

Decline and Fall of the House of Lords

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Federalist No. 23 stands for a simple claim: the distribution of powers should be harmonized with the ends sought. As Publius put it, “[i]t rests upon axioms as simple as they are universal; the MEANS ought to be proportioned to the END; the persons, from whose agency the attainment of any END is expected, ought to possess the MEANS by which it is to be attained.”¹

Recently, the Parliament of the United Kingdom of Great Britain and Northern Ireland received royal assent for the House of Lords (Hereditary Peers) Act 2026.² This bill amended the House of Lords Act 1999, which had excluded most hereditary peers from the House of Lords. The 1999 bill allowed for 90 hereditary peers (and the Earl Marshal and Lord Great Chamberlain), elected by the peerage.³ This 2026 bill removes Section 2 of the 1999 Bill, ending the political representation of the lords which had been ongoing for seven centuries.⁴

There is a story to tell of an inevitable momentum of the last one hundred years, which has rendered the House of Lords impotent. The democratic wave came to Britain, and this fundamentally undemocratic institution was chipped away, a little at a time. There is a lot to that. In 1911, the House of Lords lost their power over money bills and had their veto power over other bills diluted into a power to delay.⁵ The House of Commons itself had been refashioned along more democratic principles. The great “Reform Act of 1832” did much to expand the franchise and make representation more proportional.⁶ Nevertheless, it wasn’t until the 1948 “Representation of the People Act” that “university constituencies” were abolished; lingering anti-democratic principles remained in the House of Commons much longer than its partisans might want to admit.⁷ One could tell a whiggish history, where the democratic hope of British politics has just culminated (or maybe will culminate in the House of Lords’ total dissolution). I am trying to tell a different story: the House of Lords weakened because the class interests it was made to represent weakened. With the purpose of the institution gone, the institution inevitably decays.

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¹ THE FEDERALIST No. 23, ¶ 5 (Alexander Hamilton).

² House of Lords (Hereditary Peers) Act 2026, c. 12 (UK).

³ House of Lords Act 1999, c. 34 § 2 (UK).

⁴ I have taken Edward I’s “Model Parliament” of 1295 A.D. as the starting point for convenience’s sake. One might also say that the Anglo-Saxon Witan was the forerunner of the modern Parliament, though that might be some mythmaking. *Changes under Edward I*, UK PARLIAMENT, <https://www.parliament.uk/about/living-heritage/evolutionofparliament/originsofparliament/birthofparliament/overview/edward/> (last visited Apr. 1, 2026).

⁵ *Parliament Act 1911*, UK PARLIAMENT, <https://www.parliament.uk/about/living-heritage/evolutionofparliament/houseoflords/house-of-lords-reform/from-the-collections/from-the-parliamentary-collections-the-parliament-act/parliament-act-1911/> (last visited Apr. 1, 2026).

⁶ *The Reform Act 1832*, UK PARLIAMENT, <https://www.parliament.uk/about/living-heritage/evolutionofparliament/houseofcommons/reformacts/overview/reformact1832/> (last visited Apr. 1, 2026).

⁷ Representation of the People Act 1948, 11 & 12 Geo. 6. c. 65 (UK).

The Normans were prodigious conquerors. While they are most famous for their conquest of England by William I, they also became lords of Sicily, and parts of the Holy Land during the Crusades. In all of these Norman states, they set up vassals to control land and render military service.⁸ The king also established a series of councils to advise him, comprised of nobles, ministers, and officers of state.⁹ Over time, the barons were able to wrest increasing amount of control from the king. While Magna Carta is the most famous example, the late medieval kings often dealt with meddlesome barons.¹⁰ These baronial crises culminated in the Second Barons' War: "Over the next few years the country was plunged into civil war as Simon de Montfort, earl of Leicester, sought to entrench conciliar control, before Montfort's rule was ended in 1265 in the bloody mess that was the battle of Evesham."¹¹

In the early modern period, nobility ceased to be a hostile military force and increasingly allowed for men of ambition to rise through wealth, service to the state, or both. In the Tudor period, there were large transfers of land, but the Tudors were parsimonious in their granting of peerages: "In a period of rapid changes in land ownership so conservative an attitude could only lead to an ever-widening breach between title and status on the one hand and power and wealth on the other."¹² Of similar importance to my thesis is that the Stuarts diluted the meaning of nobility by selling titles: "Together, James and his successor Charles I (1625–49) created over 120 peers, which (once extinctions are accounted for) resulted in a net increase of 83 Lords members. But more notably, James provides the first well-documented case of peerage creations being used as a source of revenue."¹³ During thirteen years of Stuart reign, for example, "the numbers of the English peerage rose from 81 to 126, and at the same time the number of earls increased still faster, from 27 to 65."¹⁴ Some of these peers were rewarded for their political prowess, to buttress coalitions in the House of Lords, or merely because they were related to royal favorites; some were ennobled as a consequence of outright graft.¹⁵ No matter why they were ennobled, they had long

⁸ R.W. Perceval, *The Origin and Development of the House of Lords*, 7 PARLIAMENTARY REV. 33, 34 (1953) ("[T]here were Norman—or Frankish, or if you like French—Conquests in the eleventh and twelfth centuries not only of England, but of Palestine, Cyprus, Southern Greece, Southern Italy, and Sicily. In all these the feudal system was installed in much the same form as in England; in all of them the land was parcelled out to Barons, who assembled in the Court of their Sovereign Lord to regulate the affairs of their tenancies, settle disputes between each other, and organize the military subjection of the natives.").

⁹ ALPHEUS TODD, PARLIAMENTARY GOVERNMENT IN ENGLAND: ITS ORIGIN, DEVELOPMENT, AND PRACTICAL OPERATION (Spencer Walpole ed., 1892).

¹⁰ MEG RUSSELL, THE CONTEMPORARY HOUSE OF LORDS 15 (2013) ("In 1258 a crisis culminated in King Henry III agreeing to hold three parliaments per year, and giving up significant authority to a council composed of barons.")

¹¹ Sophie T. Ambler, *Simon de Montfort and King Henry III: The First Revolution in English History, 1258–1265*, 11 HIST. COMPASS 1076, 1076 (2013).

¹² LAWRENCE STONE, THE CRISIS OF THE ARISTOCRACY, 1558-1641, 98 (1965).

¹³ RUSSELL, *supra* note 10, at 18.

¹⁴ STONE, *supra* note 12, at 104.

¹⁵ *Id.* at 105–106.

ceased to be an alternative locus of military power. They ceased to be a group outside of the state who needed to be placated.¹⁶

In the modern period, this trend has become even more pronounced. The trend of hereditary peerages has tapered off, with the current creations being largely restricted to kin of the monarch. In the last two centuries, many of the hereditary peers were politicians, soldiers, or businessmen: Baron Beaverbrook (media mogul), Baron Ashburton (banker), Earl Kitchener (soldier), Viscount Montgomery of Alamein (soldier), Earl Atlee (Prime Minister), and the Earl of Stockton (Prime Minister).¹⁷ With land ceasing to be the main driver of wealth, many nobles have been overtaken by commoners in wealth and power. They do not seem to be a class set apart in the way lords have historically been. Most importantly for this analysis, they are not meaningfully different from the life peers who remain in the chamber.

So, this is an alternate story of the House of Lords. Initially, it was a way of dealing with barons, whose dissatisfaction had real military consequences. Over time, these nobles were intermixed with those who faithfully served the monarchy, those who were close to the monarch, or those wealthy enough to purchase a peerage. Their power was broken, not because they were defeated, but because they could be safely ignored. Not only were they impoverished and diluted, but they lacked a principle to justify themselves. Seriously: what is the principle? Oligarchy? They are not obviously wealthier than others. Virtue? What do they have access to that a wealthy commoner would not? Wisdom? The fifth Earl of Litchfield was a professional photographer.

There are two immediately apparent arguments for the persistence of the hereditary peers in the House of Lords. The first is that the intergenerational duties inculcate an acute sense of honor and responsibility. While this may have been true once, this requires an entire ecosystem of family and community outside of the House of Lords. Their schools need to tell young peers that they are set apart for a special task, to rule in wisdom. Their families would need to tell them that they are inheriting a tradition, and that they must live up to the deeds of their ancestors. Society at large would have to hold them to these expectations. It is unreasonable to expect these cultural norms *sua sponte*, and Western society is too democratic to seriously inculcate them.

This is why the life peers exist. Their claim is that they have provided services to the United Kingdom which demonstrate their capability to deliberate judiciously. While weaker than the intergenerational duty described above, it is much easier to cultivate. Even today, merit is easily intelligible as a mechanism of deciding who decides. The transformation of the House of Lords from a bastion of hereditary privilege to a chamber of technocrats is a way of dealing with the death of the nobility.

The other reason is a sense of caution. The House of Lords has never operated without hereditary peers. Even if the nobility has changed, that does not make them irrelevant. After all,

¹⁶ For those who would point to the Glorious Revolution, it is worth noting that that was effectuated by the invitation of a foreign sovereign with his own army.

¹⁷ Prime Ministers tend to receive life peerages, nowadays.

the House of Lords meaningfully legislated for centuries, during which the composition of the peerage varied considerably.

This caution is well taken, but it cannot be an absolute veto; otherwise, we would never be able to alter any institution. The House of Lords helps us to see a broader point: when we evaluate institutions, we should look at the three things: means, ends, and facts. The means here are the existence of hereditary peers, who currently comprise a fraction of the House of Lords, which itself is a shadow of its former self. The ends are presumably the good administration of government.¹⁸ What I have been arguing is that the means and ends are not the issue here: it is the facts. The underlying facts about the peerage, its composition, and its relation to British society have fundamentally changed. The peerage is no longer a military class, nor ordered towards virtue.

American institutions are not immune to this analysis. Even the most hide-bound conservative would recognize that the Founders were engaged in positive legislation. *The Federalist Papers* especially is an attempt to do political philosophy; the Founders crafted a government “[i]n Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity.”¹⁹ Inevitably, they legislated taking certain background facts for granted (slavery being regretful but ineradicable as one notable instance).

If the underlying facts radically changed at some point, then the reasoned analysis of the Founders would break down, and modification would become necessary. This can cut in both directions. A conservative might argue that Americans lack the republican virtue and Christian morality that the Founders took for granted, and so their optimism about the common man is misplaced. A liberal might argue that certain constitutional arrangements are illogical, because the relations among states and between the states and the federal government has changed beyond the Founders’ wildest imagination.

My argument does not preclude a normative lament of the decline of the peerage. A class self-confident in its own position and oriented towards virtue would be welcome. That class does not exist. Therefore, those who defend the hereditary peers are left with two options: either remove them from the House of Lords or find a way to revitalize the aristocracy. Any government who could do the latter is a government I have not yet seen. Until one arises, removing the hereditary peers is only reasonable.

¹⁸ I am bracketing questions of actual moral desert (i.e. do the peers have a non-instrumental claim of justice?).

¹⁹ U.S. CONST. pmbl.