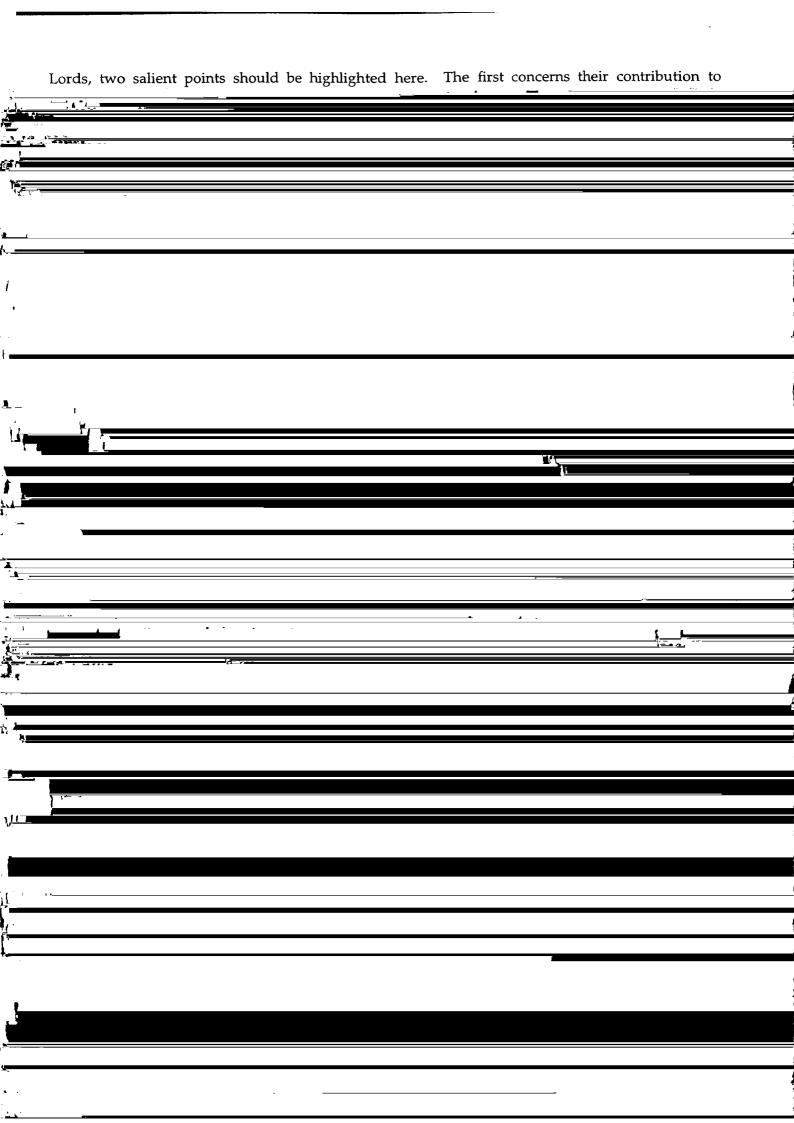


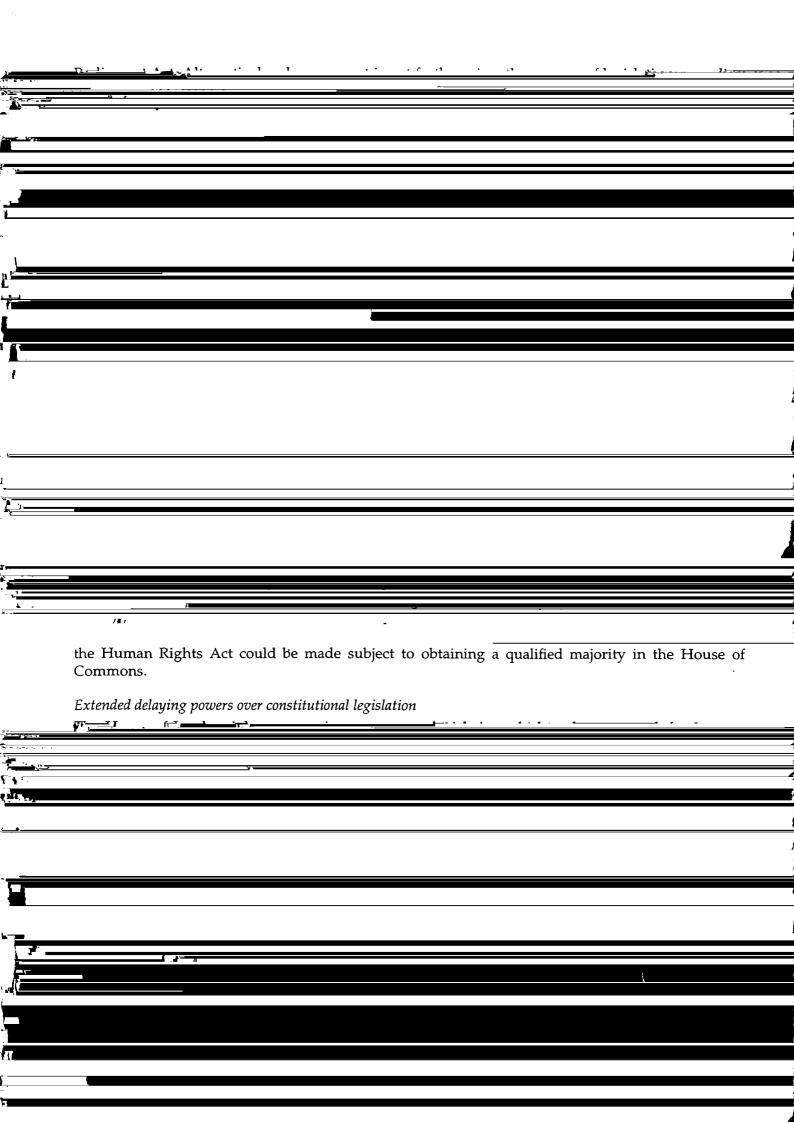
When the current House of Lords is noted for its independence, it is frequently as a result of the existence of a large section of cross benchers who do not take a party whip. Independence is often measured by reference to the manner of selection of members, the duration of their office, the existence of guarantees against undue influence and whether the body presents the appearance of independence.

Selection methods

<u>Election</u>: The advantages to elected members performing a role of human rights protection, is that they enjoy the democratic mandate to exercise effective opposition to the government where they consider that human rights are at stake. However direct election inevitably means that political parties will dominate the candidates who run for the upper chamber. Elected members would therefore predominantly take the party whip, and are unlikely to operate or be perceived to be sufficiently independent to play an effective constitution role. Elected members are likely to operate or be perceived to be







Experience of operation of the Joint Committee will indicate whether it would be an appropriate use of resources and reflect the strengths of the chamber, for the upper chamber to establish its own committee - either a human rights committee or a wider constitutional committee. If it was considered that such a committee be established, care would have to be taken to ensure that it did not duplicate the work of the Human Rights Committee or any other committee. Such a committee could provide the following services in addition to the Joint Committee on Human Rights.

Scrutiny of section 19 statements

