The House of Lords is a most surprising institution. Its survival as a largely hereditary and politically lopsided body in a democratic state is paradoxical. Proposals for its substantial reform have been legion, but little structural change has taken place. It remains true in the 1990s that not a single member of the House derives a seat from any kind of election. Most have inherited the right to be there, and the others owe their appointment to the exercise of prime ministerial patronage. This peculiar basis of membership is reflected in the permanent preponderance enjoyed by the Conservative Party in the House. Regardless of which party is in government, the Conservatives always enjoy a majority over all other parties in the upper house.
Predictions that the House of Lords would wither away have long been heard, but in the past few decades the House has actually become more significant. Governments rely on it to scrutinize draft legislation, as does the House of Commons, which frequently dispatches bills to the upper house in a decidedly ill-digested condition. The House of Lords stands as a blatant contradiction of democratic principle, yet it remains an active second chamber in a supposedly democratic political system. How is this paradox sustained?

The key to understanding the House is to recognize that it is all of a piece with the British Constitution. Because there has never been sufficient occasion to oblige Britain to reformulate its constitution, this has evolved gradually over many centuries. It is the product of incremental change made in response to changing attitudes and altered circumstances rather than the outcome of any deliberate design. Neither defeat in war, nor successful revolution, nor federal union of any kind has imposed the need for a fresh start. The Cromwellian interlude of the seventeenth century was followed by a "Restoration" and a "Glorious Revolution." Former institutions which had been abolished, including both the House of Lords and the Monarchy, were reinstated. Had these upheavals taken place a century later, then a full written or codified constitution would probably have been devised. But in the late seventeenth century there was neither the aptitude nor the desire to do this. Instead, there was a recognition that while the future would see a different relationship between the Crown and Parliament, the precise nature of that relationship would be better worked out in political practice than defined in formal principle. And that preference has remained as a guiding light in subsequent constitutional developments.

In the nineteenth century the House of Commons gradually adapted to the demands of democracy as the franchise was extended from 1832 onwards. The junior status of the House of Lords became clearly recognized many years before the passage of the 1911 Parliament Act, which imposed for the first time a limitation on the power of the House to veto legislation. It was only the failure of the upper house to abide by the convention not to overturn the clearly expressed will of the Commons that precipitated the constitutional crisis of 1909–11, a crisis eventually terminated by the passage of the 1911 Act.

Change continued throughout the twentieth century, but the process
of change has never been the outcome of carefully considered and deliberately designed reform. Instead, change occurred in response to events and expectations. For example, at the turn of the century the prime minister and half the cabinet sat in the House of Lords, but without any formal declaration or change of written rule it soon thereafter became accepted that the political ascendancy of the House of Commons was such that the prime minister must be a member of the lower house. By the 1990s it had become difficult to imagine more than two or three cabinet ministers sitting in the Lords and thereby excluded from the Commons.

This preference for an uncodified constitution along with a capacity to adapt ancient institutions to modern roles, and to generate reasonably clear understandings about the relationship between them, is characteristic of the British. There remains a reluctance to think deeply about fundamental constitutional principles, or to attempt to formulate precise rules about the extent of power or the limitations upon its exercise. To some this is an infuriating weakness, exposing the British to the accusation of failing to consummate the principles of democracy. To others these features are the hallmark of a sophisticated system, one only possible in a highly mature political society. The continuation of a House of Lords as a real working second chamber in the British Parliament can only be understood in this wider context of constitutional understanding.

The Twentieth Century: Change but Not Decay

Since the passage of the 1832 Reform Act, the anomalous character of the House has been widely accepted. Schemes for reform have abounded. Yet actual reform has been tardy and tentative. In opposition, parties have tended to espouse the cause of reform, but in office they have almost invariably found their priorities have lain in other directions. Legislation has brought two significant changes in the twentieth century and two relatively minor adjustments, affecting the powers and the composition of the House.

First was the formal curtailment in the power of the House. The absolute veto the House had possessed over legislation was replaced by a suspensory veto in 1911, initially set for two years but in 1949 cut to one
year. However, any bill certified by the speaker of the House of Commons as a money bill could be passed within one month, notwithstanding opposition from the Lords. When the Parliament Act was passed in 1911, politicians expected the House of Lords to use its newly prescribed delaying power with some regularity. Indeed, in the first three years that is exactly what happened (Bromhead 1958, 136-40). But thereafter expectations changed, and since the First World War only two bills have been enacted despite resistance from the House of Lords, and both were unusual. The first was the 1949 Parliament Act, where the House used its delaying power to delay the proposed further reduction in its delaying power. The second was the War Crimes Act of 1990, a bill introduced by the Conservative government but one which was not in any normal sense of the term a party measure. Opposition to this bill, which permitted the prosecution of individuals who had committed war crimes in German-held territory in Europe during the Second World War, came from within all parties and from the judiciary. This became the first bill which had ever been passed using Parliament Act procedure under a Conservative government (Shell 1992, 132-33).

On two other occasions under the Labour government of the 1970s, the upper house declined to pass bills in the form the government and the Commons wished. Both times the bills concerned were reintroduced in the following parliamentary session under Parliament Act procedures. But before they had run their course, agreement was reached. One concerned the position of journalists in relation to possible trade union "closed shop" arrangements, and the other concerned the nationalization of ship repairing in the context of a bill that nationalized shipbuilding (Baldwin 1995).

Although the House retains the right to delay legislation, this is a power it has been most reluctant to use. In 1945, the leader of the Conservative peers, the fifth marquess of Salisbury, articulated a view that the House should not use its power to resist bills that had been foreshadowed in the governing party's previous election manifesto, though it would reserve the right to propose amendments to such bills. As originally defined, this was a precise and limited restriction on the powers of the House. But the tendency has been for such understandings to be extended over the years, for example, to cover all Queen's Speech bills, irrespective of any foreshadowing of the bill concerned in an election manifesto, or any significant amendment to a manifesto bill, notwithstanding the fact that election
manifestos are hardly written in the precise terms found in a government white paper. Although secondary legislation was not covered by the Parliament Acts, leaving the House with an absolute veto over statutory instruments, this is a power which the House has in practice virtually relinquished. It has been used only once in the postwar period—when the Conservative majority vetoed the S. Rhodesia (UN Sanctions) Order of 1968 (Morgan 1975, 137–51).

The caution the House has displayed in regard to the use of power may be considered understandable in the context of its anomalous character and lack of democratic legitimacy. To have acted otherwise might well have resulted in the forfeiture of its remaining powers. Indeed, the unreformed composition of the House has suited successive governments well because it has enabled them to ensure the House remains comparatively docile. For the House of Lords, the price of continuity has been restraint, perhaps to such a degree that some would say the House has embraced a voluntary impotence.

But composition has not been entirely ignored. The second major change of the twentieth century was the introduction of life peers in 1958. Prior to that date all new peerages (save for those given to senior judges) were hereditary. The case for life peerages had long been acknowledged; Bagehot writing in 1867 bemoaned the failure of a recent proposal to bring about such a reform (Bagehot 1963, 144–46). Only with the advent of life peerages could the House regularly receive newly created members without inexorably swelling its total size. Again, this might have seemed a small reform, but it was accompanied by a continued change in the notion of the sort of person to whom a peerage might be given. The House became more representative, at least of the professional classes. The balance of membership shifted, with an increasing proportion being those who had accepted a peerage rather than those who had inherited a peerage. The rate at which new peerage creations took place doubled after the passage of the 1958 Act. A larger number of practicing politicians found their way into the upper house, mostly those who were approaching retirement. And, for the first time, women were admitted.

This was followed in 1963 by a minor legislative change that allowed peers by succession to renounce their peerages and so escape the obligation to sit in the Lords. This enabled those who wished to continue to sit in the House of Commons to do so. The need for this change arose because an able and ambitious young Labour MP (known since as Tony
Benn) inherited a peerage and was in consequence instantly disqualified from sitting in the Commons. His campaign to secure a right for peers by succession to renounce their peerages found some support among prominent Conservatives, two of whom—Quintin Hogg and Sir Alec Douglas Home—became, along with Tony Benn, the first to take advantage of this change (Crick 1964, 139–46). But since 1963 only fourteen other individuals have followed their example.2

Apart from these changes, ideas for reform have frequently been considered. The Parliament Act of 1911 was seen as temporary; it actually contained a prologue to this effect. Following its enactment, a commission was established under Lord James Bryce to consider the second house question. This recommended considerable change in the composition of the House, but nothing was done (Bryce 1918). In 1949 all party talks produced a wide measure of agreement, but a gap remained between the Attlee-led Labour government and the Conservatives over the appropriate powers that a reformed second chamber should have. So Labour carried out its own adjustment to the 1911 Parliament Act, but did nothing about the composition of the House (Crick 1964, 122–31).

Labour in office again in the late 1960s produced an elaborate scheme for reform, which would have phased out all hereditary peers and brought into being a house of nominees, who—providing they were regular attenders—would have retained their right to membership until they reached a retirement age fixed at seventy-two. The scheme appealed to many in both major parties, and the upper house itself expressed clear support. But the Conservative Right disliked the removal of hereditary peers, and others in all parties disliked the idea of creating a house the membership of which in the long run would be entirely the result of prime ministerial patronage. Many MPs were apprehensive about doing anything that would potentially strengthen the legitimacy of the second chamber. Although legislation to bring about these changes gained a second reading in the Commons, at committee stage the bill sank in a sea of hostility bereft of sustained commitment from a government that never seemed more than lukewarm in support of the proposals that ministers had devised (Morgan 1975, 169–220).

In the 1970s and early 1980s, Labour flirted again with the idea of abolishing the Lords before settling on a policy of reform. The Conservatives in opposition in the 1970s gave serious consideration to House reform; a Conservative Party committee recommended a two-thirds elected and
one-third nominated chamber shorn of all hereditary peers (Home 1978). But back in office under Margaret Thatcher, the Conservatives pushed constitutional reform off the agenda; Thatcher preferred governing to thinking about the machinery of government. In opposition since 1979, Labour supported first the removal of the second house altogether, then its replacement by a nominated house almost devoid of power, and then a proposal simply to remove the peers by succession with the promise of further reform at a later date.

Meanwhile, the House of Lords itself underwent something of a renaissance. The average daily attendance of peers increased from a little over one hundred in the late 1950s to almost four hundred in the mid-1990s. No doubt the introduction of a daily expenses allowance in 1957, and its steady increase since then, has encouraged higher attendance. Twice as many peers contributed to debates in the 1990s compared with the 1950s, and the number of hours the House sat more than doubled over the same period. The legislative work of the House grew as it passed seemingly ever more amendments to bills. At the same time its select committee work expanded, mainly through taking up roles which for various reasons the Commons appeared to eschew, not least the scrutiny of draft proposals from the European Community. The record of the House in securing adjustments to bills against the wishes of government appeared to grow; peers themselves gave evidence of quiet satisfaction when their House, still Conservative dominated, was described as the "other Opposition" (Shell 1992). The place of the House seemed more secure than it had been for decades.

House Membership

With around 1,200 individuals having the right to a seat, and over 800 attending at some point in the year, the House of Lords has a very large membership (see table 7.1). Over 60 percent are peers by succession, of whom some 450 attend the House, about half doing so on over one-third of the sitting days. Peers by succession are the aristocracy, still divided into five ranks (dukes, marquesses, earls, viscounts, and barons), although these rankings have no significance in the work of the House. Despite their presence, it is wrong to think of the House in practice as a predominantly aristocratic institution. The aristocratic nature of the working
Table 7.1. Membership in the British House of Lords, 1996

<table>
<thead>
<tr>
<th>Membership Categories</th>
<th>Total</th>
<th>Women</th>
<th>Conservatives</th>
<th>Labour</th>
<th>Liberal-Democrats</th>
<th>Cross-bench</th>
<th>Others</th>
</tr>
</thead>
<tbody>
<tr>
<td>Peers by succession</td>
<td>760</td>
<td>17</td>
<td>332</td>
<td>12</td>
<td>26</td>
<td>161</td>
<td>70</td>
</tr>
<tr>
<td>Hereditary peers</td>
<td>15</td>
<td>0</td>
<td>6</td>
<td>0</td>
<td>1</td>
<td>5</td>
<td>3</td>
</tr>
<tr>
<td>Life peers</td>
<td>386</td>
<td>62</td>
<td>143</td>
<td>104</td>
<td>31</td>
<td>92</td>
<td>8</td>
</tr>
<tr>
<td>Life peers (Law Lords)</td>
<td>20</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>20</td>
<td>—</td>
</tr>
<tr>
<td>Bishops</td>
<td>26</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>—</td>
<td>26</td>
</tr>
<tr>
<td>Total</td>
<td>1,207</td>
<td>79</td>
<td>481</td>
<td>116</td>
<td>58</td>
<td>278</td>
<td>107</td>
</tr>
</tbody>
</table>

Note: Included in columns one and two above, but excluded from figures for party strength, are peers without writs of summons ($N = 85$) and peers on leave of absence ($N = 82$).

The house has been diluted by the arrival of life peers in plentiful numbers and their generally higher level of activity. At the same time, aristocracy has become a less potent force in the nation. The highest ranking aristocrats may remain a small and exclusive group, but they are no longer the great magnates of wealth and power that they were a century ago (Cannadine 1990).

Hereditary peers as a whole may have been educated predominantly at exclusive “public” schools (over half went to Eton), but the claim that from within their ranks the ordinary person’s point of view is frequently articulated should not be ignored. It could certainly be argued that to attain membership in a parliamentary chamber does require today very special ambition and commitment; those who display these qualities are far from usual. This would also be true of most of those who reach the House of Lords as life peers. They are people of very distinctive achievement. At the same time, hereditary peers do simply arrive there through the accident of birth and death. Some are opulent to an astounding degree; most are wealthy. A few are virtually penniless. Some live comfortably off their private resources, but many earn their living in the professions and in business, and where they do this they are probably more typical of the ordinary working members of these professions than are the luminaries who become life peers. Taken as a whole, the hereditary peers do bring to Parliament a range of experience which otherwise would be absent from its counsels.

Those who do not owe their seats to the accident of birth may be divided into four categories. First are the twenty-six senior bishops of the Church of England. These are members of the House only while they hold
their offices; they are the only group who do not remain in the House for their lifetime. Senior bishops are busy, and attending the Lords is only one of many demands upon their time. Seldom does a bishop attend more than 10 percent of the sittings, but collectively they take their responsibilities to the House seriously, and by means of a rota seek to ensure an episcopal presence whenever the subject matter of a debate seems to warrant this. Bishops do not feel obliged to avoid politically controversial areas; sometimes they are among the government's most determined opponents in the Lords, especially where they discern moral issues underlying legislative proposals, as for example on the 1996 Asylum and Immigration Control Bill.

Second are the senior judges who, once promoted to the House to undertake its judicial work, remain members for life. Legal learning is characteristic of the membership of many legislative chambers, but the presence of the most senior members of the judiciary as full speaking and voting members is yet another unusual feature of the House of Lords. These two dozen or so serving and retired "law lords" invariably sit on the cross-benches, indicating their independence from political party ties. This does not inhibit them from taking an active part in the work of the House and at times robustly attacking the government, especially concerning the administration of the judicial system or the sentencing powers of the courts. Third, there are a few individuals who have been awarded hereditary peerages, though since the introduction of life peerages in 1958 the award of new hereditary peerages has become unusual, and hence the number in this category is small.4

Finally, there are those individuals who have been created life peers, almost four hundred, or just over 30 percent of the total membership. A life peerage may be given as an honor, the first and highest category of honor in the regular honors lists that appear in the United Kingdom. But a life peerage may also be given to an individual specifically to enable that person to become a working member of the House of Lords. All new peerages are given by the Crown on the nomination of the prime minister. Persons distinguished in public life or in the business, financial, or professional worlds may receive peerages. Alongside these and receiving the same "honor" are individuals whom party leaders wish to see as working members. Sometimes lists of so-called working peers are now announced separately from the regular honors lists, but there is no formal distinction between such working peers and those whose peerage is announced in an
honors list, nor are there any particular obligations imposed on working peers, some of whom quickly cease to be active in the Lords.

About one-third of all life peers have been members of Parliament. These include former senior cabinet ministers who arrive in the Lords as their distinguished careers draw to a close, as well as MPs who lose their seats in the Commons at the hands of the electorate. Other life peers may be drawn from the ranks of party supporters in business, the trades unions, or the professions, while some are distinguished former public servants, authors, and religious leaders.

Generally, in parliamentary chambers the great majority of members approximate to a very similar level of activity. This may be recognized as one of the consequences of the increased professionalism of legislators. But in the House of Lords this is emphatically not the case. Although over 1,200 individuals have the right to take part in the activities of the House, many are relatively inactive. Some members attend virtually every sitting of the House, vote in almost all the divisions, and regularly contribute to debates and to committee work. Others do so spasmodically, perhaps attending only a few times a year and rarely if ever making speeches. But it would be wrong to think of those who attend much less frequently as not making significant contributions to the work of the House. One of the characteristics of the House is that it does allow individuals who are emphatically not politicians to contribute to the work of Parliament. At a time when the House of Commons has become increasingly dominated by professional politicians and career politicians, the House of Lords retains some members who are definitely amateur politicians and others who are not politicians at all. These include some who have had highly successful careers elsewhere. There is a mingling of politicians with non-politicians which is unusual in contemporary parliamentary chambers.

A further feature of House membership is the relatively small number of women. Until 1958 the House was an entirely male preserve, but in that year women were made eligible for life peerages. The 1963 Peerage Act removed the previous prohibition that the House itself had placed on women who inherited peerages. But very few women do inherit peerages, because even if this is possible under the terms of the original peerage, a male heir will always take precedence over a female. It is worth noting that attempts to remove this gender discrimination by creating a general right for the firstborn to inherit have been actively resisted by the House of Lords itself. Thus at a time when much public concern has been focused
on how to increase the proportion of women in politics, it is an irony that the House of Lords maintains an active discrimination against women.

The House is also a rather elderly institution. Very few people are created life peers before the age of fifty, and most must wait until they are past sixty. A few peers by succession inherit while young, but most do not until they are at least middle-aged. The average age of the entire House is sixty-five; the average age of Labour peers (very few of whom are peers by succession) is over seventy. For many peers, House membership is associated with a kind of semiretirement. Perhaps the opportunity to go to the House of Lords does encourage some MPs to retire earlier than they otherwise would. It is after all a very congenial place to spend the eventide of a political career. Indeed, the sheer attractiveness of taking a place on those red leather benches should not be underestimated. Such a position brings status, dignity, friends, and the possibility of doing a little useful political work along the way. The House is a very comfortable institution. To be a member does not require extensive commitment; it need not be demanding of time. Yet if a peer is eager to work hard on behalf of some cause, it is possible to do this without the distraction of constituents or the preoccupation of electoral campaigns.

There is a continuous gradual turnover of members in the House of Lords in contrast to the sudden transformation in membership that occurs in the Commons following a general election. On average, some twenty new peerages are given every year; a slightly smaller number of hereditary peers die each year and are succeeded by heirs. Following a general election or a change of government, there may be an influx of new peers, but this is never comparable in scope to the changes an elected House can expect to undergo after a general election. The continuity in membership contributes to the experience the House can call upon, and probably also makes the House as a whole hesitant to precipitate change in its ways.

Diverse elements within the membership of the House are drawn together through the influence of political parties. Nationally organized, centrally controlled, programmatic parties dominate British politics, and it is not surprising that most peers accept political party discipline—they take a party whip (see table 7.2). The parties organize themselves as they do in the Commons, with front bench spokespersons and with varied levels of whipping to urge attendance. But though party whips may seek to persuade peers to support the party line, there are no effective sanctions
Table 7.2. Attendance by Peers in the British House of Lords by Party and Peerage Type, 1994–1995

<table>
<thead>
<tr>
<th>Party and Peerage Type</th>
<th>Frequency of Attendance (days per year)</th>
<th>0</th>
<th>1–46</th>
<th>47–94</th>
<th>95+</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conservative</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Created</td>
<td></td>
<td>4</td>
<td>50</td>
<td>33</td>
<td>59</td>
<td>146</td>
</tr>
<tr>
<td>Succeeded</td>
<td></td>
<td>61</td>
<td>127</td>
<td>44</td>
<td>98</td>
<td>330</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>65</td>
<td>177</td>
<td>77</td>
<td>157</td>
<td>476</td>
</tr>
<tr>
<td>Labour</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Created</td>
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<td>5</td>
<td>15</td>
<td>17</td>
<td>59</td>
<td>96</td>
</tr>
<tr>
<td>Succeeded</td>
<td></td>
<td>1</td>
<td>3</td>
<td>1</td>
<td>8</td>
<td>13</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>6</td>
<td>18</td>
<td>18</td>
<td>67</td>
<td>109</td>
</tr>
<tr>
<td>Liberal Democrats</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td>0</td>
<td>4</td>
<td>12</td>
<td>14</td>
<td>30</td>
</tr>
<tr>
<td>Succeeded</td>
<td></td>
<td>1</td>
<td>8</td>
<td>5</td>
<td>8</td>
<td>22</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>1</td>
<td>12</td>
<td>17</td>
<td>22</td>
<td>52</td>
</tr>
<tr>
<td>Cross-bench</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Created</td>
<td></td>
<td>18</td>
<td>50</td>
<td>19</td>
<td>21</td>
<td>108</td>
</tr>
<tr>
<td>Succeeded</td>
<td></td>
<td>92</td>
<td>101</td>
<td>21</td>
<td>31</td>
<td>245</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>110</td>
<td>151</td>
<td>40</td>
<td>52</td>
<td>353</td>
</tr>
<tr>
<td>Bishops</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
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<td>Created</td>
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<td>1</td>
<td>21</td>
<td>1</td>
<td>0</td>
<td>23</td>
</tr>
<tr>
<td>Succeeded</td>
<td></td>
<td>2</td>
<td>18</td>
<td>1</td>
<td>3</td>
<td>24</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>3</td>
<td>39</td>
<td>2</td>
<td>3</td>
<td>52</td>
</tr>
<tr>
<td>Law Lords</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Created</td>
<td></td>
<td>30</td>
<td>158</td>
<td>83</td>
<td>156</td>
<td>427</td>
</tr>
<tr>
<td>Succeeded</td>
<td></td>
<td>155</td>
<td>239</td>
<td>71</td>
<td>145</td>
<td>610</td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td>185</td>
<td>397</td>
<td>154</td>
<td>301</td>
<td>1,037</td>
</tr>
</tbody>
</table>

Note: Excludes peers who died during the session, bishops who resigned, peers on leave of absence, or peers without writs; includes peers who sat first, were introduced, or translated.

that whips can employ against the rebellious. Party cohesion as measured by voting behavior is high; typically more than 98 votes out of every 100 cast by peers in the two main parties are in conformity with the wishes of the party whips (Beamish 1993).

On the government side, in recent years there have usually been some twenty to twenty-five ministers and whips. The leader of the House and the lord chancellor may be joined by another peer as cabinet ministers drawn from the House, but even the Conservatives have only had two cabinet members in the Lords. A half-dozen or so ministers of state representing different departments and a similar number of junior ministers act as the main spokesmen for the government. Every area of government
activity is spoken for in the House by one of these or by one of the half
dozens or so whips, who unlike their Commons counterparts are not
bound to remain silent but speak regularly for departments.

All government ministers and whips in both houses are appointed by
the prime minister, but in opposition Labour elects its senior officers in
the House. Although the Conservative leader in the House is appointed
by the party leader, it is then the responsibility of the leader in the House
to decide the membership of the front bench opposition team. Shadow
spokespeople in the House are nominated for every area for which min-
isters take responsibility. Front-benchers wind up debates and take re-
sponsibility for piloting bills through the House, just as they do in the
Commons, while opposition front-benchers provide liaison with their
Commons counterparts. Because the government is answerable in the
House, and because it must secure passage of its business in the House,
party is a necessary feature of the life of the House. The parties hold regu-
lar weekly meetings, and some peers attend the backbench party commit-
tees that meet in the Commons.

But though the influence of party is very real, its dominance is less than
in the Commons. The obvious reason for this is that peers owe neither
their seats nor their continued House membership to election. Those
whose party loyalty weakens may either keep quiet and abstain in divi-
sions, or they may move to the cross-benches; they need have no fear that
they may thereby lose their seat. The force of party is also muted because
of the enormous imbalance that exists in party strength in the House.
Within what has been seen as a classic two-party system, the Conserva-
tives outnumber Labour in the Lords by four to one. If the two main
parties were more evenly balanced in the House, it seems very likely that
competition between them would become more intense.

The presence of a substantial number of cross-bench or nonparty peers
further moderates the impact of party in the House. The cross-bench
peers are a recognized element in the House; in some ways they act like a
party, electing a convener, holding meetings, and seeking representation
on House committees. Though they issue no whip, some cross-bench
peers have been acknowledged within the House as being liable to swing
opinion on subjects on which they are recognized to be particular au-
thorities. Taking account of all cross-bench peers and all other parties and
groups in the House, the Conservatives do lack an overall majority among
those who attend the House; in recent years this has resulted in government defeat being likely where opinion on the cross-benches has swung decisively against the Conservatives.

The Work of the House

The House of Lords has both a legislative and a deliberative role. All legislation must pass through the House, which thereby has the opportunity to amend bills as they make their way to the statute book. House members also have the right to ask questions of the government and to initiate debates on motions calling the government to account over its stewardship. In its recent sessions, a little over half the time of the House has been spent on legislative work. Mostly this is a matter of revising draft legislation brought to Parliament by the government, but a few bills are initiated by private members in one or the other house. Some legislative work in recent sessions has been taken off the floor of the House and put into committees, but debate on bills in the Lords, including detailed committee stages, is still generally taken on the floor of the House, in contrast to the practice of the Commons. The rest of the time is spent on deliberative work; various procedures exist to provide opportunities for peers to debate motions and to ask questions of government spokesmen. In addition, a growing aspect of the work of the House over the last twenty years has been select committee activity; these are committees which take evidence and make reports to the House on various subjects.

Legislative Work

The value of the legislative work of the House is frequently emphasized. But, before trying to assess this, it is necessary to say something about the overall context within which this activity takes place. The legislative process in the British parliamentary system is dominated by the government. Members who are not part of the government—backbench members—have opportunities to introduce bills, but in the Commons such opportunities are very limited. The procedures ensure that only bills which are brief and either devoid of controversy or viewed favorably by the government are ever likely to pass (Natzler and Millar 1993). While about a third of all bills enacted are introduced by backbenchers, these
represent typically only about 2 percent of the total number of new pages of legislation passed each year; the remaining 98 percent is government-introduced legislation.

In determining its legislative program, the government must consider the various pressures that act upon it, including parliamentary pressures. Typically, draft legislation is decided upon within government departments, after consultation with relevant organized groups, though the extent of such consultation varies considerably. In recent years the whole legislative process has been heavily criticized on several grounds (Rippon 1992). One has been the allegedly poor level of consultation, resulting in draft legislation that often needs extensive revision during its parliamentary stages simply to avoid problems that come to light after a bill has been published and publicly scrutinized. Another problem has been the growth of what has been referred to as a "legislate-as-you-go" mentality, with ministers not thinking their proposed legislation through carefully enough, resulting in the need for numerous amendments perhaps extending the scope of a bill after it has been introduced or fundamentally altering its provisions.

There are important distinctions between the two houses in respect to their activity of revising legislation. The lower house is intensely competitive in a party political sense; all activity in the Commons tends to be subordinated to the demands of competitive party politics. Bills receive many hours of scrutiny in Commons standing committees, but frequently this is less a collective effort to improve the technical quality of the bill (making it more likely to achieve the purpose as defined and accepted by the House at second reading), and more a continuation of the political trench warfare begun at second reading. The House of Lords at least offers the possibility of scrutiny of a different form. It is less party political; ministers know that if their defense of some point fails to convince the House, then there is at least a possibility of defeat in the division lobby where members' votes are counted. Such reverses can usually be overcome when a bill returns to the party-controlled House of Commons, but there may be a price to be paid by the government for doing this in terms of giving the opposition a further opportunity to expose a weak argument, or in arousing unwelcome publicity for doubts and divisions within the ranks of the governing party.

Some confirmation that the legislative work of the House of Lords is significant is found in a comprehensive study of pressure group activity
made in the 1980s. Baldwin (1990) found that organized groups gave almost as much attention to the House of Lords as to the House of Commons when seeking to secure adjustments to government legislation. From the point of view of outside groups, it may be at least as easy to find a peer with the right kind of expertise and perhaps inclination to press amendments as it is to find a suitable member of the House of Commons. Precisely because the Lords is less dominated by party politics, and perhaps subject to less public attention, it may be a forum in which proposed amendments are given a more detached and objective hearing.

All this helps to explain why it is not difficult to cite impressive statistics about the number of amendments made to bills as they proceed through the House, usually between 1,500 and 2,000 per year. However, closer examination reveals that the overwhelming majority of these are government-initiated amendments (Drewry and Brock 1993). They represent the government itself having second thoughts about the draft legislation it has introduced. True, such second thoughts may be prompted in part by debate in the House, but equally they may result from influence brought to bear on government from elsewhere, perhaps the House of Commons or from lobbyists and organized pressure groups of all kinds. The most thorough recent study of the work of the House examined the sources of all amendments made to bills in the 1988–89 session and concluded that very seldom had the government given way to pressure from the House of Lords (Miers and Brock 1993).

Where the government suffers a defeat in the division lobby on an amendment to a bill, which has happened on average some fifteen times a year under Conservative governments since 1979, the outcome has most often been a compromise of some kind. But where compromise does not take place, government defeats in the upper house are more often overturned in the Commons than accepted by the lower house. There have been some notable examples of the government giving way to the House of Lords, but these have been unusual and rarely involve matters of real substance (Shell 1992, 1993a).

Because of the specific limitations on the powers of the House of Lords in relation to taxes and public spending, peers generally spend little time debating legislation in this area. Most notably, the annual finance bill implementing the budget frequently takes considerable time in the Commons but makes very little demand on the time of the upper house, where following a second reading debate all remaining formal legislative stages
have usually been taken. Almost all bills are debated for fewer hours in the House of Lords than in the Commons. Party competition is more muted in the upper house. In addition, most major bills go through the Commons first, and the House of Lords conceives its role as essentially revisory. It can, therefore, be more selective in the way it uses its time.

Bills that deal primarily with law reform, or other bills about which there may be considerable cross-party agreement (though perhaps sharp disagreements that cut across party lines) are more likely to be introduced into the House of Lords. The House has at different times developed a reputation for giving especially careful consideration to bills dealing with certain subject areas, such as so-called issues of conscience, environmental concern and conservation. The relationship between central and local government has been of particular concern to the House in recent years, and because of their constitutional implications, bills impinging on this area have attracted particular attention there.

The presence of law lords, together with the fact that the lord chancellor always sits in the Lords, has ensured that the House takes a particular interest in law reform bills. In 1990 the House began expressing concern at the government’s failure to introduce bills drafted by the Law Commission, a publicly financed body established in the 1960s to report on areas of law where the need for reform appears pressing. For many years reports made by this body were followed reasonably quickly by legislation, but in the late 1980s pressures on the parliamentary timetable, arising mainly let it be said because of the demands of government ministers ever eager to enact more legislation, led to Law Commission bills being squeezed out of the legislative program.

Some peers became increasingly outspoken in pointing to the failure of government and Parliament to implement law reform measures that had been carefully investigated and where expert drafting of bills had already taken place. This led to the House of Lords establishing a special procedure for consideration of such bills, the aim of which was to allow for thorough examination of what was involved, with select committee-type opportunity for interested parties to put their views to the House, before such bills would be sent on to the Commons, where hopefully their passage could be the more expeditious precisely because of the degree of scrutiny they had been given in the Lords. This affords a good example of how the House has sought to develop its role in a manner complementary to the Commons.
Another such example concerns the scope of subordinate legislation. Many bills contain powers to allow government ministers to issue statutory orders which can become law with only very limited opportunity for parliamentary scrutiny. Several peers have expressed concern at the failure by Parliament to scrutinize primary legislation with the aim of identifying and systematically giving consideration to the secondary lawmaking powers contained in such bills. So the House of Lords established a Select Committee on Delegated Powers, which has reported on primary legislation and recommended changes that have been incorporated into the bills concerned (Himsworth 1995). Yet more recently the House has established special select committees to deal with some Scottish bills, and these have met and taken evidence in Scotland.

It is easy to see that the work the House does can be useful to the various groups involved in the legislative process. The government frequently needs the relative calm that the House provides and the parliamentary time it affords to tidy up much of their own legislation. To be able to do this in a forum which can bring a little influence to bear but has no real power is a bonus from the government’s point of view. Organized groups outside Parliament find the House valuable in giving them a further opportunity to try to secure amendments to bills or at least to clarify their detailed provisions. The House itself has shown both diligence and restraint in discharging its legislative responsibilities. It has also been innovative in seeking to develop its procedures to accommodate changing demands. It may, of course, be argued that the work the House does in revising legislation is more a symptom of the need for reform of the legislative process as a whole than it is of the value of the House of Lords. But as long as the legislative process remains in anything like its present form, there seems little doubt that a second chamber will be necessary.

Nonlegislative or Deliberative Work?

When we turn from the House’s legislative to its deliberative work, it is again the comparison and contrast with the Commons and the complementarity with the lower chamber that is noteworthy. In the House of Commons, debate is bound up with the exercise of power. The result of almost all votes may be a foregone conclusion, given the tight party
control that exists, but significance may attach to abstention or rebellion in the division lobbies by a small number of MPs. Ultimately a minister who appears to lose the confidence of his own party in this way will have to resign, and a motion of no confidence can bring a government down. Such sanctions are not available in the upper house. Debate is not about the exercise of power; rather, it is about the possible exercise of influence.

Opportunities for initiating debates are shared between front and backbench peers. Although many debates are on subjects similar to those that take place in the Commons, the priorities of the upper house are somewhat different, and for individual peers the opportunities that arise to initiate debates are slightly greater than are the opportunities for MPs. The diverse membership of the House is reflected in the choice of subjects for debates. The archbishop of Canterbury recently initiated a debate on moral values in the life of the nation, while motions dealing broadly with such varied topics as the role of the judiciary or the impact of technology may be debated. Alongside authoritative speeches, some contributions may appear ill-informed, idiosyncratic, or even eccentric. But that is inherent in the nature of the House. The style of debate is different from that of the Commons; in the House of Lords most speeches show signs of careful preparation, and almost all are heard in respectful silence. Debate is almost a misnomer; rather, a series of speeches are made in which speakers may answer, or may avoid, one another’s points. But every debate does receive a speech in reply from a government spokesman, and this fact distinguishes debate in the Lords from, say, debate in a university or a think tank. But who listens to debate in the House of Lords? Peers themselves frequently express in a plaintive kind of way great satisfaction with the quality of debate in their House, perhaps hoping that by singing their own praises others will be moved to take more notice of their utterances.

Peers may ask questions of the government, just as MPs can. But oral question time is very different in the two houses. In the Commons, questions have become very much a matter of rapid repartee dominated by ministers and opposition shadow spokespersons. The time spent thus may be useful as a guide to the prevailing condition of the political climate. But if the object of question time is to hold government to account by extracting information from ministers, then the House of Lords may possibly achieve as much as the Commons. Certainly the handling of oral questions in the Lords is very different from that of the Commons. More
time is spent on each question, giving the opportunity for more supplementary questions from all corners of the House. For ministers in the Lords, their question time ordeal is different from that faced by their colleagues in the Commons, but it may be just as searching. Well-informed supplementaries may rain down on a minister who will not find it so easy to escape simply by criticizing political opponents. Question time in the Lords undoubtedly lacks the high drama of Commons question time, at least as seen in the twice weekly bouts between prime minister and opposition leader, but questions in the Lords may in their own way be as effective as the very different question time in the Commons. At least some former MPs now in the Lords take this view (Shell 1993b).

Select Committees of the House

Select committees appointed to investigate and report on areas of government activity or public concern have developed greater significance within the British Parliament in recent years. Once again, we may note how the House of Lords has sought to complement the work of the Commons rather than rival it. Most notable has been the House of Lords Select Committee on the European Communities. When Britain joined the European Community (EC) in 1973, the desirability of providing some form of parliamentary scrutiny of EC draft legislation was evident. Yet the whole subject was fraught with political tensions because within both major parties there were significant elements opposed in principle to U.K. membership in the EC. This made for nervousness about establishing select committees for the scrutiny of EC policy in the Commons.

Furthermore, given the nature of national engagement with the EC policy making process, it could be argued that the House of Lords was better suited to this than the Commons. The upper house had no pretensions to be other than a chamber of influence, whereas the Commons still saw itself as exercising power. Another reason for peers' readiness to become heavily involved in this new role was quite simply the fact that the upper house had by the early 1970s sufficient members available to take on extra work. The arrival of many life peers with a more professional approach to their parliamentary work meant that the House had some spare capacity. A select committee was established in 1975, and over the next two decades this was the primary means by which parliamentary
scrutiny of EC policy proposals took place. At times a hundred peers were involved, operating through up to eight subcommittees, each covering a defined policy area.

Reports from these committees earned a reputation for their thorough and dispassionate analysis of issues (Shell 1996). In the early 1990s the Commons established a new committee structure of its own, which enabled the lower house more adequately to address draft EC legislation. But the House of Lords continued to devote much time and effort to this task. Its reports rarely hit the headlines; frequently they are published virtually unnoticed. But within European Community institutions many were certainly given attention, and the House became known for its expertise and diligence in relation to EC policy.

Other developments in select committee work followed. In 1979, when the House of Commons amidst a general reorganization of its select committee work abolished its Committee on Science and Technology, the upper house established just such a committee. It has continued as a standing select committee, with a remarkable galaxy of talent at its disposal drawn from within the membership of the House (Grantham 1993). From the 1970s onwards, the House has regularly established select committees to examine particular issues or specific private members’ bills. The impact of these has varied, but some have helped push policy along and shown how legislation could be drafted to tackle particular problems.

For example, a committee on charity law in 1984–85, chaired by a senior judge in the House, was the precursor to legislation in this complex field. A committee that examined Britain’s balance of trade deficit in manufactured goods produced one of the most widely debated of all select committee reports of the 1980s. The possibility of the House of Lords exercising a more active role in reviewing constitutional matters was raised by the response to a committee that examined the relationship between central and local government in 1995. Some peers find committee work more congenial than legislative work or debate on the floor of the House. It is not just the expertise the House commands within its own membership, but the considerable detachment from party politics that select committee activity permits, which attracts many peers, especially life peers who sit on the cross-benches. Furthermore, select committee meetings can be arranged well in advance and fitted into busy schedules more easily than many debates. And a well-researched select committee report has a potential for influence well beyond the confines of the House.
The House of Lords sits for almost a thousand hours every year. In addition, its expanding system of committees sit for many more hours. This makes it one of the busiest parliamentary chambers in the world. That fact alone tells us nothing about the significance of its work. But it seems reasonable to say that in the context of the British Parliament the role of the House is of considerable importance (Shell 1993a).

Conclusion: What Future for the House?

The House of Lords is a profoundly peculiar institution. It is not difficult to recognize the case for its radical reform. It is offensive in principle because it can make no claim to being democratic. It is also offensive in practice because the Conservative Party enjoys such a dominant position within the House. Nevertheless, it is also not difficult to recognize both the practical usefulness of the House and the practical difficulties that stand in the way of its reform.

The practical usefulness of the House must be underlined. Bagehot’s 1867 observation that beside an ideal House of Commons a House of Lords would not be necessary may remain true, but—as he commented then—beside the actual House of Commons the desirability of a second chamber rapidly becomes apparent (Bagehot 1963, 133–34). Support for unicameralism has never been strong in Britain, and as public respect for the Commons has been eroded in recent years, so the desirability of retaining a second chamber has been confirmed. To remove it altogether would be to reinforce the elective dictatorship against which the prominent Conservative politician Lord Hailsham spoke in 1976. The changes associated with Thatcherism have underlined not only the centralizing tendency of British government but also the vulnerability of institutions throughout society to politicization. It was suggested Prime Minister Thatcher “handbagged” British institutions, exerting far-reaching influence over them. For what it is worth, the House of Lords must be seen as an exception to this process.

Because Britain is a unitary state, there is not the same justification for bicameralism as would be the case for a federal or quasi-federal system. Rather, the justification for the House of Lords is historic. The House of Lords owes its origins as part of Parliament to a conception of society that has long since faded into history, to a time when aristocracy and church
demanded separate representation. The House owes its continued existence to a capacity to adjust and adapt, exchanging power for influence traded within a constitutional system that has never sought formally to consummate the principles of democracy. In the nineteenth and early twentieth centuries, rather than stand and fight, the House accepted its relegation to being the junior chamber within Parliament. Had it not done so, it would have been radically altered or swept away altogether. Today, its justification lies chiefly in the simple fact that it is already there, and that being in existence it does usefully perform the task of revising legislation as well as offering its wisdom to government and society through its varied deliberations.

In a democratic society, a lively debate about reform of the House is to be expected. Of the reforms that have taken place, most have been initiated by Conservative governments. These have essentially been modest changes designed to remove anomalies or modify in some way the membership of the House rather than fundamentally restructure the place. The 1958 Life Peerages Act and the 1963 Peerage Act both helped to make the House less indefensible. When the continued existence of the House was perceived as coming under serious threat in the 1970s, the Conservatives responded by proposing quite sweeping reform. But since then the Conservatives in government have lost interest in such reform. The House of Lords seems secure, and the need for its work is recognized, so leave it alone.

In the past, Labour has aspired to wholesale reform of the House. But lack of agreement over quite how this should be done and recognition of the fact that legislation to achieve this end would be very time-consuming have conspired to give the subject low priority with Labour governments. Furthermore, Labour has felt inhibited from introducing modest changes because such alterations would in practice merely serve to strengthen an institution that would remain fundamentally undemocratic and objectionable. In the early 1990s, Labour appeared to alter this stance, and in its 1997 manifesto, the party stated that a Labour government would, as an initial self-contained reform, exclude hereditary peers from the House and then initiate a review leading to further comprehensive reform at a later stage. However, it would appear that the new Labour government elected that year has placed House of Lords reform lower on its agenda than other constitutional reform, notably the introduction of a devolved parliament for Scotland.
The rationale for such further reform can be recognized in proposals to introduce devolved parliaments and regional assemblies within the United Kingdom. The membership of the second chamber could then be based on a regional structure, perhaps part elected and part appointed. The Liberal Democrats advocate introducing a single measure of constitutional reform dealing with regional government and the second chamber question together. This may be logical, but it is doubtful whether it is practical politics. In the absence of a substantial interparty consensus about such change (of which there is little sign), the ability of any government to carry the necessary legislation through Parliament must be very doubtful.

The difficulty for Labour is that the interim House would be one entirely composed of the nominees of successive prime ministers. Had such a House existed in Mrs. Thatcher's day, she would have found it much easier to "handbag." And who is to say how long such an interim arrangement might endure? The 1911 Parliament Act was intended as an interim measure, but it has still not been replaced. The House of Lords remains an enduring monument to both the conservatism and the pragmatism of the English.

Notes

1. The House of Lords debated the "Salisbury Doctrine" on 19 May 1993; see HL Debs. cc 1780–1813.

2. Of the total of seventeen disclaimers, six have done so in order to remain or to seek membership of the House of Commons. Disclaiming is for life, and by 1996 four of the seventeen disclaimants had been succeeded by heirs who had taken up their peerages again and their seats in the House of Lords. Disclaiming has not caught on.

3. Travel expenses were first introduced in 1946. A daily out-of-pocket expenses allowance up to a maximum of £3.15 was introduced in 1957, since increased to £141.50 per day (to include overnight accommodation). Apart from government ministers, only four other peers receive salaries on account of their offices in the House; these are the leader of the opposition, the opposition chief whip, and the chairman and principal deputy chairman of committees.

4. From 1964 to 1983 no new hereditary peerages were awarded. In 1983 and 1984 under Mrs. Thatcher three such peerages were created, but none since then.

5. Lord Diamond, a former Labour minister, twice introduced such a bill, but it was voted down on both occasions; see HL Debs 26 Nov 1992 cc 118–66 and 7 Mar 1994 cc 1283–1330.

7. See, for example, debates on the constitutional role of the House, HL Debs 13 Apr 1994 cc 1540–75 and 4 July 1996 cc 1581–1690.

8. See two reports from the Constitution Unit, Delivering Constitutional Reform and Reform of the House of Lords, both 1996.

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