

# Pre-chewed Politics

## Does the House of Lords need further reform?

**Yes – An elected House of Lords would be more democratic, and could be more descriptively representative.**

Of western industrial nations, only the UK and Canada have unelected, appointed second chambers. The Lords is not only undemocratic, but also unrepresentative. In April 2016, there were 207 female Peers in the House of Lords, 25% of the 814 sitting total, up slightly from 181 in 2012. A report released by Parliament in March 2016, claims that there are only 51 ethnic minority members of the House of Lords (6.3%) compared with roughly 13% of the population.

**However... the House of Commons does not fare much better even though it is elected.**

The percentage of women in the House of Lords is only slightly lower than in the House of Commons. 191 women were elected in the 2015 general election, making up 29% of the House of Commons, a record high. Ethnic minorities make up the same percentage of members in the Lords as in the Commons, which had 41 ethnic minority MPs in 2015. This suggests that an elected House of Lords might not necessarily be more descriptively representative.

**Yes – The regular appointment of new life peers has also led to the House becoming unmanageably large.**

Since the Life Peerages Act (1958), individuals have been appointed as life peers to the House of Lords on a regular basis. There are currently 814 members of the House of Lords, but only around 400 actual seats in the Lords chamber. The Lords is currently the second largest Upper House in the world, and it is the only upper house in any bicameral legislature to be larger than its respective lower house. Under the House of Lords Reform Act (2014), peers can now choose to resign from their role. However, as the prime minister has the power of patronage, and there is no limit on the number of peers in the House of Lords, the Upper House is likely to keep growing.

**However... it is possible that by holding elections, the Lords would lose its current variety of expertise.**

It is possible that the scientists, academics and businesspeople who have been appointed to the House of Lords as Life Peers (since the Life Peerage Act 1958) would not want to run for election. While they might currently enjoy using their expertise to add to the House of Lords, the prospect of lengthy and expensive election campaigns might not have the same appeal. This could result in elections being dominated by career politicians - individuals who have spent their whole lives working to get into politics. The House of Commons already has an abundance of people who studied politics, before working for politicians and then becoming politicians themselves.

**Yes – The House of Lords is currently too weak - it can only delay, rather than block, the government's bills.**

Since the Parliament Acts of 1911 and 1949, the House of Lords has only been able to delay, rather than block legislation. The Lords can make amendments, but, if the Commons votes to overturn them, their only option is to delay the bill for a year. The Lords has proven quite reluctant to use this power. Since 1949, only four laws have passed without the consent of the Lords. When the Lords made three key amendments to the Transparency of Lobbying Act (2014), which limited the amount that outside groups can spend influencing elections, in order to make the bill less burdensome on charities, the Commons simply overturned all three changes. The Parliament Act (1911) also gives the House of Commons 'financial privilege', meaning the House of Lords cannot block 'money bills' that authorise expenditure or taxation. When the Lords amended the Legal Aid, Sentencing and Punishment of Offenders Act (2012), the Government cited the Commons' 'financial privilege' to simply dismiss the amendments.

**However... a stronger House of Lords could also lead to gridlock.**

If an elected House of Lords considered itself to have a mandate of its own this could lead to gridlock, where bills struggle to succeed and little progress is made because the two houses simply cannot agree. This can be seen in the US legislative branch of Congress, where the House of Representatives and the Senate must agree on legislation for it to pass. The 2012-13 session of Congress was the least productive in history, largely because the Republican Party held a majority in the House of Representatives, while the Democratic Party held a majority in the Senate. The two parties each claimed a mandate for completely different agendas. The House of Lords' power to delay should also not be underestimated. The Lords defeated the European Union (Referendum) Bill in January 2014 by filibustering it, dragging out debate with amendments so that it ran out of time to complete its committee stage before the end of the parliamentary year. The University College London's Constitution Unit examined 406 government defeats in the Lords between 1999-2012, and found that the government ultimately accepted 44% of them.

### **Yes – The appointments process for Life Peers has been accused of encouraging corruption.**

The former Prime Minister Tony Blair was accused of cronyism (giving positions to friends rather than the most qualified) after he appointed a significant number of Labour Life Peers to the House of Lords. The media named the scandal 'Cash for Honours', after it was speculated that the individuals were appointed because they had made sizable loans to the Labour Party. It appeared that this money had been given as a loan because only donations had to be publically declared. Introducing elections would alleviate concerns over the appointments process and could encourage greater public participation in politics, potentially combating political apathy.

### **However... the House of Lords Appointments Commission did reject several of Tony Blair's nominees.**

The House of Lords Appointments Commission was set up in May 2000 to act as an independent, public body that could recommend individuals to be crossbench Life Peers. When it was established, the power of the prime minister to make non-partisan recommendations was transferred to the Commission. The Appointments Commission also scrutinises the nominations made by political parties. Therefore, there have already been efforts made to improve the appointments process, challenging the need to introduce elections. Equally, there is no guarantee that elections would have a turnout level that would lend the new members of the House of Lords a great deal of legitimacy. Elections for the House of Commons have turnout levels of around 65%, and turnout is dramatically lower for other UK elections.

### **No – The 1999 reforms have already improved the party balance and independence of the House of Lords.**

The House of Lords Act (1999) made significant reforms to the House of Lords by removing all but 92 of the hereditary peers who had inherited their place. This reduced the membership of the House of Lords from 1,330 to 669 and also significantly altered the party balance in the House of Lords. Before the 1999 reforms, over 40% of members of the House of Lords were Conservative, compared to Labour (16%), Liberal Democrat (6%), cross-bench (29%). In 2016, the balance stands at: Conservative (31%), Labour (26%), Liberal Democrat (13%), crossbench (22%).

### **However... the reforms were only ever intended to be the first in a two-part process.**

Ultimately, there are still 92 hereditary peers whom many argue should be removed from the Lords, as they are out of place in a modern democracy. The first stage of reforms did nothing to impact the fact that members of the House of Lords are not chosen by the public. There are still many pressure groups and politicians suggesting a second stage of reforms to address these issues. In the meantime, David Cameron has appointed the highest rate of peers per year than any prime minister since the system began in 1958. He has appointed 237 peers in 5 years, a rate of 47 peers per year. If that rate continues, he could secure a Conservative majority in the House.

### **No – The Lords have already become more defiant, and more willing to break with unwritten conventions.**

Since the 1999 reforms, the House of Lords has become much more assertive, willing to break with longstanding conventions in order to challenge the government. In October 2015, the House of Lords voted to delay the Tax Credits (Income Thresholds and Determination of Rates) (Amendment) Regulations, a statutory instrument reforming current tax credits rules that had already passed in the House of Commons. This was controversial, because there is a longstanding convention that the House of Lords only rejects secondary legislations (rules and regulations created by ministers under powers conferred on them by Acts of Parliament) in exceptional circumstances. The House of Lords has only blocked SIs five times over the last century (and four of these five cases occurred after the 1999 reforms.) The Lords arguably also broke with the Salisbury Convention and the convention that the Upper House should not oppose the Government on issues of taxation and public spending, as the Conservative Party had pledged to cut £12 million from the existing welfare budget prior to the 2015 election.

### **However... this creates a need for reforms that clarify the powers and relationship of the two Houses.**

While the Parliament Acts of 1911 and 1949 clearly restrict the House of Lords to delaying, rather than blocking Bills, many of the other rules governing the behaviour of Upper House are unwritten conventions, and this can cause unnecessary confusion and conflict. The question of whether the Lords could, or should, have delayed tax credit cuts suggests that reform is needed to clarify the relationship between the two chambers. The 2015 Strathclyde Review report suggested that the Lords should be restricted to inviting the Commons "to think again" when a disagreement exists. There is also considerable disagreement over the Commons' 'financial privilege.' By convention, the Commons can claim 'financial privilege' to dismiss Lords amendments with financial implications. However, there has been heated debate over how what constitutes 'financial implications'. In 2012, the Government claimed financial privilege to dismiss seven amendments to the Welfare Reform Act (2012), including changes to the 'bedroom tax', the benefits cap, and changes to disability benefits, much to the objection of the Lords. Without further reform to clarify the powers of the more assertive House of Lords, it is likely that there will be additional 'constitutional crises' in the near future.