The Lords Spiritual, Temporal – and invaluable

MERLIN SUDELEY rues the demise of the hereditary House of Lords and calls for its return

To previous generations of Englishmen, our constitution was our national glory, one imitated the world over. So much has changed. Last May, Nick Clegg published a draft bill to propose that the House of Lords should consist no longer of peers but of senators elected by proportional representation. He has gone too far. Now is the time to refresh our memories of older and wiser perspectives, and look at the House of Lords when it commanded infinitely more respect and power.

How far back in time can we take the origin of our House of Lords? Now it is usually called parliament, but such nomenclature arose quite late in its history, during the 13th century. Before then it was the Norman Royal Council; and before that the Saxon Witan. During and since those times, the House of Lords has frequently proved itself indispensable.

In the reign of Edward the Confessor, in 1051, it had a crucial role to play in the avoidance of civil war after the return from exile of the Confessor’s most powerful subject, Godwine, Earl of Wessex. In the reign of Henry II, the trial of his “turbulent” Archbishop Becket could not have happened without the House of Lords, where it took place. (Becket fled from his trial. After his return from exile the four knights, including my kinsman William de Tracy, who entered Canterbury Cathedral intended merely to arrest him – murder only happened because they were unbalanced by the Archbishop’s resistance.)

We are justly proud of how the House of Lords, sometimes described as a Council of Barons, gave us those famous articles of Magna Carta which provided the foundations of our modern justice – such as never to sell or deny justice, and insistence on trial by jury instead of ordeal to ensure the due process of law.

James II was ejected from office for his attempt to re-impose Catholicism.

It was the House of Lords which hired his Protestant successor, with our Hanoverian dynasty to follow. In 1893, the House of Lords spared bloodshed through its rejection of Gladstone’s proposal from the House of Commons to give Home Rule to the whole of Ireland.

Despite all these great services, the House of Lords has never been left alone. If we ignore the Cromwell era, what have been the more recent attempts in the 19th and 20th centuries to reform the House of Lords and curb its powers?

Before 1911, Lords reform had been the subject of private enterprise, with bills introduced by individual campaigning peers and MPs. With the Parliament Act of 1911, the government intervened and took control, to reduce down to two years the power of the House of Lords to veto any legislation. Abortive attempts at reform were made by Lord Bryce’s conference of 1917-18, Lord Curzon’s Cabinet Committee of 1921-22, Lord Cave’s Cabinet Committee of 1925-7 and the Cabinet’s Political Committee of 1933-5. Under Attlee’s government, the vetoing power of the House of Lords to delay legislation was cut back to one year. In 1958 the Labour Party objected to the bill to create life peers, because it left the hereditaries alone. Under the defeated Wilson proposals of 1968, existing hereditaries would have been left with speaking rights only, and the government given a 10% voting majority.

Then came Blair. In this matter of Lords reform we know from his autobiography how he was effectively without belief, and followed others in his party whom it was his business to lead. His government had learnt its lesson from the collapse of Wilson’s attempt to reform the Lords in 1968. The Wilson Bill was too ambitious, long and complicated, and gave its opponents an easy opportunity to shoot it in pieces by sheer power of argument (which the Labour Party termed a filibuster). Wilson decided to give up Lords reform to allow more time for priority legislation.

In 1999, therefore, the government’s chosen tactic was to introduce a short bill called Stage I to abolish the hereditaries, and to defer the decision about what Stage II would be. Never before had proposals for Lords reform been split up in so overbearing and cavalier a fashion.

The collapse of Wilson’s Bill in 1968 because of shortage of parliamentary time showed how low down Lords reform has to lie on any political agenda. It also left the Conservative peers, including hereditaries, in the very strong position of being able of being able to get the government to back down from any plans to reform the Lords by a threat to hold up more important legislation.
Blair appreciated the strength of the position of the Conservative and hereditary peers and his need to get round it. He used his Lord Chancellor, Lord Irvine of Lairg, to propose to the then Leader of the Opposition in the House of Lords, Lord Cranborne (now Lord Salisbury) that 92 of the hereditaries should be temporarily spared while the rest could be sent down the river – and Cranborne accepted.

It must be understood just how ungentlemannly it was of the government to approach Cranborne over the head of his party leader, William Hague. But Blair knew that if approached directly Hague would have sent them packing. A few years later the full circumstances were detailed in Alistair Campbell’s diary. Here are three germane quotes about Cranborne’s machinations:

Cranborne speaking to Campbell – “I am committing high treason just talking to you”

Campbell describing Cranborne – “I could tell the minute he walked in that he was enjoying the drama of it, the plotting, and the fact of consorting with an enemy, a subject he joked about frequently”

Campbell reflecting on Cranborne – “The more I thought about it, the more shocked I was that Cranborne had consorted with us in the way he did. It was always going to end in tears for his own side.”

In his letter to me of 2 March 2004, William Hague said he repudiated the Cranborne stratagem because he did not accept Cranborne’s naivety in supposing that to retain some of the hereditaries would force the government to give proper consideration to Stage II of reform instead of just leaving us with Stage I. Blair, noted Hague, was interested in having a weaker House of Lords.

One afternoon, to coincide with Prime Minister’s Questions, Alistair Campbell was to make the deal public at a press conference. That morning Cranborne told Hague what he had done, wrongly supposing Hague would not blow it open in the Commons. But that is just what Hague did, in order to repudiate it.

Meanwhile, Cranborne addressed a meeting of Conservative peers. On this historic occasion I was there to hear his spurious arguments that the deal was worth having because it came from him and not the government, and that if it was not accepted all of the hereditaries would have to go. Hague, who had surprised the meeting with his presence, was not allowed by the chair to speak until Cranborne had finished and seduced the peers to his way of thinking. Hague then rose to his feet and fired Cranborne for disobedience to him as party leader. A little later Strathclyde refused to take over leadership of the Opposition in the Lords, and the Opposition front bench was persuaded by Cranborne over luncheon at Hatfield to resign, unless his deal was complied with. Hague’s hands were tied.

It is salutary to consider the conditions and causes through which in 1999 Blair was helped to remove most of the hereditaries. The first cause was class hatred. To dwell on this for too long would lie beneath the dignity of my article, but ever since conflict arose within Gladstone’s Liberal Party between the old Whig aristocracy and the middle classes under the leadership of Joseph Chamberlain, the class struggle has dominated British politics. Its latest manifestation was the gratuitous shout of applause from the other side when during her speech to open parliament the Queen read out the
government’s announcement to eliminate the hereditaries. That egregious shunt was an emotive event when during the old days in the House of Lords it was always the argument which won. The hereditary peers in the House are the natural supports of the monarchy, which some members of the Labour Party would like to destroy but Labour governments have never been strong enough to do. The elimination of most of them has left the monarchy exposed.

The second reason for the case with which Blair reformed the Lords is the absence in our schools of proper teaching of British history, especially of the Middle Ages which were so crucial to our constitutional development. From such a lack of knowledge has proceeded the facile assumption that simply because it belongs to the present what we have now has to be better than what we had before – that pure democracy is the only acceptable form of government and heredity can form no relevant part of it.

It is crucial that we understand the centrality of the hereditary principle in British political history, because often the best way of looking forward is to look back over centuries of accumulated experience.

Two great rival systems of government, the hereditary and the elective (democratic), have existed in the West since the fall of the Roman Empire. The hereditary principle of government has been around for much longer than the elective.

In the 16th century, when perceptions were still coloured by memories of the previous century’s Civil War which had been caused by a clash between Stuart absolutism and radical democracy, there was a revival of interest in Aristotle’s theory of the mixed constitution.

Aristotle believed the ideal constitution was a blend of monarchy and aristocracy which are hereditary, and democracy which is elective. The virtue of monarchy, he observed, is power, and its vice is tyranny. The virtue of aristocracy is wisdom, while its vice is faction. The virtue of democracy is goodness, and its vices tumult and violence. Under a mixed constitution these virtues are retained whilst the vices are eliminated. Under such a theory the hereditary Lords acted as a mediator to maintain equipoise between either a despotic or a democratic constitution.

The 18th century term “Free Constitution” is now rarely heard, but in essence, it means there being a mechanism to ensure an equitable balance between the legislature (parliament) and the executive (formerly the crown, now in effect the prime minister). Such a constitution was achieved by Magna Carta, where the barons in the Lords were able to resist King John’s invasion of their liberties. It was achieved again during the early 14th century by the Ordainers sitting in the House of Lords when they were able to curb the executive power of the crown held by Edward II. They selected their own list of peers to attend the House of Lords, and to strengthen their hand insisted these peers should be hereditary. It was once more achieved when parliament ended the personal rule of Charles I, who for 11 years had governed without it. It may be true there had to follow with the Civil War a temporary eviction of the hereditaries from our Legislature. But Cromwell never could manage his own parliaments; and the hereditaries came back with the Restoration which had to ensue.

Later on, and once again, we saw the workings of a Free Constitution under various Victorian parliaments, where backbenchers caused the government to fall by voting out a particular measure (so different to the present day where with the growth of disciplined political parties an elected government controls parliament).

But such equity cannot be if the composition of the House of Lords is to be determined by government appointments and prime ministerial patronage. Now, with the exception of the remaining 92 hereditary peers, the House of Lords has become an appointed chamber.

A less happy legacy of the 18th century is Montesquieu’s idea that a constitution should guarantee separation of the powers of the executive, legislature and judicature. It was in keeping with this theory Blair banished the Lord Chancellor from the House of Lords and evicted its other judges. This theory overlooked how in England the Lord Chancellor combined in his ancient office all three of the separate powers of the executive, legislature and judicature. Judges were put in the Lords to assist in the drafting of legislation and there they should have stayed. The theory also overlooks how our ministers who are the executive sit in both houses of parliament which form the legislature.

It is a cliché to say that Britain has an unwritten constitution, because much of it has been of a customary character instead of being written down. But in point of fact with statute and common law, to include Magna Carta (1215), the Declaration and Bill of Rights (1688-1689), the Coronation Oath Act (1689), Acts of Union, Acts of Succession and Settlement (1701-1707), we do have a written constitution. True, it is not a slim, clearly laid out booklet with main principles, rights and duties of citizens sold by newsagents the way
it happens in other countries – it is a scattered body of texts of a somewhat miscellaneous character, which for the sake of education and protection of our constitutional rights and principles may have needed to be brought together and codified (although not in every detail). Room also needs to be left for change if required. Historically, England had a constitution which evolved on a pragmatic and incremental basis to meet particular needs at particular times. This is what Burke observed, and was also what Enoch Powell meant when he told the House of Commons in 1969 that the Lords with heredity in it had a prescriptive basis. It was largely by use of this argument that Powell butchered Harold Wilson’s Lords reform.

Very few prominent Conservative politicians (or Conservative supporters in the media) have ever spoken up for the hereditary principle. Apart from Powell, this select band would include the old Garter King of Arms, Sir Anthony Wagner, with his article in the Times which afterwards became his foreword to the following year’s edition of Burke’s Peersage. During the Blair reforms Lord Beloff performed extremely well, and more lately, on 24 November 2009, Sir John Baker, Downing Professor of the Laws of England at the University of Cambridge, came very near to recommending the reinstatement of the hereditaries during his Maccabaeus Lecture in Jurisprudence at the British Academy about our constitution.

There are only two alternatives to a hereditary House of Lords – that it should be appointed or elected. Now the House of Lords has become an appointed chamber which holds within it an element of election which has to be highly qualified. The few hereditaries who remain have been elected by all of the hereditaries and never by the electorate at large.

As alternatives to the old hereditary composition of the House of Lords, the two other options of appointment and election are equally flawed. Appointment attracts cronyism and placemanship, and weakens the historical role of the Lords to curb the power of the executive. An elected upper chamber would lead to constipation and gridlock, since the Commons is too jealous of its own authority. After giving themselves the task of trying to choose between the two weaker options of appointment and election, our two chambers of parliament have been at loggerheads. The Lords has preferred an appointed upper chamber and the Commons has leant towards an elected upper house. The leadership of our two major parties has been equally confused.

When Labour came to power in 1997, Lord Richard – who believed in an elected House of Lords – was appointed to be its leader. But so often once settled into power a party’s policy becomes quite different to whatever it had been whilst it had languished in opposition. Only a year afterwards, Blair fired Lord Richard and replaced him with Lady Jay, because Lord Richard stuck to his old belief in an elected upper house. She then presided over the reforms which brought into being today’s uneasy compromise. Yet now that Labour has fallen out of power its Shadow Justice Secretary, Sadiq Khan, tells us it is committed once again to an elected House of Lords.

On the Conservative side, in a 2004 article for the Centre for Policy Studies, Sir John Major wisely anticipated how an elected House of Lords would result in gridlock with the Commons. But Cameron is disposed to betray his Tory roots and go for an elected Lords. On 7 February 2006 he wrote to me a very melancholy letter to say “I personally believe that a substantially elected Second Chamber is the right way to go in a 21st century Democracy.”

Yet while both Labour and Conservative leaderships may in this way have come in principle to endorse Clegg’s proposal for an elected upper house, in practice this proposal has to mean the eviction of all the existing peers except for a handful of bishops (if bishops qualify as peers). Would the peers agree? In the 15 May 2011 Sunday Telegraph, their Deputy Political Editor Melissa Kite remarked that hundreds of disgruntled peers will refuse to turn up to vote in order to hold up all important legislation. Surely then the government would back off. How Gilbert and Sullivan or Bernard Shaw would have loved this situation!

The solution is to put the House of Lords back to where it was before Blair interfered in 1999 with the presence of all those hereditaries who choose to attend. Reinstatement of a hereditary House of Lords has happened before (after the Restoration). Here I offer some reasonable grounds for a comparable modern event.

Aside from the 92 temporarily spared hereditaries, the House of Lords is now composed of appointed peers. Amongst them are some of the finest minds in the land whom it might be wise to retain. But too many of them – many elevated by Blair to secure his own party political balance and yet to make the Lords much too large – are political hacks from the Commons for whom the Lords has become some kind of dormitory for their repose until they die. It is they who have largely contributed to the present party political flavour, leading to unnecessarily protracted hours of business. These would be the most difficult party to evict since they look on their attendance of the House of Lords as some kind of pension. This polyglot order should be allowed to wither on the vine
when piecemeal and before too long its various members meet their demise. Such a disappearance should leave room enough for the gradual reinstatement of the hereditaries, especially when they happen still to be young. I will refrain from giving any formula about their numbers.

Previously, many hereditaries did not attend parliament because they preferred their country pursuits. But of those who did attend amongst the best were the occasional contributors who could in no preconceived way be seen as being ‘out of touch’, since when they came to speak it was on subjects about which they really knew. I will give a few examples. There was the old Duke of Devonshire on flat racing, about which he wrote an excellent book. There were those hereditary Scottish peers who knew more about forestry than the whole Labour front bench. Quiet voices from the countryside, these helped to redress the imbalance of the urban society in which we are obliged to live. Modesty makes me reluctant to provide my own example, but if a larger issue is needed than flat racing or forestry I would have to mention my own bill to uphold the old Book of Common Prayer which I cleared in 1981, after I had spent some years over its careful preparation. On this occasion, where I had most of the laity in the Church of England behind me, it was crucial our Anglican bishops should have kept their old seats in the Lords to hear and answer for the case I put to them.

Unfortunately there is no active organization dedicated to the reinstatement of the hereditary peers, and under such a disability a slow approach is most likely to succeed. A good start would be debates in both Houses on the deception practiced on the hereditaries by the Cranborne deal, which left most of us to be an effete aristocracy without our natural role in the legislature, and Britain dangerously deprived of its centuries-old constitutional stability.

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**Immigration – the reserve army of capital**

ALAIN DE BENOIST examines the often-overlooked symbiosis between big business and mass immigration

In 1973, shortly before his death, French President Georges Pompidou admitted to have opened the floodgates of immigration at the request of a number of big businessmen such as Francis Bouygues1 who were eager to take advantage of docile and cheap labour devoid of class consciousness or any tradition of social struggle. This was meant to exert downward pressure on the wages of French workers, reduce their protesting zeal and break up the unity of the labour movement. Big bosses, Pompidou said, "always want more".

Forty years later nothing has changed. At a time when no political party would dare to ask for further acceleration of the pace of immigration, only big employers seem to be in favour of it – simply because it is in their interest. The only difference is that the affected economic sectors are now more numerous, going beyond the industrial sector and the hotel and catering service sector – to include once sheltered professions such as engineers and computer scientists.

Since the 19th century, France has reached out to foreign immigrants. The immigrant population was 800,000 as early as 1876, and reached 1.2 million by 1911. French industry was the prime attraction for Italian and Belgian immigrants, followed by Polish, Spanish and Portuguese immigrants. As François-Laurent Balssa has noted, "Such immigration, unskilled and non-unionized, allowed employers to evade increasing requirements pertaining to the labour law."

In 1924, at the initiative of the Committee for Coalmining and big farmers from the northeast of France, a "general agency for immigration" (*Société générale d'immigration*) was founded. It opened up employment bureaux across Europe, which operated as suction pumps. By 1931 there were 2.7 million foreigners in France – that is 6.6% of the total population. At that time France had the highest levels of immigration in the world (515 persons per 100,000 inhabitants):

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