

W201 The Individual and the State

Study notes on the House of Lords

Why have a second chamber at all?

Most democracies have a second chamber. Some of the reasons are:

- i) it is a check on the power of the first chamber
- ii) it may have time which the first chamber lacks to scrutinise amend and improve legislation
- iii) its members can have experience authority and in depth knowledge which leads to informed legislative scrutiny

The history

In medieval times the King's Council consisted of Lords Temporal Spiritual and the Commons. Originally the King chose which Lords to summon but eventually it became established that senior barons had a hereditary right to sit in what became the House of Lords. After Henry VIII dissolved the monasteries the Lords Temporal outnumbered the Lords Spiritual who declined in importance.

Traditionally the Lords represented the great landed interests in the country and the Commons represented the knights of the shires and the burgesses or merchant classes in the towns.

With the industrial revolution the cities and towns grew in importance and with the extension of the franchise by the end of the 19th century the dominance of the House of Lords had slipped away. No Prime Minister since 1902 has sat in the Lords.

The Commons as early as 1671 were claiming the Lords had no right to amend or alter Money Bills (although the Lords disputed this). When the Lords exercised this power in 1909 (and threw out Lloyd George's Budget) the Liberal Government introduced the Parliament Act of 1911 which abolished the Lords power to delay Money Bills and reduced their power to delay other bills to two years (spread over three sessions of parliament).

In 1949 a Labour Government further reduced the Lords general delaying power from 2 years to 1 year (spread over two sessions of parliament).

In 1958 the Life Peerages Act allowed the creation of life peers and this gave the Lords a new lease of life.

Reform

The UK has been almost unique in having a second chamber largely based on the hereditary principle.

The strengths of the UK system were that the members of the Lords (taken as a whole) tended to be less party political than the commons and tended to have both the experience knowledge time and patience to revise legislation thoroughly. The situation was not satisfactory as it was undemocratic and the Lords were reluctant to use their powers for fear they would be abolished.

The alternatives

- 1) It would be possible to abolish the Lords and have single chamber government (Oliver Cromwell tried this). Denmark Sweden and New Zealand use this system.
- 2) It would be possible to have an all elected second chamber.
- 3) It would be possible to have an all nominated second chamber. Canada and Ireland have mostly nominated second chambers.
- 4) It would be possible to have a part elected and part nominated second chamber.

The way forward

The Labour Government elected in 1997 chose a two stage reform. The first was to be removal of hereditary peers. The second was to be reform of both powers and composition.

At present we have a half way house. Following a compromise first stage partial reform in the House of Lords Act 1999 there are now up to 92 hereditary peers remaining. No longer fearing abolition the partly reformed house has shown a willingness to use its powers and have for example rejected the Criminal Justice (Mode of Trial) Bill (restricting the right to jury trial).

Despite a Royal Commission, White Paper and consultations the Labour Government failed to legislate for the second stage.

The 2010 Coalition agreement of the present government provides for a wholly or mainly elected second chamber (using proportional representation).