

A Brief History of Lords Reform and the Next Steps Necessary to Reform the Membership of the Chamber

Introduction

The House of Lords is the second largest parliamentary body in the world and the upper unelected house of the United Kingdom¹. Throughout its history it has served as a regulator on the Commons and was always intended to give an experienced voice when legislating. While this once meant the experience of aristocratic families, since 1958 experts in various fields have been appointed to the house to grant additional experience and knowledge². In 1999 the Blair government furthered this effort by removing all but ninety two hereditary Lords, making the chamber primarily for those with experience in various fields of work³. Since this reform there have been many attempts to make further changes to the chamber but none have passed into law. This report shall first outline a history of Lords reform before putting forward two proposals, grounded in conservative ideology, intended to reform the upper house into a more effective body of legislation.

It is essential to consider reform as it is more and more present on government agendas and party manifestos⁴. Since Blair's reforms, successive governments have looked at further reforming the chamber from its current form and, with the plethora of options available and an uncertain future, the current conservative government is our best chance at rational pragmatic reform. Conservatism has long been the ideology of gradual reform to deter radical change and as such it is the duty of conservatives to reform the chamber - not necessarily to an elected body but an effective organ of parliament that can continue its duty effectively and with due responsibility.

These proposals will not seek to transform the chamber into an elected body as I do not believe that would best serve its purpose. Instead it would complete its transformation into a body of experts thus maximizing its ability to effectively scrutinise legislation. This would be achieved by proposing the creation of an independent committee to ensure appointments to the chamber are transparent, the neutrality of the chamber remains uncompromised and the House of Lords is not seen as a reward for loyal service to the government. Additionally it would help reduce membership by removing those members who are in place simply on a hereditary basis or do not pass the transparent criteria put forward by the independent body. These measures would surely strengthen the chamber's credibility as a forum of the best and brightest minds from a range of fields. The proposal will then examine the question of term limits and whether it would be appropriate before concluding with a brief examination of the effects these reforms could have on the monarchy.

History of Lords Reform

The Parliament Act of 1911 marked the first attempt to reform the House of Lords and removed the ability of the Upper House to veto money bills. In addition it granted the House of Commons the

¹ <http://www.electoral-reform.org.uk/reforming-the-house-of-lords>

² <http://www.parliament.uk/about/living-heritage/evolutionofparliament/houseoflords/parliamentacts/overview/lifepeeragesact/>

³ <http://www.parliament.uk/about/living-heritage/evolutionofparliament/houseoflords/house-of-lords-reform/from-the-collections/from-the-parliamentary-collections-lords-reform/lords-reform-1963-1999/houseoflordsact1999/>

⁴ <http://www.bbc.co.uk/news/election-2015-32430193>

power to overrule any Lords veto after three parliamentary sessions⁵. This would be further reduced to two sessions in the Parliament Act of 1949⁶. However the original act did retain equal legislative power for the House of Lords in the case of laws that extend the maximum term of the House of Commons.

The next major reform was the Salisbury Convention which began to take form following the Atlee government's landslide victory in 1945. This convention, while not a formal law, stated that as the government was elected it had a mandate to pass anything in its manifesto without a Lords veto⁷. This was criticised by the Liberal Democrats in 2005 who argued that the decline in voter turnout has removed such a mandate from the Commons although it is still largely followed⁸.

In 1958 the Life Peerages Act began the expansion of the Lords by enabling the appointment of a new class of 'non-hereditary' peers who could sit and vote in the House. This was the beginning of a shift towards a meritocratic chamber as the law intended to bring the 'great and good' into the House⁹.

The nature of the house changed again in the Peerage Act of 1963 which allowed hereditary peers to disclaim their peerage permitting them to vote and stand for election to the Commons. It also allowed hereditary peers in Scotland and female hereditary peers to sit in the House of Lords¹⁰.

However, these reforms were relatively few and far between. Major reform truly came under the Blair government with the House of Lords Act of 1999. This act removed all but ninety two hereditary peers. Those peers that remained were elected from within those who formerly had a right to be members due to their lineage. The intention was that this would be a temporary position until the second stage of reform was complete, however it led to some claims that the elected Hereditary Lords were actually the only democratic members of the House¹¹. The second stage of reform never came to pass as interparty disagreements would prevent further meaningful reform.

An attempt at a second reform began in 2000 with the House of Lords Appointments Commission being formed with three main roles. Firstly it would recommend appointments for non-party-political life peers; secondly it would vet all nominations for membership to the Lords including those nominated by UK political parties and thirdly it would scrutinise certain candidates added to the Honours Lists such as those nominated for political services as well as anyone added at a late stage. Its membership is made of primarily non-partisan members and representatives of the Lords three largest political parties (Conservatives, Labour and the Liberal Democrats)¹².

⁵ <http://www.parliament.uk/about/living-heritage/evolutionofparliament/houseoflords/house-of-lords-reform/from-the-collections/from-the-parliamentary-collections-the-parliament-act/parliament-act-1911/>

⁶ <http://www.parliament.uk/about/living-heritage/evolutionofparliament/houseoflords/house-of-lords-reform/from-the-collections/from-the-parliamentary-collections-the-parliament-act/1949-parliament-act/>

⁷ <http://www.parliament.uk/site-information/glossary/salisbury-doctrine/>

⁸ http://news.bbc.co.uk/1/hi/uk_politics/4556963.stm

⁹ <http://www.parliament.uk/about/living-heritage/evolutionofparliament/houseoflords/parliamentacts/overview/lifepeeragesact/>

¹⁰ <http://www.parliament.uk/about/living-heritage/evolutionofparliament/houseoflords/house-of-lords-reform/from-the-collections/from-the-parliamentary-collections-lords-reform/lords-reform-1963-1999/peerage-act-1963/>

¹¹ <http://www.legislation.gov.uk/ukpga/1999/34/contents>

¹² <http://lordsappointments.independent.gov.uk/>

Further reforms were attempted by the Blair government with papers being submitted in 2001 and 2007 although after consultation and parliamentary votes neither house agreed on any change to the process by which the Lords should be appointed or elected¹³. This meant that further reform was effectively suspended until the following election.

In 2003 the Department for Constitutional Affairs was created with Lord Falconer as its first Secretary of State. The department was tasked with the creation of an independent Judicial Appointments Commission and a new Supreme Court to replace the Law Lords. It was also tasked to reform the Speakership of the Lords and make new arrangements for the conduct of Scottish and Welsh business. The Supreme Court was established with the Constitutional Reform Act of 2005 replacing the Appellate Committee of the House of Lords although most of the Law Lords went onto become its first justices¹⁴.

The next reform was attempted under the coalition government with the Liberal Democrats proposing a bill that would introduce an eighty percent elected House of Lords. However, when the bill was debated ninety one Conservative MPs rebelled against a three line whip and the bill was abandoned due to government opposition¹⁵.

Since then two more reforms have passed, namely: the House of Lords Reform Act of 2014 which allowed Lords to resign from the House (additionally the exclusion of any peer convicted of a criminal offence and sentenced to a one year or more prison sentence) and the House of Lords (Expulsion and Suspension) Act of 2015 which allowed the Lords to expel or suspend members for a definite period of time.¹⁶¹⁷

Independent & Transparent Appointments

This first proposal will be on creating a Lords Appointment Committee free from government and party-political pressure. This will ensure the chamber is efficient and only for the best and brightest.

One of the first major obstacles to a neutral chamber of expertise is the ability of the Prime Minister to appoint people to the Lords. Increasingly in recent times, especially since Blair, the Lords have been used as a place to reward those that have done a service to the Prime Minister¹⁸. In order to prevent this an independent body must be created to administer appointments to the house. This body should be non-partisan and non-parliamentary to ensure that it acts in an impartial way. This is particularly important for as long as political parties are able to sway the outcome there is a risk of the chamber being corrupted by inappropriate appointments due to party pressure. By creating this independent body we can be sure that it is able to give proper scrutiny to the candidates without political pressures.

This neutral chamber should provide a set of clear criteria which nominees must meet in order to ascend to the Lords. These criteria should be made public to ensure the process is transparent and

¹³ <https://www.parliament.uk/documents/lords-library/hllreformchronology.pdf>

¹⁴ <http://www.legislation.gov.uk/ukpga/2005/4/contents>

¹⁵ <http://www.bbc.co.uk/news/uk-politics-19149212>

¹⁶ <http://www.legislation.gov.uk/ukpga/2014/24/contents/enacted>

¹⁷ <http://services.parliament.uk/bills/2014-15/houseoflordsexpulsionandsuspension.html>

¹⁸ <http://www.telegraph.co.uk/news/2016/08/08/the-house-of-lords-is-too-bloated-to-work-efficiently-theresa-ma/>

will assist in increasing respect for the Lords. The recent diminution in the public eye of the Lords and honours system has a number of roots but finalizing the Lords as a chamber for expertise should help improve the situation¹⁹. The criteria must ensure that only the best and brightest can enter the chamber and should be strictly adhered to. Once created and published any member of the public or government may submit individuals to be reviewed by the committee. Those who fail to meet the necessary criteria will be able to determine the grounds on which they were rejected to ensure transparency in the system. The list of nominees will be made public to ensure all cases are treated equally.

The inability of the government to hold a majority in the House of Lords helps preserve neutrality in the upper house. This ensures the house provides rigorous scrutiny towards any legislation that it reviews thus forcing the government to pursue legislation in the best interest of the state. This neutrality is essential to limiting radical policy, especially that outside the mandate, from being made a reality. As such the independent committee will be required to ensure the neutrality of the chamber is preserved.

Representation will also be considered when looking at membership of the upper house. While expertise will be the primary aim the independent committee will also work to provide voices for minority groups in the country and help the chamber reflect this. While it may not seek to mirror the percentages of the population it will ensure that these groups are heard and able to have a voice in the Lords.

Reduction of Members

The House of Lords is the second largest parliamentary body in the world being superseded only by the Chinese legislative body²⁰. This is an unacceptable state of affairs considering the comparative size and population of our country. Even more absurd is that while we already have this immense membership we are also the fastest growing parliamentary body meaning we may soon become the largest. This overflow of members has begun to compromise the quality of Lords debates as speeches are shortened to allow more people to speak whereas in the past experts would debate the topic in thorough detail in order to ensure the finer points are understood by all. In addition to determining an optimum membership size the independent appointments committee will be authorized to remove members from the Lords to remedy this overflow.

The first group to be reviewed for potential removal should be the remaining hereditary peers. The greatest threat to the case for unelected Lords is the continued existence of this group as it compromises the case that the Lords is a chamber of expertise. To be granted a seat by virtue of ancestry is a mockery to our entire democratic system and this must be eradicated. The remaining hereditary peers were authorized as a temporary measure during the 1999 reforms as it was felt that some experience should be retained to ensure functions continued as normal²¹. After the passage of eighteen years it is surely no longer necessary for the hereditary peers to remain and as such they should be removed from the chamber.

¹⁹ <https://www.ipsos-mori.com/researchpublications/researcharchive/250/House-of-Lords-Survey.aspx>

²⁰ <http://www.electoral-reform.org.uk/reforming-the-house-of-lords>

²¹ <http://www.parliament.uk/about/living-heritage/evolutionofparliament/houseoflords/house-of-lords-reform/overview/hereditarypeersremoved/>

Once the independent appointments committee has determined and published its criteria for membership a review will take place of those currently serving in the house. Those members failing to meet the criteria will be removed from the Lords ensuring that it becomes a house for only the most talented members of society. This will assist in restoring the prestige to the chamber and ensure the debates are measured and informative.²² This review will also consider those members who were translated to the Lords due to their previous position whether in the Commons or the Civil Service. In both of these spheres ministers and mandarins are often rewarded with a seat in the upper house as a thank you for simply fulfilling their office - a practice which must surely be seen as unacceptable in a modern democratic system.

Following this initial review the committee will be responsible for the continued management of Lords membership. This will include a minimum attendance requirement to ensure those in the Lords are using their position appropriately and help reduce claims scandals. The minimum attendance can be determined by the committee after review and consideration. Lords who bring dishonour to the chamber through their actions such as criminal activity or scandal will also be eligible for removal from the house should the committee so decide. This will again help bring prestige to the chamber and ensure the debate is of the highest level.

The power to remove an incumbent from the upper house will be subject to Lords scrutiny to ensure the committee does not abuse its power and act frivolously. Any member facing expulsion from the house will be given a clear and detailed explanation of the grounds of their removal and the right to appeal. This information will all be publically available and will ensure that the committee cannot be corrupted by outside influences.

Membership Term Limits

While there are strong cases for both sides of the debate on term limits for Lords I firmly believe that rigid term limits will be harmful to the chamber. If experts are forced to leave as they have served their time we may lose some of the brightest to bureaucratic necessity thus weakening the chambers effectiveness. However it should also be recognised that new membership will allow fresh insights and new views to enter the chamber.

There should also be checks and balances in place to ensure those in the chamber are able to fulfill their role. A mandatory review of members over the age of 70 every three years will test their physical and mental ability to take part in the actions of the House of Lords. Those unable fulfill their duties will depart from the Lords and allow new experts into the chamber. Additionally, a standard review for all members should take place at least every five years to ensure that those in the chamber are, indeed, exercising their duties and obligations to expectations as well as simple measures such as attendance and voting records.

The Effect of Reform on the Monarchy

The potential effect on the monarchy is often overlooked when considering reform to the House of Lords. As the second 'aristocratic' element of the British political structure, any Lords reform could be seen as a threat to the monarchy due to the perception of the removal of the legitimacy of an

²² <http://www.telegraph.co.uk/news/2016/08/08/the-house-of-lords-is-too-bloated-to-work-efficiently-theresa-ma/>

unelected figure. However, the monarchy remains an extremely popular institution in Britain with seventy six percent of citizens voting to keep the monarchy in an Ipsos Mori poll in 2016²³. By contrast a 2012 Ipsos Mori poll showed that seventy nine percent of British citizens favored Lords reform²⁴.

This strong public support, in comparison to the Lords, acts as evidence that any reformation of the Upper House would not threaten the institution of the monarchy. In terms of the legitimacy of the body one must ask whether the Lords act in some way to legitimize the monarchy. Republicans rarely see it as a defense suggesting that the reformation of the Lords would not serve to harm the institution.

Conclusion

The House of Lords is a vital part of British democracy and a unique chamber in its ability to use the experts of our nation to refine and scrutinise legislation that is produced by lawmakers. Creating a meritocratic chamber is essential as it prevents the Lords being reformed into a second elected house which could doom British democracy to paralysis. Furthermore it will greatly enhance the quality of debate and legislation coming out of our parliamentary body thus benefiting all of Britain.

It is therefore essential for conservatives to support the creation of an independent appointments committee and the reduction in Lords members to allow the body to continue its traditional function. If reforms are opposed then it will eventually lie in the hands of those who would replace it with an elected chamber and ending the institution as we understand it.

²³ <https://www.ipsos-mori.com/researchpublications/researcharchive/3720/Monarchy-popular-as-ever-ahead-of-Queens-90th-Birthday-celebrations.aspx>

²⁴ <https://www.ipsos-mori.com/researchpublications/researcharchive/3013/Ipsos-MORI-House-of-Lords-reform-poll.aspx>