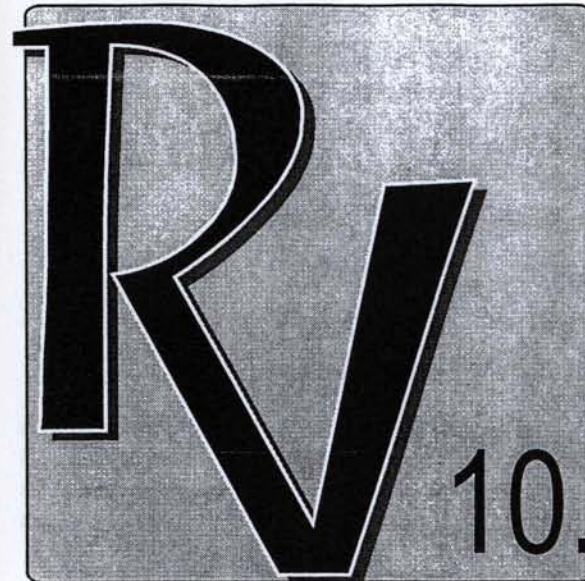


Rechtsgeschichtliche Vorträge/
Lectures on Legal History

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1832-1911 in England

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Introduction

The aim of this paper is to provide an exposition of the reforms which occurred in respect of the UK Parliament in the period starting with the First Reform Act 1832 and concluding with the Parliament Act 1911. It focuses on the issues of representation of the people and the redefinition of the powers of the House of Lords in the legislative process.

Historical background

Parliament at the end of the eighteenth century was still not fully a representative assembly of the people. So long as aristocratic influence could control so large a proportion of the membership of the House of Commons through the pocket and rotten boroughs, and so long as many government appointees had seats in the house and kindred abuses existed, a really representative assembly was not possible. No change had been made in the election laws since the fifteenth century, and two members were still elected from the counties by the votes of the holders of freehold land of the annual value of forty shillings, and from an arbitrary list of boroughs, long regarded as fixed, in which the right of suffrage was defined in widely varying ways as each borough had originally determined for itself.

There were five main classes of borough: (a) "potwalloper" boroughs had votes for all who had their own house and fireplace on which to place a large cooking pot; (b) "scot and lot" boroughs where the vote was held by all male householders paying local rates and not on poor relief; (c) "freeman" boroughs where a freeman could qualify to vote through inheritance, marriage, apprenticeship, or even purchase; (d) "corporation" boroughs limited the franchise to a closed oligarchy of members of the corporation, normally self elected and often non-resident; and (e) "burgage" boroughs where the franchise was attached to a piece of land so that whoever owned that land was entitled to vote. Glaring inequalities had always existed in the relation of representation to

population, to some extent in the counties and to a great extent in the boroughs. Large new towns arose which had no representation. Old boroughs lost population heavily. Old Sarum with no electors, Galton with seven, and Tavistock with ten, returned each two members, while Manchester and Birmingham had none. Ninety members were sent by forty-six places with less than fifty electors each. Worse even than this, the decline in population, combined with limited rights of suffrage, had put many boroughs sending members to the House of Commons completely into the hands of neighbouring great landowners who either controlled the election through their ownership, the so-called pocket boroughs, or found it easy to buy the required number of voters, the rotten boroughs. The Duke of Newcastle nominated eleven members of the House of Commons Lord Lonsdale nine, Lord Fitzwilliam eight. Six peers together sent forty-five members. Nearly half the membership of the House represented in this way private interests rather than a public constituency.

Nevertheless the initial steps in the long process of parliamentary reform were taken at the end of the eighteenth century. In 1782 the horde of revenue officers which formed one-eighth or more of all voters, and who could easily be counted on to vote as the government desired, were deprived of the parliamentary franchise; a considerable number of offices usually filled by Members of Parliament were abolished; contractors were forbidden to sit in Parliament, and secret pensions brought to an end. Much in this direction remained to be done; although the work was not finished until the next century, a real gain had been made. Still more important perhaps in its general effect in bringing about a thorough change is the fact that there began to come in, from a little time before William Pitt (the Younger) became prime minister, a decidedly higher tone in public life, due doubtless to the improved standard of conduct in private life which characterizes the time. This gradual reformation more than laws and prohibitions rendered the eighteenth century methods of corruption no longer possible.

The reform of parliamentary representation, a more equitable distribution of seats and a reduction in the number of nomination members, was agitated at the same time. The Elder Pitt first urged the necessity and made it the subject of parliamentary debate in 1770. In 1776 a bill to make rather extensive changes was introduced but it was thrown out without a division. In 1780 the Duke of Richmond introduced another Reform Bill, which met the same fate. At the very beginning of his parliamentary history, Pitt the Younger seemed inclined to make the subject his own. He brought it forward in 1782 in a very effective speech, moving for a committee of inquiry, and was beaten by only twenty votes. The next year, still as a member of the opposition, he proposed resolutions embodying the chief points, without effect. Meantime numerous

petitions had begun to come in from the country supporting reform, and when Pitt became premier, with a majority behind him, he returned to his plan in 1785 with a proposal of rather extensive changes, but was beaten by a majority of seventy four. The House of Commons had yet no mind to reform itself. Before the subject could be taken up again in earnest, the 1789 French Revolution came on and speedily aroused among the ruling classes in England a not unnatural reaction against changes. The plan still retained much popular support, and was brought forward unsuccessfully in parliament in 1790, and again with somewhat better backing by Grey, afterwards Earl Grey, in 1792, 1793 and 1797. On the first of these occasions Pitt declared that his opinions on the subject had not changed, but he thought the time unfavourable: "This is not a time to make hazardous experiments." It must be entered upon the debit side of the French Revolution account that it postponed the cause of parliamentary reform in England for a generation.

It is now into the field of economic advance that we are came. The economic changes which began about the middle of the eighteenth century brought about a complete revolution in industry, agriculture and commerce.

The concentration of population ultimately led to political changes. Machinery operated by steam meant factories, and factories meant concentrated population. Cottage and village industries gradually disappeared. Large towns were formed where none had been before and old ones grew larger. Two results followed. The old classes were in a single generation heavily reinforced from below. The profits of industry endowed a new wealthy class which arose from among the manufacturers, or from families not prominent before, to take a place in popular influence beside the old aristocracy. At the same time the middle class received a large accession of numbers, and we may almost say that a wholly new labouring class was created, so greatly did it differ from the more stolid, slow, and unreasoning labourers of a mainly rural England. With these changes in the content of classes went a change of atmosphere, especially of political atmosphere, in large portions of the country. The new elements which began to make themselves felt in public life were not inclined to Conservatism. They were restless under many of the conditions in which they found themselves; they were little bound by old ideas, were ready to change, inclined even to be radical and deeply interested in certain reform demands which affected their position in the state or their local situation.

The war following on from the French Revolution and concluding with the defeat of Napoleon (1793-1815) and the Congress of Vienna (1815) had been a time of "apparent prosperity" in Britain. Rapid sales with high prices had prevailed; commerce and manufacturing had expanded and wealth had been rapidly accumulated. But the prosperity had been somewhat artificial and, with

the removal of the peculiar conditions created by the war, it declined and economic distress became general among the less well-to-do classes.

The years which immediately followed the close of the war were filled with unrest and agitation, partly economic owing to real destitution among the working classes, and partly due to a desire for parliamentary reform or more revolutionary changes in the direction of socialism. Parliament was still in the hands of the aristocratic portion of the nation, chiefly in the landowning class, and the policy which was adopted towards agitation was one of harsh repression.

But it soon became evident that the social changes of the last decades had created a new type of worker not so easily held down. The agitation continued notwithstanding all efforts at repression and soon began to find spokesmen in the House of Commons. It has been said that the first great radical victory won in Parliament was the repeal in 1824 of the Combination Acts, the laws under which combinations of workers to demand better their condition were held illegal.

But by 1824 the indications were already clear that the first great Reform Age of the nineteenth century was opening. The ministry of Lord Liverpool as reconstructed in 1822-1823, though tory, was a reform ministry, if reforms did not cut too deeply into the constitution. Changes in the criminal law had long been urged. About two hundred capital crimes were contained in the criminal laws of the early nineteenth century, most of them inherited from the Middle Ages. Thirty-five kinds of forgery were punishable with death, as well as many slight offences like petty larceny. While in actual practice such severe penalties were not exacted, the whole penal system needed reconstruction. This was given it between 1822 and 1830, and the death penalty left on the statute books only for serious crime. The procedure of criminal trials was at the same time simplified.

More striking in the popular judgement and equally essential to future progress were the steps taken towards religious toleration. During the reign of George III (1760-1820), both Protestant and Catholic Dissenters had been relieved of many disabilities. These had concerned, however, matters of religious belief and practice rather than political status. The Test and Corporation Acts of the seventeenth century still remained enforceable in law, though they were in practice generally disregarded and annual Indemnity Acts passed to relieve from penalties those who had violated them. They were at last repealed in 1828. In the next year the even more important "Catholic Emancipation Act" 1829 was passed. The change was carried by the Tory ministry of the Duke of Wellington in 1829. At first George IV (1820-1830) declared as violently as his father had done that he would not consent, but he was compelled by the force of circumstances to yield – the last occasion on

which a British king threatened to thwart a measure to which the cabinet had agreed. The Emancipation Act 1829 admitted Catholics to both Houses of Parliament and to all public offices, except a very few.

Meantime, a general popular demand had sprung up for a reform, more important from a strictly constitutional point of view and more difficult to carry, the reform of parliamentary representation.

The Age of Reform

The result of the Industrial Revolution in creating a more democratic spirit had greatly increased the public support which could be relied on for a measure of reform. Indeed, early in November 1830, after the parliamentary election of that year, the same Earl Grey, who had been a leader in the eighteenth-century attempts, expressed in debate in the House of Lords the hope that this reform might not be long delayed.

The Bill was introduced on 1st March 1831 by Lord John Russell, who for twenty years had advocated a measure of the kind in speeches and motions in the House of Commons. It passed its first and second readings, but on the second reading the majority in its favour was only one in a vote of over six hundred. In parliamentary practice a small majority on the second reading is considered a defeat. The passing of the second reading means that the House adopts the principle of the Bill with details still to be settled in committee of the whole, and experience shows that more members are ready to accept the general principle of any measure than will agree together on all the details. This proved to be the case at this time, and on 19th April 1831 the cabinet was defeated by a majority of eight on an amendment to the Bill. Then the ministry appealed to the country. Parliament was dissolved and a new election ordered which was held with electoral reform as the chief issue of the campaign. The election was one of unusual excitement and of clear determination on the part of the reformers. Some pocket boroughs were even carried against their owners, and a great majority for those days was secured for the government. So quickly was all this done that on 24th June Lord John Russell introduced practically the same Bill again, and its second reading was carried on 8th July by a majority of one hundred and thirty-six, and on 21st September it was finally passed by a majority of one hundred and nine. The House of Lords was naturally opposed to a measure which seemed about to destroy the political influence of the aristocracy but the reformers made a brilliant defence, and it was only after one of the ablest debates in the history of the House that the Bill was rejected by forty-one majority in a vote of three hundred and fifty-seven. The defeat of a government measure in the House of Lords does not call for the resignation of

the ministry and, sustained by a vote of confidence immediately passed in the House of Commons, the cabinet decided to prorogue Parliament in order that a new session might allow the reintroduction of the Bill.

In the interval between the two sessions the public excitement reached the highest point that had ever previously attended any question before Parliament or perhaps that has ever been known since.

On 12th December a new Bill was introduced considerably improved by the experience of previous debates, and after another thorough discussion was passed by the Commons on 23rd March 1832 and sent to the House of Lords. Everybody knew that now the real battle was to come, and the pressure on the Lords was tremendous. It was generally understood that King William IV (1830-1837) had agreed, though with reluctance, to create a number of whig peers large enough to carry the Bill through the house, if this should prove to be the only way in which it could be saved.

Public pressure and the known plans of the government were, however, too strong for many minds in the House, which were wavering either in opinion or as to the best policy for the Lords to follow. When the vote on the second reading was taken, it proved that seventeen peers had changed to the affirmative, that some, including Wellington, had stayed away, and that a net gain had been made from among the absentees of 1831. The second reading was passed by a majority of nine. The fate of the measure was, however, undecided because it had yet to undergo the dangers of amendment and of adverse votes in committee of the whole, and in reality such a vote was earned against the ministry on 7th May.

It was now evident that the number of whigs in the House of Lords must be increased to a working majority or the bill be abandoned, and the cabinet asked of the king the fulfillment of his promise to create peers, offering him the alternative of their resignation. It seems clear now that the king had never agreed to increase the membership of the House of Lords by so large a number as the ministers thought necessary. He was himself conservatively minded and somewhat afraid of the reform, though on the whole loyal to the ministry, as his constitutional position demanded. When brought face to face with the necessity of swamping the majority in the House of Lords in order to carry the bill, he could not bring himself to act and instead accepted the resignation of the cabinet.

It then became the practical question whether the Tory party in support of the action of the king could form a cabinet which would be able to carry on the business of the country, including some measure of electoral reform which it was now clear to everybody must be adopted. The Duke of Wellington made the attempt to construct the ministry, but Sir Robert Peel, who was indispensable,

and others refused to serve; the House of Commons passed a vote of confidence in Lord Grey's cabinet by a large majority; and renewed public excitement gave warning of trouble. After a few days of hard effort, Wellington was obliged to inform the king that he could do nothing and advised him to recall Earl Grey. William IV was forced to yield, though yielding meant agreeing to the cabinet's demands. He attempted in vain to persuade them to consent to important modifications of the Bill but he gave them his promise in writing to create as many peers as might be necessary. Then of his own motion he took a further step of more doubtful propriety constitutionally which, though not objected to at that time, certainly would be today, by directing his private secretary to suggest to Wellington and certain others that all difficulties would be removed by their absenting themselves from the House when the vote took place. This course had been already resolved upon by many and the Bill was finally allowed to pass by a large majority.

It has seemed worth while to relate the history of this episode in such fullness because there is no case in which are illustrated in so many points of detail the practical workings of the cabinet system of government by a responsible ministry, which is the especially characteristic result in the British Constitution whose historical development has been so long and varied.

The results of the Reform Act 1832 disappointed both proponents and opponents since it was not followed by the consequences which had been hoped or feared. Most pocket and rotten boroughs had been disenfranchised and seats had been given new centres of population, and these were changes which had been desired. Fifty-six boroughs were disfranchised and thirty lost a member each. Twenty-two large towns, including some London districts, were given two members each and twenty others one. Sixty-five seats were added to the county representation. As to suffrage a common borough franchise was created for all occupiers of premises of the annual value of ten pounds, and in the counties the old forty shilling freeholders were reinforced by the addition of copyholders and leaseholders and of tenants at will paying fifty pounds rent per annum. Even though the number of voters had been increased by about fifty per cent, however, no important change was manifest in the character of the membership of the House of Commons and no evident progress had been made towards democracy. Corrupt voting was not entirely extinguished, difficult formalities in the progress of registration kept down the number of voters and the natural local influence of family and property combined with all the rest to reduce the significance of the reform. Its permanent importance proved in the end to be less in the immediate change it made than in introducing the possibility of change. It was the first giving way of the old aristocratic system in any material matter and it opened the door to all that followed. The radical supporters of the bill were not satisfied with the concessions which that

measure secured and it was not long before agitation began for supplementary reforms. The agitators had much material to build with in the rather general discontent of the working class, discontent which was quite as much due to economic as to political conditions.

The agitation, which reached its height in 1839, is known in history as the Chartist Movement from the so-called "People's Charter" in which the radical demands were stated. These were six in number: (1) universal manhood suffrage; (2) vote by ballot, to prevent intimidation; (3) annually elected parliaments, to maintain the responsibility of members; (4) payment of members of the House of Commons, to make possible the election of poor men; (5) the abolition of the property qualification for membership in the House, for the same reason; and (6) the formation of electoral districts of equal population.

The movement was a failure. None of the demands set forth in the Charter was granted by parliament at that time but the agitation did not cease in other ways. The democratic cause won gradually more and more support among the classes which controlled parliament, and the programme of the People's Charter may be taken as an epitome of the progress since that day. Three of the demands, the second, fourth and fifth as given above, have been fully secured; and before the close of the century, the first also and the limitation implied in the word "manhood" dropped as well. The sixth has been fully obtained in principle and in practice as nearly as some peculiar difficulties of the situation allow. The third has not been secured in form, but the possible life of a parliament has been reduced to five years, and the responsibility of members to their constituents more indirectly but sufficiently secured. The leaders of the movement of 1839 would be astonished at the England of today, if they could return to it, and would be obliged to say that, according to the standards which they proclaimed, it is a democracy, and that in some things which they had at heart, the legal protection of the worker for instance, progress has gone far beyond their wildest dreams.

The interval of thirty-five years between the First and Second Reform Bills was a period of many changes. A good proportion of these were economic or social in character and not strictly constitutional, but though the more important may be named as indicating the general spirit of the epoch. Colonial slavery was abolished, with compensation to owners, in 1833. In the same year a beginning was made in legislation in favour of national education. The beginning was difficult and small because education was in the hands of the various religious bodies and jealously guarded. It consisted merely in a grant of £20,000 to aid school building but from this beginning was framed before the end of the century a system of national schools and popular education revolutionary in comparison with anything that went before it. Factory legislation, regulating hours and conditions of labour, had already begun and

was now extended, leading on by degrees to the present extensive system of regulation and protection. A new poor law was adopted in 1834. Penny postage and the postage stamp were introduced in 1840, and the Postal Savings Bank in 1861.

It was twenty years after the passage of the Reform Act 1832 before there was a serious attempt to make further changes of the same kind. In 1852 and again in 1854, Lord John Russell introduced new Reform Bills, the first time as Prime Minister and the second as a member of the cabinet and leader of the House of Commons but neither measure was pressed to a test vote. In 1859, Disraeli, Chancellor of the Exchequer in Lord Derby's Conservative cabinet, brought in another, which was rejected and the ministry, going to the country on the issue, was defeated and gave way to the Liberals, who held office until 1866. In 1860 Lord John Russell, now Foreign Secretary, made his third attempt, but the Bill was finally withdrawn through the pressure of other business, and in 1866 the ministry of Earl Russell, formerly Lord John Russell, was defeated on another Reform Bill and resigned. The Liberal Party was at that time so divided within its own ranks upon details of the question that it could not perfect and carry a measure. None of these proposed bills had been accompanied by any very strong popular demand, but, on the defeat of the last bill, the public, especially the working classes, made it clear that a demand for reform had risen which must be satisfied. The result was the Second Reform Bill of 1867 introduced by Disraeli, again Chancellor of the Exchequer.

A Conservative cabinet was in office under the Earl of Derby, but the Liberal Party, when acting together, had a strong majority in the House of Commons. In these circumstances Disraeli proposed that the Reform Bill should be made by a non-partisan measure, and it was really carried by a combination of both parties. The Liberals were, however, strong enough to make the Bill over to suit themselves, and Disraeli wise enough to allow most of the Conservative safeguards which he had embodied in his first proposals to be thrown out. The Bill passed was a Liberal Party Bill, though it probably could not have been carried without conservative votes, and certainly it would have been rejected by the House of Lords if it had not been the government measure of a Conservative cabinet.

The Second Reform Act 1867 was framed upon the same lines as the first. The qualifications required of electors were decidedly lowered, especially of voters in the boroughs, but the tests were of the same kind, virtually all of them property qualifications. In the boroughs occupiers of houses were enfranchised as well as occupiers of lodgings paying a rental of ten pounds. In the counties those able to meet a twelve pound occupation requirement were added to existing voters. About a million new voters were created by the Act, not quite doubling the previous number, but the step towards democracy was a longer

one than this ratio would imply, for the main increase was from the artisan class in the boroughs. The percentage of increase in the borough vote of the country was 134, and in some towns the old number of voters was multiplied by three. Agricultural labourers were still without the vote as were all labourers in towns not being parliamentary boroughs. In the redistribution of seats which accompanied the Act, fifty-two were taken from the smaller boroughs and given to eleven new boroughs, to a few old boroughs in increased representation, and to the counties.

The Constitutional Revolution confirmed

If the Reform Bill 1867 set England upon the threshold of a new political epoch in progress towards democracy, the Third Reform Bill of 1884 threw the door wide open. In fact England was ready for a step which was nearly final. Reform had lost its terrors during the half century in which no national calamities had followed from it. Not merely in the intellectual convictions of men, but in habits of thought and action, democracy had made great progress.

On becoming Prime Minister for the second time in 1880, Gladstone had a great majority in the House of Commons, but he did not introduce a new Enfranchisement Bill until 1884.

The new Reform Bill was not seriously opposed on principle by the Conservatives, but they found their point of opposition in the fact that a Bill for a redistribution of seats did not accompany it but was to be postponed for a year. On this ground the Bill was rejected by the House of Lords. Gladstone refused to order a general election on this account but in preparation for a new session, in which the Bill should be introduced again, the subject was vigorously debated before the electors. In this debate a suggestion was heard, not indeed for the first time during the nineteenth century, but perhaps for the first time as a serious proposal, that it might prove necessary to remodel the constitution of the House of lords, and Gladstone formally called the attention of Queen Victoria (1837-1901) to this feature of the discussion. The queen was naturally disturbed at such a possibility and hardly less at the prospect of a deadlock between the two houses. She undertook in consequence the office of mediator, and wrote to Gladstone and to Lord Salisbury urging a personal conference between them to see if they could not arrive at an understanding which would permit the Bill to pass.

In such a conference the proposed provisions of Redistribution Bill were explained to the Conservative leaders and found to be unobjectionable, and the Bill was passed by the Lords. Gladstone at once expressed his gratitude to the queen, writing to her that "his first duty was to tender his grateful thanks to Her

Majesty for the wise, gracious, and steady influence on your Majesty's part which has so powerfully contributed to bring about this accommodation, and to avert a serious crisis of affairs." This instance is a good example of the influence upon practical affairs which the Crown still exerted, not to make decisions but to smooth away difficulties and to make things easy for those who do decide.

By the Reform Bill of 1884-5 the "occupation franchise", which had been given the boroughs in 1867, was extended to the counties, and the qualifications for the suffrage in these two kinds of electoral districts were, with some slight exceptions, made uniform for the first time in parliamentary history. The right to vote was granted to every male over twenty-one years of age who was the "inhabitant occupier" of a dwelling house, or of any part of a house occupied as a separate dwelling, whether he occupied as owner, as tenant, or by virtue of any office, service, or employment, unless the house was also occupied by the person whom he served; and to every lodger occupying rooms of a yearly value, if let unfurnished, of ten pounds. However, the Act did not quite introduce a democratic universal suffrage.

In 1885 an Act redistributing seats and rearranging electoral districts was passed making far more radical changes than ever before. Twelve new members were added to the House of Commons, making 670 in all. Of these 465 were to be returned by England, 30 by Wales, 72 by Scotland, and 103 by Ireland, England having the smallest representation in proportion to population and Ireland the largest. Some few constituencies were left returning more than one member but the most of the United Kingdom was divided into 617 electoral districts each choosing a single member. These districts were determined by population and, while the principle of the representation of equal units of population was not quite so exactly realised in England, perfect exactness of measure is hardly possible anywhere. In the meantime other Acts, perhaps less strictly constitutional in character, had made the way of democracy easier. The Australian secret ballot had been adopted (Ballot Act 1872); registration had been and was to be further simplified in the interest of the elector; and Corrupt and Illegal Practices Act 1883 had greatly reduced the opportunity to influence elections improperly.

Since 1885 in everything except a few points, less important practically than theoretically, England has been a democracy. The cabinet system of government, the ministry responsible to the House of Commons, losing office when it loses its majority, provides a way by which almost automatically, without waiting for a future election day, a change of national judgment is carried out in a change of government policy, provided always that opinion changes in the House of Commons with the change of opinion outside.

The resumption of its legislative position by the House of Lords, after the election of 1906, was most real. After ten years' possession of power, the Unionist Conservative Party had been overwhelmingly defeated. The House of Lords, however, seemed to take the ground that the great popular victory did not give the Liberal Party authority to carry into immediate effect their whole programme. The upper house resumed in full force its right of suspensive veto, and demanded in effect that the will of the nation should be conclusively shown on the more important contentious measures of reform which were proposed. While it cannot be asserted that the House of Lords went beyond the function of a brake upon the wheel assigned to it in the preceding half century, it can be said that it seemed to be trying to find out what limit there was upon its action in that direction. The matter must not be numerically exaggerated. Out of 213 government bills between 1906 and 1910, eighteen failed to pass. The Lords rejected only a part of these but they amended others in such essential respects that they were dropped. Five acts which the majority in the House of Commons regarded as of prime importance were among these: an Education Bill, a Plural Voting Bill, a Scottish Land-holding Bill, a Licensing Bill, and the Government Budget of 1909. So that in substance the action of the Lords was more of an interference with Liberal plans of legislation than it appears to be when measured numerically.

It was the rejection of the government's Finance Bill in 1909 that led to a constitutional settlement of the question raised by the House of Lords. The budget involved a reassessment of land values, a taxation of the unearned increment, and in general a heavier taxation of wealth. It excited intense opposition among the classes naturally belonging to the Conservative Party. The right of the House of Lords to amend a money Bill had been lost but the right to reject it was recognized. It was generally felt, however, that to reject the Bill, leaving the national finances of the year in confusion, was an extreme act and almost a direct challenge to the House of Commons to define its own power and the power of the House of Lords as well. It was also pointed out by some that in this rejection the Lords were really claiming new powers. If the government, in consequence of their action, reintroduced the Budget without the clauses to which they objected, the upper house would have established a right of indirectly amending a money Bill; and if the government chose to appeal to a new general election, it would have gained the right of forcing a dissolution of Parliament. The assertion of Lords that some of the clauses of the Bill were legislative and so cases of "tacking", which gave them a right to reject, was not convincing to many. Almost from the beginning of this Parliament the proposal had been heard in the Commons, and more frequently outside, that a definite limit ought to be placed upon the veto right of the upper chamber, and in June 1907, the necessity was affirmed by a large majority of

the House of Commons in a formal resolution proposed by the Prime Minister but no further action was taken at the time.

The Lords rejected the Bill on 30th November 1909. Two days later the House of Commons declared the action to be a breach of the constitution and a usurpation of privilege. Parliament was speedily dissolved and a general election held in January 1910. The election reduced the number of Liberals proper in the House to 274, and increased the Unionist vote to 272, leaving the balance of power in the hands of the 41 Labour members and the 82 Irish Nationalists. These parties were, however, equally determined with the Liberals that the veto power of the Lords should be limited, and even more insistent that this question should be dealt with in advance of the financial difficulty. To meet this demand, resolutions embodying the points of their proposed Bill were introduced by the government and adopted on 14th April. With these resolutions and a statement by Asquith of what the ministry would do if the lords refused to accept the plan proposed, the parties supporting the government were satisfied, and the Finance Act 1910, the same as that of 1909, was voted, and was now immediately agreed to by the Lords. The course of action on the veto Bill was interrupted by the death of King Edward VII (1901-1910) in May, and a general wish not to force matters to an extreme crisis on a fundamental question of the constitution at the beginning of a new reign.

To avoid such an issue, an interesting experiment was tried, not unlike those proposed by Queen Victoria and referred to above. A conference was arranged between leaders of both the great parties, members of both houses, four from each party, to see if action which both sides would accept could not be agreed upon. Many meetings of the conference were held during the summer and early autumn without success, and early in November it abandoned the task.

The failure of the conference led at once to the extreme action foreshadowed to the House by Asquith in April 1910. The cabinet advised King George V. (1910-1935) to dissolve Parliament, and present at the same time to the king, as became known some time later, a memorandum asking him to agree in case of a favourable election to create peers enough to carry the veto Bill through the House of Lords, if that should ultimately prove to be the only way to save the Bill. As this memorandum stands in interesting relation to earlier incidents of this history and is in itself constitutionally significant, it should be quoted in full:

"His Majesty's Ministers cannot take the responsibility of advising a dissolution unless they may understand that, in the event of the policy of the government being approved by an adequate majority in the new House of Commons, His Majesty will be ready to exercise his constitutional powers, which may involve the prerogative of creating peers, if needed, to secure that effect shall be given to the decision of the country. His Majesty's Ministers are

fully alive to the importance of keeping the name of the king out of the sphere of party and electoral controversy. They take upon themselves, as is their duty, the entire and exclusive responsibility for the policy which they will place before the electorate. His Majesty will doubtless agree that it would be inadvisable, in the interests of the state, that any communication of the intentions of the crown should be made public unless and until the actual occasion should arise."

Nothing so extreme had ever been asked, however, of any earlier sovereign. The creation of twelve peers was sufficient in Queen Anne's time. Fifty would have been enough in 1832. Now the estimated number of necessary new creations was 400. Naturally the opposition Lords were excited and angry, both when the only suspected such cabinet action and when it became known. The cabinet's memorandum was called an ultimatum, and the action was spoken of as coercing the king. Very generally it was believed that, if the extreme steps were actually taken, it would be the ruin of the peerage. The king, after full discussion of the question with the Prime Minister and with Lord Crewe, leader of the government party in the House of Lords, gave the pledge asked for. The election, held in December 1910, left parties as they were in the House of Commons. None of the four parties was increased or decreased by as many as four votes. The result was regarded, however, as authorizing the ministry to go on to limit the powers of the upper chamber.

In the meantime proposals for the reconstruction of the House of Lords had been made by members of it, and even by the House itself in formal resolutions. They were hardly less drastic than those of the government but differed from them in more or less important details, in dealing largely with regulations between the two Houses and especially in emphasizing the plan of submitting disputes between the Houses to a decision of the people by a referendum. These proposals indicated at least a conviction on the part of the Lords that extensive constitutional change could not be avoided. In the new House of Commons the Prime Minister immediately reintroduced the Parliament Bill of the previous year, and it passed the House in May 1911. At first the Lords attempted to amend the Bill but when it became evident that their amendments would not be accepted and when it was made clear that the king would follow the advice of the cabinet and create the required number of peers, the House voted not to insist on the amendments. The vote was 131 to 114. Most of the Unionist peers refrained from voting; a few voted with the Liberals, and the Bill passed the House very much as the First Reform Bill had in 1832.

The Parliament Act 1911 as passed was limited to "restricting the existing powers of the House of Lords," and made no provision for a reconstruction of the House, though this part of the plan had been as much discussed as the other, and was declared by the preamble to the Bill to be intended. It was provided

that two classes of Bills might become laws without the consent of the House of Lords: money Bills and other "public Bills". A money Bill became an Act of Parliament if it were not passed by the Lords within one month after receiving it from the Commons. A certificate of the Speaker of the House of Commons guaranteed that the Bill was a money Bill, that is, that it did not contain other legislation. Other public Bills could only be delayed for a maximum of two years.

Concluding Remarks

On the basis of this brief study, it is possible to make some final observations.

In little under a hundred years, the system of parliamentary representation had been dragged from its murky medieval inequities to the full glare of democratic scrutiny. The process had been hard and tortuous and, like many constitutional reforms before it, had been spurred on by socio-economic factors.

The change in the political scene in the period under examination from the dominance of a landed oligarchy, whose power base lay in the shires and its rural economy, to the gradual evolution of an urban- and middle-class based democracy, is most clearly shown in the transformation of representation in the Commons and the eventual reining in of the legislative veto of an unelected, and so considered unaccountable, House of Lords.

Britain did not was a whole experience anything approaching the revolutions which occurred on the Continent during the same period of this study. This may reflect in part the sensitivity of the House of Commons or, more particularly, some of its more astute leaders to the justice of the case for fairer representation and to public opinion; in part the need to bring the wealth creators, the newly-emergent industrial middle class; in part the political aspirations of this latter class in flexing its apparent economic muscles.

However, by modern standards, Victorian/Edwardian democracy was undemocratic. Although the democratic principle was accepted finally in 1867, "one man, one vote" never existed in nineteenth century England, even after the Third Reform Act. Indeed a striking dichotomy remained between the principles of the Franchise Act 1884 and its practical operation until 1918. Liberal influence on shaping the Act guaranteed that it would not mean manhood suffrage and full scope for the political power of the masses. As late as 1911, only sixty-three per cent of all adult males were on the electoral lists. The 1918 Reform Act more effectively related the 1884 Act's principles to actual practice. Nevertheless, the idea of property ownership as a basis for political rights

lingered on, in the form of a business premises qualification, until the Representation of the People Act 1948.

Despite the fact that there were something like twenty separate franchises under the 1832 Act, there were still people included. Among those excluded were domestic servants, sons living with their parents and policemen or soldiers living in barracks. About twelve per cent of the adult male population remained disfranchised after 1832, as well as the whole female population. A complex and cumbersome system of registered proved to be an obstacle in the way of adult males otherwise qualified. As a result people who had moved house, lodgers and Scots personal ratepayers were effectively kept off electoral registers.

Although further reforms were needed to remedy the remaining inequalities, yet the foundations of the Victorian constitutional revolution had been firmly laid and it was upon this base that modern British parliamentary democracy was built.

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