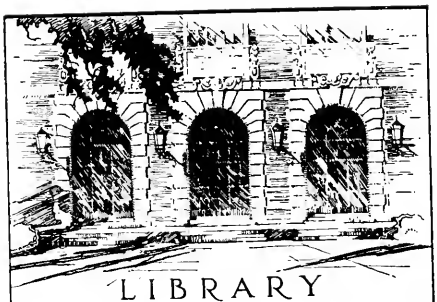

THE

NATURE AND ORIGIN

OF THE

HOUSE OF LORDS.

BY

EDWARD A. FREEMAN, D.C.L., LL.D.,

REGIUS PROFESSOR OF MODERN HISTORY IN THE
UNIVERSITY OF OXFORD.

Reprinted from the *Manchester Guardian*.

MANCHESTER:
GUARDIAN PRINTING WORKS, 3, CROSS STREET
1884.

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I.

THE House of Lords has lately drawn to itself a larger share of the attention of the nation than any other element in the Constitution. And that attention has been far from being wholly of an admiring or approving kind. The House has passed a certain vote, and from a great part of the nation, we of course hold from the greater part of the nation, a cry has at once gone up demanding the abolition or the sweeping reform of the House which has passed it. This is in itself a fact to be noticed. It is not often that a demand is made for the abolition of one branch of the Constitution in any country, merely because that branch has given offence in a particular case. We cannot conceive a cry being raised on the same grounds for the abolition either of the Crown or of the House of Commons. The distinction is felt at once; a cry for the abolition of the House of Commons sounds indeed like a contradiction in terms. The fact is that we feel instinctively, what reason and experience confirm when we come to think, that the House of Lords holds a position in the Constitution wholly different from that of either of the other branches. With neither of them could any man deal so lightly. For it stands to reason that in every state there must be some kind of executive govern-

ment; in every free state there must be both some kind of executive government and some kind of popular assembly. It does not follow that either need take the exact shape which they take among ourselves, but both must exist in some shape. Without the House of Commons, or some other assembly of the same kind, there could not be freedom; without the Crown or some other power to do its work, there could not be order. But it is at least conceivable that both freedom and order might go on, although the House of Lords were abolished and no other power of any kind put in its place. In other words, the House of Lords is not practically on a level with the other two powers. The other two are essential. The House of Lords may be venerable, it may be ornamental, it may even be highly useful; but it is not essential. It might be swept away and nothing put in its place without a return to chaos. If we swept away either of the other powers and did not put something else in its place, chaos would return.

Something like this line of thought is silently implied in what is in itself so singular a phenomenon as the present demand for abolition or sweeping change in one of the great powers of the State, and that on the ground of a single vote which has given offence. It is not said that the vote is either illegal or unprecedented; it can be called unconstitutional only in a somewhat strained sense of that flexible word. The House gives offence, and it is at once either to be destroyed or to have its distinguishing constitution altogether changed. In itself this seems somewhat hasty dealing. No doubt this one vote is in truth rather the occasion than the cause of an indignation so deeply felt. The real cause is not this vote taken by itself, but this vote coming after a long series of other votes. Yet it is certain that, up to the time of the present vote, there was no violent or outspoken popular feeling against the House of Lords. There may have been a deep or a widespread feeling; but if so, it was so deep or so wide that it did not come to the surface. We may be quite sure that, if the Lords had passed the Franchise Bill, even by a small majority, there would have been no cry for the abolition or the sweeping reform of their House, at least till they gave offence about some other matter. The cause may, and doubtless does, lie much deeper than the occasion; but the occasion has at least been startling in the suddenness of the results which it has called forth.

If I may speak of myself, I am in nowise surprised that the outbreak has come; I have rather been wondering for many years that

it has not come before. There is something in the present position of the House of Lords so wholly anomalous, so utterly at cross purposes to the other principles of our received Constitution, so yet more at cross purposes to our received ways of looking at things, that the real wonder is that it has lasted so long, and has had so little said against it. Englishmen, to be sure, are, taking them as a whole, not fond of change for the sake of change; to stir them up strongly against a thing there must be something much worse to be said against it than that it sins against some theoretical rule of consistency. Mere variety, mere irregularity, is never looked on as a fault; it is rather felt to be a kind of merit, as being picturesque and venerable, and a sign of antiquity. And there is no healthier feeling than this, so long as it does not go so far as to defend real practical abuses. It is this feeling of reverence for the past, this feeling, often of a mere unwillingness to change which does not take so definite a shape as that of reverence for the past, to which we owe the great blessing that we have been for age after age able to work reforms without undergoing revolutions. It is no unwholesome doctrine in the long run, though it is one that may easily make eager spirits chafe, that, in order to justify change, it is not enough to show that there might be something better than the existing state of things, but that it must be shown that the existing state of things is positively bad. The House of Lords has reaped the full advantage of this state of feeling, combined with another. Many of us who see plainly enough the evils of that House are by no means convinced that, if we abolished it altogether, or changed its character after any other pattern, we might not bring in worse evils. Besides the rule, Let well alone, there is the other rule which suggests the wisdom of bearing the ills to which we are used, unless they are utterly intolerable. There is further the manifest fact that the House of Lords is after all only obstructive; it hinders and delays things that we wish for, but it does not and cannot do any active harm. The House has often delayed the passage of just, liberal, and tolerant measures, but it does not itself directly oppress or persecute anybody. If there is no special reason to love it, there is no very strong reason actively to hate it. The charm of its traditional dignity covers a good many lesser offences. In short, the House has in its favour the greatest of all presumptions, namely, that it exists. How great an advantage this is in a land of precedent like ours words would almost fail to tell.

But as soon as we look at the matter from any point of view of reason and consistency, doubts at once begin to press upon us, doubts which, now that a popular expression of them has come at last, have perhaps taken a more vigorous shape because they have so long been consciously or unconsciously pent up. The House of Lords is what is popularly called a "Second Chamber." The question comes, Is there any need of a Second Chamber at all? If there should be one, ought it not to take some shape wholly different from that of the House of Lords? We have, it may be argued, brought two elements of the Constitution into singular harmony with one another; here is a third which stands out between them, like an incongruous fragment hanging on from another state of things. The doctrine is established that the will of the people is to rule; the really supreme power is in the hands of that branch of the Legislature which the people choose. The existence of hereditary kingship is no contradiction to this principle, for hereditary kingship has been ingeniously turned into a means for carrying out the will of the people more thoroughly and more speedily than can be done with any other form of executive. It is because there is a hereditary king behind, a king who accepts whatever ministers his people give him, that we can change the actual ruler when we choose, and can keep him on as long as we choose, in a way that cannot be done when he is elected for so many years and no longer. Thus the Crown and the House of Commons pull together by a system of silent understandings which perhaps on the whole works better than some system which on paper would look more self-consistent. But then comes the House of Lords between the two. Here we meet with the hereditary principle face to face. In the case of the Crown we do not come across it in the same way. It may fairly be argued that, though hereditary succession might be absurd in the case of a king who was himself to govern, it is practically the best way of appointing a king who is only to reign. But the Lords do not merely reign; they govern. That is, so far as their authority goes, they exercise it for themselves and not by the advice of others. Such and such powers are put into the hands of a body of men, the mass of whom find their way to the post which confers those powers by the right of birth and by nothing else. And those powers they actually use, subject to no check except a vague feeling that they must not go too far in using them. It is acknowledged that there is a point at which the Lords must knock under to the people. But

that point cannot be fixed beforehand; it must be found out by tact in each case. The whole root of the present controversy lies in this, that the Lords had hoped that that point, the point where the necessity of knocking under comes in, might have proved to be further off than the people have ruled that it shall be.

The peculiar nature of the question on which the Lords have thus run counter to the national will has had a good deal to do with the matter. The Lords have often thrown out measures which have passed the Commons; they have sometimes thrown out over and over again measures which have passed the Commons by large majorities. And though there has in all such cases been more or less of disappointment and of open grumbling, there has been no such general outburst of indignation as we have seen in the present case. People are more angry this time at a first rejection than they have been at other times at a third or fourth. This comes from a feeling that, of all possible kinds of measures, this is the kind of measure about which the Lords have the least right to stand in the way of the national will. On some questions the judgment of the Lords may be as good as that of the Commons. On questions which do not touch either party politics or the powers of the Lords themselves, it is very likely that it will be as good. Most questions which the Lords debate at all are debated with the highest ability by some of the first men in the country, and, if no peers voted save those who join in the debate, a vote of the House of Lords would always be entitled to very high respect. Sometimes it really is so; and in many other cases where we cannot say that it is so, where those who think and care about the matter will condemn the action of the Lords in throwing out this or that bill, yet those who think and care deeply are so few that no general agitation follows. But here the Lords have stepped in to meddle with a matter which seems of all things to be the special affair of the House of Commons and of those who choose that House. It seems hardly handsome that men whose political position is secured to themselves and to their children should step in and say that a large body of their countrymen shall not be allowed to receive any political position at all. It is not exactly putting their hands into other men's pockets; but it is saying that other men shall have nothing put into their pockets, while their own pockets are full to overflowing. It is this meddling on the part of a privileged body with something which concerns all the rest of the nation excep

themselves which has called forth this special burst of indignation, one which has certainly had nothing like it for the last three and fifty years, if it had anything like it then.

Out of this single vote of the House of Lords it has come that the House of Lords itself is now put on its trial. It is dangerous to risk any conjectures as to what may come of the present movement; much must depend on the conduct of the House of Lords in the coming autumn session. But things can hardly be for the future quite as they have been hitherto. The question of the House of Lords has once been stirred, and things cannot go on as if it never had been stirred. A peace of some kind may be patched up, and any constitutional change may be staved off for the present; but the thought of change has been brought before men's minds, and it will come into their minds all the more easily in time to come. The outcry against the Lords will be raised again on smaller provocation than it has been raised this time. This is therefore a good time to go to the root of the matter, and to search and look what the House of Lords really is and how it came to be what it is. Such questions are never unpractical in a land like ours, where we have never broken with the past, and where precedent goes for more than abstract consistency. The wisdom of our forefathers is an excellent thing to follow whenever we follow it in the spirit of our forefathers. Only when we refuse to make changes which are shown to be really needful, we are assuredly not doing what our forefathers did in any of those past ages to which we should most naturally go for examples. To go back to the forms of any past age is commonly impossible, and it would be foolish if it were possible. But from the broad principles even of very remote ages we may often learn a great deal. The principles are commonly lasting, while the forms change from one time to another. To reform an institution on its old lines, to get rid of later corruptions in which it has parted off from its original nature and objects, is often a most practical kind of reform, at once thoroughly radical and thoroughly conservative. Before we make up our minds what should be done with the House of Lords, it may be well to spend a little time in seeing how the House of Lords came into being, and how it grew into its present shape.

II.

What is the House of Lords? We may at once answer that it is one of the Houses of Parliament alongside of the House of Commons, that the two have a co-ordinate authority, and that no measure that needs the consent of Parliament has that consent until both Houses have agreed to it. And yet I am not quite sure whether everyone fully takes in the fact that the House of Lords is part of the Parliament. We sometimes get into a way of speaking as if Parliament consisted wholly of the House of Commons, and as if the House of Lords was something outside Parliament. At any rate I am sure that many would say that a dissolution of Parliament affects only the House of Commons, and does not touch the House of Lords. They would be surprised to be told that at a dissolution of Parliament the House of Lords is dissolved just as much as the House of Commons. And in a rough practical way it is true that a dissolution does not touch the House of Lords; that is, it does not touch it in the same way in which it touches the House of Commons. It is not absolutely certain that a new House of Commons will contain any one of the members of the old one; it is practically quite certain that a good many of its members will be different. But though the House of Lords is as much dissolved by the dissolution as the House of Commons, yet, when Parliament comes together again, the vast majority of the members of the new House of Lords must be the same as the members of the old one. Yet the new House of Lords is not altogether the same body of men as the old. Sixteen of its members, namely, the representative peers of Scotland, chosen for each Parliament, may always actually be different men from the members of the old House; and, if they happen to be the same men, they sit by a freshly acquired right, just as the members of the House of Commons do. It is well then to remember that the House of Lords is not a continuous body of the same men sitting for ever. It is a body which comes to an end and begins again along with the House of Commons; and it is always possible that some of its members in a new Parliament may be men who have displaced some of its members in the old one.

Let us again ask, What is the House of Lords? Many people, I

am sure, would answer at once that it is the hereditary branch of the Legislature, distinguished from the House of Commons, which is the elective branch. And if one went on further to ask, What is the object and purpose of this hereditary branch of the Legislature? they would most likely answer that it is designed to act as a "Second Chamber," as a correcting and revising body, whose business it is to check hasty action on the part of the elective branch. And they might go on to say that it is well suited for this purpose, because it is a hereditary branch, because it is not responsible to any constituencies like the House of Commons, and is therefore less likely than the House of Commons to be carried away by every blast of popular feeling. They would add that, though the House is in this way free from immediate responsibility to the people, yet it is still fully amenable to confirmed public opinion, that it represents the matured will of the nation, as distinguished from its momentary fancies.

Now, whatever we say of all this latter part of our supposed answer, there undoubtedly is some rough practical truth in the former part. The House of Lords is a branch of the Legislature a large majority of whose members do hold their seats simply by hereditary right. And, as a matter of fact, the powers of the House have come to consist very much in revising the work of the House of Commons. Sometimes perhaps it improves that work; sometimes perhaps it spoils it; sometimes perhaps it delays, sometimes it altogether hinders it; in any case it reconsiders something which has been considered before by the Lower House. Now it is of course open to anyone to maintain that this is an useful function, and that a body wholly or mainly hereditary is better suited than any other to discharge that useful function. This is a political proposition which may be argued for and against, like any other political proposition. But the danger is that this political proposition may get mixed up with a historical proposition which has no ground whatever. Many people unconsciously think that the House of Lords must always have been a hereditary body, and could never have been anything else. They think, perhaps quite unconsciously, that it must have come into being as a hereditary House. Perhaps they even think that it must have been designed from the beginning to act as what is called a "Second Chamber," as a body created to stand in some kind of relation to another body, perhaps purposely designed to act as a check on it.

Now to all this it might be enough to answer that the House of Lords is not, and, save for a few years in the seventeenth century, never was, a purely hereditary body; that it was not called into being to act as a check on the House of Commons, because it was in being before the House of Commons; that its powers to this day are in no way confined to checking the House of Commons, but that they are, except in one or two points, co-ordinate with those of the House of Commons. Each House has one special power of its own. The Commons only can bring in a money bill; that money bill the Lords must either accept or reject; they cannot amend it. On the other hand, the ancient judicial powers of Parliament have always been exclusively kept by the Lords, the elder branch of Parliament; the Commons, the younger branch, have never acquired any share in them. With these exceptions, the powers of the two Houses are exactly the same. Bills may be brought in in either House, and each House can pass, throw out, or amend the bills that come from the other. If we choose to say, by a very misleading use of words, that the Lords have a *veto* on the acts of the Commons, it is equally true to say that the Commons have a *veto* on the acts of the Lords. It is true, as a matter of fact, that the most important legislation now seldom begins in the Lords, so that things commonly look as if the main business of the Lords was to revise the acts of the Commons. But this is simply because, as things have come to be at present, it is commonly more convenient that important legislation should begin in the Commons. This practical convenience has nothing to do with the inherent powers of the two Houses; still less has it anything to do with the historical origin of either House and the objects for which either came into being.

It may be answered that everybody knows all this, and in a certain sense everybody does know it. Nobody can really believe that the House of Lords is a purely hereditary House, as long as bishops sit there by virtue of their offices and Scottish and Irish representative peers sit there by election. But people none the less practically think otherwise. They go on talking about the "hereditary House"—perhaps admiring it as such, perhaps loathing it—till they fancy that to be hereditary is the inherent essence of the House of Lords. So nobody can really believe that the House of Lords, which can at any moment originate bills, and which not uncommonly does originate bills, really exists only to revise and, if need be, to *veto* the acts of

the House of Commons. But people none the less talk—that is, they practically think—as if it were so. Ninety-nine out of a hundred disputants on either side would attack the House of Lords and would defend it, as being a hereditary House whose business it is to act as a "Second Chamber," and to revise the acts of the House of Commons. One side might shrink with horror from anything that could be called "revolutionary;" to the other side that name might have some charms. But both sides would allow that there was, for good or for evil, something "revolutionary" in the thought of a House of Lords which should not be hereditary. One side would hold that the wisdom of our forefathers had ordained a hereditary House of Lords; the other side might be careless as to whether our forefathers did ordain anything of the kind; but they would hold that, if they did so ordain, it was a sign not of their wisdom but of their folly.

Most of this confusion comes from not taking in the peculiar character of English constitutional history. As a rule, none of our great political institutions were ever, strictly speaking, enacted. The powers of King, Lords, and Commons certainly never were they grew up of themselves by force of circumstances. They cannot be said to be eternal and immemorial; for we can trace them up to their early beginnings. But they were not enacted by particular men with particular political objects. There was not any moment when the English people, or any English king or lawgiver, came to the conclusion that it would be a good thing to have a Parliament of two Houses, rather than, like some other nations, a Parliament of one, three, or four. Still less did they go on to settle that one of those Houses should be hereditary and the other elective; least of all did they decree that the hereditary House should act as a "Second Chamber" to the elective House. The whole thing came by accident, by force of circumstances, by whatever name we choose to give to the gradual working of historical causes. Speaking roughly, we may say that in the twelfth century only the germs of our present constitution were in being. In the thirteenth the germs had grown into elements; representation and election had come into play; but the several elements had not as yet found their places; everything is in a state of constant shifting; one experiment is tried after another. It would be no very great stretch of language to say that one experiment gave rise to the House of Lords and another to the House of Commons. The reign of Edward I. is the time when things began

to settle themselves down; he may fairly be called the founder of both Houses as distinct Houses; but he certainly had no conviction of the special merits of the system of two Houses; for he undoubtedly meant to have three. That is, the clergy were meant to form a separate House, as they did in France and many other countries. The system of two Houses which so many nations have borrowed from us may be in itself good or bad—that is, it may have worked well or ill in practice—but it never was ordained among us with the object of working in any particular way. For it never was ordained at all; it came about by the sheer accident that the clergy could not be got to attend as a regular estate of Parliament, as both Lords and Commons were got to attend.

The distinction of Lords and Commons came about in this wise. The exact constitution of our most ancient assemblies is a puzzling subject. It is puzzling for this reason, that, as it was strictly immemorial, we have no record of its enactment, and as everybody at the time understood it, no one made it his business formally to describe it. But I have myself little doubt that in the earliest times every freeman had a right to appear in person and to cry Yea or Nay in the assembly of the nation. But it stands to reason that this was a right which could not be exercised except by the great men of the realm and by those who lived near to the place where the assembly was held. At least from the Norman Conquest onwards, our kings took to summoning particular men to the assemblies, sometimes in great numbers, sometimes in small. Now it is a universal law that, when a practice of summons comes in, it gradually comes to act as the shutting out of those who are not summoned. In the thirteenth century, from the Great Charter onwards, we distinctly see two classes of persons, those who are summoned each man personally, and those who are summoned in a body. Here we have the first rude distinction of Lords and Commons. The summoning in a body soon grows into a summons to send elected representatives. The shires first send representatives, then the boroughs, till by the end of the thirteenth century we have, thanks to Earl Simon and King Edward, a House of Commons essentially of the same nature as that which we have now. By a kindred process, or rather through another side of the same process, the House of Lords came into being; more strictly, the ancient assembly took the shape of the House of Lords, while the House of Commons grew up as a new thing by its side. While the

freemen in general were summoned to appear by representatives, the great men of the land were still summoned to appear in their own persons. Those who came in answer to the personal summons and those who came as elected representatives gradually parted into two distinct bodies, or rather perhaps two branches of one body. They became in short two Houses. One was the House of the great men, of the Lords, or, by a name of later date borrowed from France, the *Peers*. The other was the House of Commons, that is the representatives of the various *communes* or *communities* of freemen throughout the land, shires, cities, and boroughs. But who were these great men, lords, peers, and so forth? Assuredly not a purely hereditary body; that the House of Lords is not even now. Assuredly not even a body mainly hereditary, not a body to which the hereditary succession of any part of it was at all necessary, at all part of its essential being. The spiritual lords, who are in their own nature not hereditary, long outnumbered the temporal lords, and the temporal lords were in their origin no more hereditary than the spiritual. But things, from the Crown downwards, have a way of becoming hereditary whenever they can; the spiritual lords could not become hereditary; the temporal lords could, and therefore did. The kings continued to send the personal summons to Parliament to such persons as they thought good; but there were some classes of persons to whom they could not well help sending it. The bishops and the earls were in their several ways men of such importance that the king could not venture to leave them out, if he had been so inclined. A failure to summon a bishop or an earl is exceedingly rare, and it must be explained on some personal ground in the particular case. The bishops were and are in the strictest sense an official class; but then the earls were in the beginning an official class just as much. An earldom was in the beginning not a mere rank, but a great office, a local government. The kernel of the House of Lords therefore consisted of the great officers of the kingdom, spiritual and temporal. Outside the ranks of the bishops and earls, the king sent his personal summons to other persons, spiritual and temporal. Besides the bishops, he always summoned some abbots, often some other churchmen. A few of the greatest abbots were summoned as regularly as the bishops; among the lesser abbots the king seems to have had a very free choice. So, besides the earls, the king always summoned some of the barons, that is the highest class of landowners under the earls; but among the barons too he

had a very free choice. Some abbots and some barons were always summoned, but not always the same abbots or the same barons. The king personally summoned one man to a certain Parliament, just as the electors of a shire or borough sent another man as their representative in that Parliament; but neither king nor electors pledged themselves to send that man to every future Parliament, much less to send his son after him. In short, the one House of Parliament was in idea no more hereditary than the other. Only there were tendencies which helped the growth of the hereditary doctrine in the House of Lords, while there were none such in the House of Commons. Our next business will be to see what those tendencies were, and how they gradually brought about the present state of things,

III

Certainly there is no assembly of men in the world which has so utterly changed its character as the House of Lords. Whatever it has turned into now, there can be no doubt that it is the House of Lords which continues by personal succession the ancient assembly in which, as I hold, every freeman had a place. The House of Commons is the younger body which has sprung up by the side of the older one. Historically it is not the House of Lords but the House of Commons which is the "Second Chamber." The change from a gathering of all the freemen of the land, first into a gathering of officers of state and other chief men, and secondly into a body consisting mainly of hereditary peers, is striking, but it is really not wonderful. As I have said already, everything that can become hereditary has, especially in certain states of society, a tendency to do so. But before we look at the stages by which this happened, it may not be amiss to compare the House of Lords in its earlier state, say under Edward the First, with another English institution which has some points in common with it.

The institution that I mean is the Court of Quarter Sessions in each county. The magistrates of an English county form a kind of local Parliament, a Parliament of one House, a Parliament, some might say, of Lords without any Commons. Now the magistrates, as everyone knows, are neither elective nor hereditary, but are appointed by the Crown. They are moreover liable to be struck off the commission by the Crown. Yet everybody feels that they are something altogether unlike ordinary officials of Government. No doubt the fact that the magistrates are unpaid is the great cause of this difference; but it should be remembered that the "Great Unpaid" do not stand alone; unpaid service is in England the rule for all persons and bodies who hold any kind of local authority, great or small. With regard to the magistrates, though their places are not hereditary, not even necessarily held for life, yet there are persons in every county who could hardly be left out of the commission; there are cases in which it would be thought strange indeed if the son did not succeed the father, even if he is not already

put on the commission alongside of his father. Men of established position in the county, owners of large estates, heads of ancient families, are put on the commission as a matter of course, unless there is some very strong reason indeed why they should not be put there. Outside this there is another range, that of smaller landowners, newer comers, whose position is not in the same way assured, and among whom those who direct the choice of the Crown have a good deal of discretion. Now this state of things has much in common with the earlier state of the House of Lords, when the kings summoned whom they would, but when there were many persons whom they could hardly help summoning. Now if the office of justice of peace, which has a certain tendency to become practically hereditary, had ever become formally hereditary, the change would have been exactly the same as that which happened in the case of the temporal peerage. There were several reasons why it should do so in one case and not in the other; but the mere process would have been the same. When the House of Lords began to take its present shape, the earldoms had already become hereditary, as they had a tendency to be from very early times. There was always a tendency to appoint the son of the last earl, as there was a tendency to elect the son of the last king; as the hereditary feeling grew, as the earldom gradually sank from an office into a mere rank and possession, it naturally became strictly hereditary. When barons began to be summoned, the same law applied to their baronies; when a baron was summoned to one Parliament there was at least a kind of presumption in favour of summoning him to another; there was even a kind of presumption in favour of summoning his son after him. This presumption grew into an established right. It came to be held that a writ of summons once received and acted on gave, both to the man to whom it was sent and to his heirs after him, a right to a summons to all future Parliaments. This doctrine seems to have been fully established in the course of the fourteenth century. In that century too the kings took to creating new ranks of peerage, as duke, marquess, and afterwards viscount. These were created by patent, and the kings also began to create earls and barons by patent. These creations by patent were hereditary or for life at the king's pleasure; but the hereditary doctrine grew and grew, and patents for life soon became the exception. By the middle of the fifteenth century, at the latest, we may say that the temporal peerage had become a hereditary body; a life-

peerage was a rare exception. But the House of Lords was still neither wholly nor chiefly a hereditary body. Down to the dissolution of monasteries the official lords, the spiritual lords, outnumbered the hereditary peers. When the abbots lost their seats, the scale was turned the other way. Since that time the hereditary peers have gone on increasing almost daily, while the number of official lords, spiritual or temporal, was not increased from the time of Henry the Eighth to the present reign. In this way a body of men which still is not wholly hereditary, which, so far as it is hereditary, has become so only by a series of tendencies and accidents, without any set purpose or any formal enactment, has come to be looked on as if the accidental hereditary element in it was the very essence of its nature, the object for which it was brought into being.

It must always be borne in mind that it is the personal summons to Parliament which is the essence of peerage. Whatever else the peer has, titles, precedence, any personal privileges that either law or custom gives him, all has gathered round this one essential centre. This is what has made the English peerage so utterly different from any continental nobility. Nobility, so far as it can be said to exist in England at all, is attached to the possession of a hereditary seat in Parliament and to nothing else. It is the writ of summons to Parliament which is held to "ennoble the blood," whatever that means. For, as everyone knows, there is in England no nobility in the sense which the word bears in other lands. With us the children of the peer are commoners. Certain men have become hereditary legislators and hereditary judges, and that is all; and whatever may be said against this system, it is at any rate a far smaller evil than the abiding and exclusive caste from the growth of which it saved us. For it should never be forgotten that it is the growth of the English peerage which has hindered the growth of any real nobility in England. One man in each generation has been set up so high that he cannot share his privileges even with his own children.

After the fifteenth century it would be hard, till the present reign, to find a distinct case of a temporal lord with a seat in Parliament being created for life only. And in the seventeenth century the House of Lords did for a few years become a purely hereditary body. This was when the seats of the bishops were taken away by an Act of the Long Parliament. This must be distinguished from the Act which followed seven years later, by which the House of Lords was

abolished altogether. This last Act was an irregular ordinance of the House of Commons—or of so much of it as was left—while the Act which took away the bishops' votes was a regular Act of Parliament, passed in due form by King, Lords, and Commons. Therefore at the Restoration of Charles II., when his first Parliament came together, the House of Lords consisted of temporal peers only, and another Act of his second Parliament restored to the bishops the seats which the Act of the Long Parliament had taken from them. That is to say, the House again ceased to be purely hereditary. Since that time the Unions with Scotland and Ireland have brought in two new classes of peers, Scottish representative peers elected for each Parliament and Irish representative peers elected for life. It is plain that neither of these classes of peers are hereditary, as far as their seats in Parliament are concerned; the Scottish peers are not even Lords of Parliament for life. Still their position takes the hereditary principle for granted. Though they sit by virtue of election, yet they are elected by a purely hereditary body as representatives of that body only. The peers of Scotland indeed are the most purely hereditary body in the land, as the Crown cannot increase their number.

Now it should be again borne in mind that the whole position of the Lords, all their rights, powers, and privileges, came, like most other things, not by enactment, but by gradual usage. In this, as in other matters, a custom grows up, a custom which gets the practical force of law, which is never formally established by legislation, but which is pretty sure some time or other to be taken for granted in some Act of Parliament. That the King's writ and the King's patent should confer the parliamentary and other rights of peerage was never formally ordained by any Act of Parliament, but many Acts of Parliament have taken it for granted. Now when things get gradually established in this way, it is always open to people of different ways of thinking to speak of them in different ways. What one calls natural growth and healthy development another may call corruption or usurpation. And in many cases we must leave people of different ways of thinking, provided only that both sides have got up the facts accurately, to judge of the facts according to the turns of their several minds. But when a certain body of men go on, age after age, making inferences, laying down rules, which are altogether in their own interest and not at all in the interests of the other powers of the State, we are tempted to call

that process corruption or usurpation rather than healthy growth or development. Now this is what the House of Lords has been doing ever since it began to be a distinct House of Lords. The Lords laid down the rule that the King's writ "ennobled the blood" and bestowed a hereditary seat in Parliament, a thing which nobody would have found out from the writ itself. They laid down in the seventeenth century that a peerage could not be alienated or surrendered to the Crown, as peerages had sometimes been surrendered in older times, and as it plainly is sometimes expedient that they should be. And when, in the present reign, Sir James Parke was, according to ancient precedents, created a peer for life only, the Lords, in defiance of law, in defiance of history, in defiance of the clear rights of the Crown and of the manifest expediency of the case, had the matchless impudence to refuse to Lord Wensleydale, a baron of the realm, as lawfully created as any of them, his lawful seat in their House. This and that insignificant duke, marquess, earl, viscount, or baron, thought it fine to turn up his nose at a great lawyer of whose advice King Edward would have been glad, because forsooth his "blood" had not been "ennobled." And more shameless still, great lawyers, who, one would have thought, must have known the law on which they were trampling, were, in the lowest spirit of upstarts, fiercest of all to maintain the imaginary rights of their own "noble" blood, "ennobled" as it was but yesterday. The body which thus disloyally, almost rebelliously, flouted the Crown has no right to claim respect on any grounds of antiquity or traditional dignity, when, in the like spirit, they turn round and flout the people. They have, to be sure, their "noble blood," strange effect of King Edward's writs of summons. Let us wait and see what their "noble blood" can do for them, when they have turned every other power of the State against them.

My object is to state facts, not to propose schemes of change. But the whole story may, I think, give us some cautions in thinking out our schemes of change. When a body has changed so widely from its earliest constitution and objects as the House of Lords has done, we shall certainly not be sinning against the wisdom of our forefathers if we hold that it may not be amiss to make it go through a few more changes. And if we make it, as we are not unlikely to do if we change it at all, somewhat more like what King Edward meant it to be and somewhat less like what the Lords have contrived to make it themselves, the wisdom of our forefathers will least of all

complain of us for that. But the same sound rule will teach us that it will be well, in any reforms, to break as little as possible with the past, to let forms, traditions, titles, go on wherever they do not involve the sacrifice of anything more important, to reform on the old lines, to reform, as far as may be, the existing body, rather than to pull down the existing body and set up a new one. One might be inclined to say that the hereditary element came in by fair growth of circumstances, but that it was usurpation and corruption which has gone so far to shut out all other elements. Even since the rejection of Lord Wensleydale in his first estate—for he did come in at last when duly "ennobled," that is, when a new patent took in his children, of whom he had none—the House has yielded to expediency, and has admitted certain temporal lords who are not hereditary. There are the Lords of Appeal of Ordinary, official lords, whose position is wonderfully anomalous, but who at most are Lords of Parliament for life, and who are not necessarily even that. The principle then has been yielded; all that is needed may be only to carry it further, and perhaps to carry further the principle on which the Scottish and Irish representative peers are chosen. But the time has hardly come to suggest details. I will make only one remark more. It may be needful to reform, it may be needful to abolish, any institution; it can never be needful to degrade any institution. I say this almost with effort; it goes so against one's feelings to go right in the teeth of one so honoured as Mr. Bright. Yet I must say that of all the proposals that have been made the worst seems to me to be that which would leave the existing constitution of the House, but would formally narrow its powers. This would be, not to reform, but to degrade; it would be to keep an element of the constitution, and to set a brand upon it. The analogy which has been suggested with the Crown does not hold. The Crown has not been degraded; it has not been branded; its powers have not been taken away; it keeps them all, the right of summoning peers for life among them; all that has been done is that, in that system of silent understandings which we call the Constitution, it has come to be understood that some of the powers of the Crown shall not be exercised at all, and that the rest shall be exercised only by the advice of Ministers approved by the House of Commons. Since our great Conservative revolution, since the deliverer of 1688 brought back the state of things established by the deliverer of 1399, the position of the Crown has been in many things practically changed; but the

Crown has never been put to an open shame, as by this scheme it is proposed to put the House of Lords. If it must come to this, it would be far better to get rid of that House altogether. But those who have an Englishman's natural clingings to a long and unbroken political past will hope that some means may be found to reform without sweeping away.

GUARDIAN Printing Works, Manchester.