

End of Another Old Song

Parliament was prorogued on November 12. The new session began on November 17. When you read this you will know what legislative measures are proposed in the Queen's speech. At the time of writing I do not have this information so I will devote the present column to a momentous event in the history of our Parliament, the ejection of all save a rump of the hereditary peerage. This drastic change recalls the Act of Union in 1706. Its abolition of the old Scottish Parliament was characterised by James Ogilvy, first Earl of Seafield, as the end of an old song. Yet the present removal need never have happened. As Bret Harte's truthful James said, of all the words of tongue and pen, the saddest are these: "It might have been". If those concerned had proved more alert it might have been that the second chamber could have continued as before.

The debating and revising functions it has do not require the House of Lords to be democratically elected. Members sitting by right of heredity have various advantages. They are independent. Their genes are likely to give them the qualities for which the original titleholder was ennobled. There is no fuss about selecting them, and no question of prime ministerial patronage. So it might have been a good thing if they had survived. How might this have been achieved? In a letter published in the Times nearly twenty years ago (on August 5 1980) I said that if the next Labour Government abolished the House of Lords it would be because the House had failed to reform *itself*, "which it could do tomorrow by a simple resolution".

"What is needed is the minimum alteration required to rectify the only serious defect in our second chamber, its inbuilt Conservative majority . . . 431 peers take the Conservative whip, while 162 take the Labour whip. . . The abuse lies in the voting power of this permanent majority, rather than its right to take part in a debate. Here is how the House could effect its own cure.

"The House passes a resolution confining the right to vote to peers who correspond in number and party allegiance to the balance of parties in the Commons. On request, the Speaker in the Commons tells the Lord Chancellor [the Speaker of the House of Lords] how many MPs take the whip of each party. (There is a precedent for this in section 2 of the Ministerial and Other Salaries Act 1975.) The party leaders (or the peers themselves) then nominate peers [whose] numbers correspond to the proportions notified by the Speaker. Substantial changes in the Commons (as after a general election) are immediately reflected by corresponding changes in the Lords.

"There are precedents for such self-denying ordinances by the peers. In theory any peer without legal qualifications can attend and vote when the House sits in its judicial capacity. But the last time this happened was in 1883, when the vote of the lay peer in question was ignored. A more recent precedent is the convention (invariably obeyed) that peers given leave of absence do not vote.

"This voting reform, if carried with the whole-hearted approval of the peers as a permanent change, would remove any pretext for abolishing the House of Lords. It would not damage the character and traditions of that House (as an influx of elected peers might do) . . . We would not be tinkering with our constitution more than is necessary. The British are wise to be cautious here, for constitutional practice which has grown up over centuries has contended

with and adapted to many forms of crisis. It therefore contains within itself the mechanism for dealing with similar crises if and when they occur (as the proposal in this letter illustrates).”

No notice was taken of this suggestion, which bears an uncanny resemblance to the mechanism now included in the House of Lords Act 1999. A few years ago (on 19 March 1996) I tried again. I wrote to Lord Rees-Mogg as follows. “In view of what is said in your Times article of yesterday about House of Lords reform I would refer you to my letter in the Times of 5 August 1980, which for convenience I enclose. My suggestion has the great advantage that it could be achieved by the House of Lords acting entirely on its own initiative. This would be much more dignified than waiting for Mr Blair!”.

Lord Rees-Mogg sent me a one-line reply dismissing the suggestion out of hand. Yet if the Lords had reformed themselves twenty years ago in the way I suggested is it likely that any head of steam would have built up in the 1990s for ejection of the hereditaries?

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