

DEFICIENCIES OF AN APPOINTED UPPER CHAMBER IN THE UNITED KINGDOM AND MALAYSIA



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The article is an observational and evaluation exercise in highlighting the deficiencies in the composition and functions of the legislatures in the United Kingdom (hereinafter referred to as “UK”) and Malaysia, with ancillary consideration of the legislatures in Australia and the United States of America. The ultimate desire is not to project partisan patronage for constitutional reform, rather to advocate for increased academic debate and deliberation.

The Legislature

Being one of the three major institutions of a democratic state,¹ the legislature is the law making body of the land.² With the exception of absolute monarchical states such as, *inter alia*, Brunei, Oman, Swaziland and Saudi Arabia,³ the majority of constitutional democracies around the world have statute-enacting

¹ Montesquieu, Charles de Secondat, baron de. *The Spirit of Laws* (c.1748 (Anne Cohler, Basia Miller, and Harold Stone eds CUP 1989).

² Aristotle, *The Politics* (Book iv, xiv, 1297b35).

³ TNN, ‘Learning with the Times: 7 nations still under absolute monarchy’ *The Times of India* (Mumbai, 10 November 2008) <http://articles.timesofindia.indiatimes.com/2008-11-10/india/27949981_1_monarch-liechtenstein-head> accessed 20 January 2014.

legislatures with the majority political parties functioning as the ruling government.⁴

While there are primarily two ways a legislature can be organised, that being unicameral (single chamber) or bicameral (two chambers),⁵ the focus of this paper shall be on the latter, with an analysis of its merits and scrutiny of its shortcomings. A descriptive account of the finer details of the legislative process shall not be attempted, as the focus of this discussion is based on the workings and composition of the upper chamber of a legislature. Information and comparison will be *prima facie*, with concerted effort invested on generating awareness.

Different Paths to a Bicameral House

It is discovered,⁶ *inter alia*, that the majority of federal states adopt a bicameral system to accommodate large populations and facilitate more balanced representations by having an upper chamber that will seek to achieve “proportional equilibrium” with those underrepresented in the lower chamber.⁷

⁴ French Senate, ‘Bicameralism around The World: Position and Prospects’ <<http://www.senat.fr/senatsdumonde/introenglish.html>> accessed 15 January 2014.

⁵ Prof Roger Congleton, ‘Lecture 6: Bicameral Legislatures and Public Policy’ (Constitutional Design and Public Policy for Leiden University, 22 October 2003). <<http://rdcl.net/class/constitutionaldesignclass/CONSDDES6.PDF>> accessed 31 January 2014.

⁶ Inter-Parliamentary Union, *Parliaments of the World: A Comparative Reference Compendium*, 2d. ed. (New York: Facts on File Publications, 1986) I, p. 14.

⁷ Richard Verma, Susan Benda, Patrick Henry and John Whaley, ‘One Chamber of Two- Deciding Between a Unicameral And Bicameral Legislature’ National Democratic Institute For International Affairs Legislative Research Series Paper 3, 4 <http://www.ndi.org/files/029_ww_onechamber.pdf> accessed 30 December 2013

Prior to gradual constitutional reform, membership to the upper chamber of the UK legislature, the House of Lords, (hereinafter referred to as “HL”) was through royal appointment, inheritance and seniority in the Church of England.⁸ However, the initial purpose behind the establishment of an upper chamber was not to facilitate more balanced representation.

Instead, the HL, the successor of the old *Curia Regis*,⁹ was a council of noblemen who held lands for the king.¹⁰ Primarily a council of the Monarch’s advisers,¹¹ the Council would meet to discuss matters of the state. By the 14th century, two distinct Houses of Parliament gradually emerged primarily due to the need of Parliament’s consent for the imposition of taxes to fund the Monarch’s military expenditure.¹² As the principle of common consent to impositions such as these had been entrenched in the *Magna Carta*, mounting pressure was placed on the king to invite more burgesses to attend Parliament.¹³

The House of Commons originally comprised of burgesses,¹⁴ lesser knights and merchants,¹⁵ represented the community of England and who

⁸ *ibid* 5.

⁹ Latin for Royal Council.

¹⁰ George Burton Adams, ‘The Descendants of the Curia Regis’, (1907) 13(1) *The American Historical Review* 12.

¹¹ David Yardley, *Introduction to Constitutional and Administrative Law* (8th edn, Butterworths 1995) 27.

¹² Dr Gwilym Dodd, ‘The Birth of Parliament’

<http://www.bbc.co.uk/history/british/middle_ages/birth_of_parliament_01.shtml>
accessed 16 April 2014.

¹³ *ibid*.

¹⁴ UK Parliament, ‘Birth of English Parliament- Changes under Edward I’ <<http://www.parliament.uk/about/living-heritage/evolutionofparliament/originsofparliament/birthofparliament/overview/edward/>> accessed 16 April 2014.

¹⁵ UK Parliament, ‘What is the House of Lords?’ <<http://www.parliament.uk/education-resources/House%20of%20Lords%20resources/video-transcript-what-jumpstart.pdf>> accessed 20 February 2014.

alone should grant taxation on behalf of the people.¹⁶ The position of the Commons in Parliament cemented during the 14th century as the Crown regularly looked to the Members of Parliament (hereinafter referred to as “MPs”) for funds necessary for defence and military campaigning, as it was a period of interminable warfare.¹⁷ As the Commons became more powerful, the HL soon became an illustration of privilege and birth right.¹⁸

As a result of increasing public disgruntlement towards the lack of public accountability¹⁹ and political discontent towards the absolute veto power of the Lords,²⁰ ultimately led Herbert Henry Asquith’s government to enact the Parliament Act 1911 which began what is still an on-going process of reformation of the HL.²¹ In 1999, majority of peerages were removed.²²

Similar to present day UK, membership to the HL is through appointment by the Executive in a number of nations with bicameral legislatures; unlike the victors of general elections who are elected directly into the lower house,²³ making the lower house the more powerful chamber constitutionally.²⁴ The upper chamber is seen as an additional chamber that complements the lower chamber.²⁵ The precise reasons why such a practice

¹⁶ Dodd (n 12).

¹⁷ *ibid.*

¹⁸ UK Parliament (n 15).

¹⁹ Yardley (n 11).

²⁰ Aalt Willem Heringa and Philipp Kiiver, *Constitutions Compared: An Introduction to Comparative Constitutional Law* (2nd edn, Intersentia 2009) 94.

²¹ *ibid.*

²² House of Lords Act 1999, s 2.

²³ French Senate (n 4).

²⁴ Heringa and Kiiver (n 20) 74.

²⁵ *ibid.*

is adopted is not solitary in nature but which requires a lesson on a country's history and parliamentary tradition.²⁶

The rationale behind the dual chamber system in the Parliament of Westminster in a purely legislative process context is an additional chamber for evaluation and reflection on legislative proposals by the government that have "survived" the lower house.²⁷ It serves as an additional avenue for scrutiny of legislation that helps improve the quality of the statute books²⁸ and as a counterweight to the majority of the day.²⁹

Unlike the UK, Malaysia's upper chamber the Dewan Negara (hereinafter referred to as "DN") was established to protect the interest of the 13 States in Malaysia. This can be seen via section 62 of the *Reid Commission Report 1957*. With the interest of the States in mind, it is observed that the original drafters of the Malaysian Constitution desired for the State elected senators to outnumber those who are appointed by the King. The original number of two senators from each State can be increased to three.³⁰ As shall be seen below, it is questionable whether the interests of the States are truly protected.

As observed from the title of this paper, concerns have been raised regarding the justification of such an arrangement. The immediate deliberation will attempt to engage with the general criticisms that have been directed towards the presence of an upper chamber in the UK and Malaysia;

²⁶ Inter-Parliamentary Union, 'Parliaments at a Glance: Structure' <<http://www.ipu.org/parline-e/ParliamentsStructure.asp?REGION=All&LANG=ENG>> accessed 10 January 2014.

²⁷ Hilaire Barnett, *Constitutional & Administrative Law* (9th edn, Routledge 2011) 342.

²⁸ *ibid.*

²⁹ Heringa and Kiiver (n 20) 75.

³⁰ Reid Commission Report 1957, s 62.

followed by an analysis of the current position in Malaysia and the various shortcomings of the DN.

Weaknesses of the Upper Chamber

a. Composition and Accountability of Cabinet Ministers in the Upper Chamber

With regards to the composition of the upper house in Malaysia, an element of political bias exists should the possibility of an appointment to the upper chamber be a valid avenue of entry into Parliament.³¹ Such an avenue also allows for politicians who failed in the general election to re-enter Parliament “through the back door”. Some even go as far as being appointed as Cabinet Ministers.³²

Late in the 20th century, it was observed in the UK that there was a general decrease in the presence of Cabinet Ministers in the HL – Sir Winston Churchill’s Cabinet in 1951 included seven Lords and the late Baroness Margaret Thatcher’s government comprised of seven Secretaries of State who were members of the HL³³ As British politics became progressively democratic, the accountability of Cabinet Ministers in the Lords became a considerable issue as the general public demanded for more democratically elected MPs to be Cabinet Ministers.³⁴

³¹ Britain is one of only two countries in the world, the other being the Kingdom of Lesotho, with an upper parliamentary chamber which is totally unelected and instead select its members by birth right and patronage.

³² Lisa Goh, ‘More than a rubber stamp’ *The Star* (Kuala Lumpur, 2 June 2013) <<http://www.thestar.com.my/News/Nation/2013/06/02/More-than-a-rubber-stamp/>> accessed 10 January 2014.

³³ Keith Parry and Lucinda Maer, ‘Ministers in the House of Lords’,(2012) Briefing Paper SN/PC/05226, 3.

³⁴ *ibid.*

Despite there being only one peer who is a Cabinet Minister (that being Baron Hill of Oareford who serves as the Leader of the HL) as of 2014,³⁵ there are a total of 19 peers who hold ministerial responsibilities.³⁶ While the appointment of ministers via the HL is not new, the scale of such appointments in recent years is unprecedented.³⁷

In order to achieve a “government of all the talents”, it was speculated that the former Prime Minister, Gordon Brown, appointed 11 individuals to be life peers so that they could serve as ministers or advisers to the Government.³⁸ The major motivation behind these appointments was the sense that there had been a narrowing of the ministerial talent pool,³⁹ what was seen as lacking from the government were people with experience and expertise from outside politics.⁴⁰ Brown was not the only one who sought “outsider talent”; his predecessor Tony Blair appointed, amongst others former British Petroleum Chief Sir David Simon to the HL.⁴¹

In the Malaysian political scene, there is no issue with the creation of peerages as Senators can only serve for a period of three years with the

³⁵ UK Parliament, ‘Her Majesty’s Government- The Cabinet’

<<http://www.parliament.uk/mps-lords-and-offices/government-and-opposition1/her-majestys-government/>> accessed 20 February 2014.

³⁶ UK Government, ‘Ministers’<<https://www.gov.uk/government/ministers>> accessed 20 February 2014.

³⁷ Public Administration Select Committee, *Goats and Tsars: Ministerial and other appointments from outside Parliament* (HC 2009-10, 330) para 14.

³⁸ Justice Select Committee, *Constitutional Reform and Renewal* (HC 2008-09, 923) para 58.

³⁹ Ben Yong and Robert Hazell, *Putting Goats among the Wolves: appointing ministers from outside Parliament*, Constitution Unit, January 2011, 10.

⁴⁰ Major J and Hurd D, ‘Bring outside talent to the dispatch box’ *The Times* (London, 13 June 2009)
<http://www.timesonline.co.uk/tol/comment/columnists/guest_contributors/article6488302.ece>.

⁴¹ ‘BP Chairman made Minister’ *BBC News* (London, 1997)

<<http://www.bbc.co.uk/news/special/politics97/news/05/0507/simon1.shtml>> accessed 20 February 2014.

possibility of one term renewal.⁴² The UK on the other hand appoints life peers through the Life Peerages Act 1958 which has the effect of allowing the appointed person to sit in the HL until his or her death.

However the issue of the appointment of Cabinet Ministers from the DN persists. While it is debatable whether appointments such as Tan Sri Dr Koh Tsu Koon⁴³ and Datuk Seri Shahrizat Abdul Jalil⁴⁴ to Prime Minister Najib Tun Razak's Cabinet are genuinely in respect of the expertise that they possess, it is certain however that the opposition have been disgruntled.⁴⁵

b. Unfair Advantage - Political Allegiance

As appointment is made by the Executive, which is essentially the ruling government, the political allegiance of the appointed members will usually lie with the political party of the majority; effectively tilting the balance of powers to their favour in the upper chamber,⁴⁶ and as such reduces the effectiveness of supposed deliberative examination of government policy.⁴⁷

⁴² Federal Constitution of Malaysia, Article 45 (3A).

⁴³ 'Gerakan's Koh defends appointment' *The Star* (Kuala Lumpur, 11 April 2009) <<http://www.thestar.com.my/story.aspx?file=%2f2009%2f4%2f11%2fnation%2f3679325&sec=nation>> accessed 20 February 2014.

⁴⁴ Rashvinjeet S. Bedi, 'Shahrizat back as special adviser to Najib' *The Star* (Kuala Lumpur, 19 August 2013) <<http://www.thestar.com.my/News/Nation/2013/08/19/Shahrizat-appointed-special-adviser.aspx/>> accessed 20 February 2014.

⁴⁵ Josephine Jalleh, 'Karpal: Abolish the Senate' *The Star* (Kuala Lumpur, 19 May 2013) <<http://www.thestar.com.my/News/Nation/2013/05/19/Karpal-Abolish-the-Senate-DAP-chairman-says-only-elected-reps-should-be-in-parliament.aspx/>> accessed 20 February 2014.

⁴⁶ Barnett (n 27) 343.

⁴⁷ Andrew Harding, *The Constitution of Malaysia: A Contextual Analysis* (Hart Publishing 2012) 109.

In the *Reid Commission Report 1957*, it was envisaged that the number of appointed Senators would be decreased by Parliament and eventually abolished when Parliament sees fit.⁴⁸ However, instead of giving effect to the Federal Constitution,⁴⁹ which aims to uphold the spirit of the Commission's report, the number of appointed Senators has presently increased dramatically from 16 initially to 44; effectively overwhelming the 26 State-elected Senators.⁵⁰ Such a ratio is not conducive to democratic legitimacy.⁵¹ The appointments of the 44 Senators are made by the Yang di-Pertuan Agong on the advice of the Government (which he must accept pursuant to Article 40(1) of the Federal Constitution). Since 1964 the government has had a majority over the State-elected members.⁵² Thus by appointing members who support the ruling coalition government of Barisan Nasional or the National Front, the Government effectively prevents opposition to its legislative agenda in the DN.⁵³ The validity of amendments to the Senate's composition to allow nominated members to outnumber elected members was challenged but upheld in *Phang Chin Hock v PP*.⁵⁴

⁴⁸ Reid Commission Report 1957, s 62.

⁴⁹ Federal Constitution of Malaysia, Article 45 (4). The provision reads: Parliament may by law - (a) increase to three the number of members to be elected for each State; (b) provide that the members to be elected for each State shall be elected by the direct vote of the electors of that State; or (c) decrease the number of appointed members or abolish appointed members.

⁵⁰ Prof. Dr. Shad Faruqi, *Document of Destiny: The Constitution of the Federation of Malaysia* (Star Publications (Malaysia) Berhad 2008) 536.

⁵¹ *ibid.*

⁵² Harding (n 47).

⁵³ *ibid.*

⁵⁴ [1980] 1 MLJ 70.

c. Irrelevant Authority

Being an unelected chamber, the upper house importantly has limited veto power. The most it can do is delay the enactment of legislation by one year,⁵⁵ upon which the proposed legislation will naturally return to the lower house for eventual approval. With the upper chamber being reduced to merely a consultative role,⁵⁶ the HL and the DN have even been described rather derogatorily as mere “rubber stamp institutes”.⁵⁷ The ineffectiveness of the DN has led many critics to suggest that there is no place in a modern democratic constitution for a non-representative upper chamber.⁵⁸

d. Unrepresentative

Parallel with the slogan that people who make the laws should be chosen by the people subject to those laws,⁵⁹ it is only right for the people to demand that democracy be representative as well.⁶⁰ With the prevalence of Executive-influenced appointments in the UK and Malaysia, certain sections of the community have been under-represented, notably women, minority ethnic communities and the disabled.⁶¹

⁵⁵ Interview with Dr. Mark Elliot, Faculty of Law, University of Cambridge <<http://www.youtube.com/watch?v=dH8bvWY3TJY>> accessed 30 December 2013.

⁵⁶ Verma, Benda, Henry and Whaley (n 7) 3.

⁵⁷ Goh (n 32).

⁵⁸ Shad Faruqi (n 50) 537.

⁵⁹ HC Deb 9 July 2012, vol 548, col 24 (Nick Clegg, Deputy Prime Minister).

⁶⁰ Colin Low, ‘Lords reform: the Lords is more diverse and democratic than the Commons’ *The Guardian* (London, 9 July 2012) <<http://www.theguardian.com/commentisfree/2012/jul/09/house-of-lords-commons-democracy>> accessed 22 February 2014.

⁶¹ *ibid.*

As there are minimal statistical values to illustrate the present day DN in contrast with the UK, the Malaysian discussion shall be brief. As of July 2012, the percentage of women in the UK HL is 22% (equal to that of the House of Commons);⁶² whereas the percentage of women in the Malaysian DN as of January 2014 is 27.12%.⁶³ As one can observe, women are arguably under-represented in the upper chambers of both the UK and Malaysia.

As of October 2013, there are a total of 44 minority ethnic members of the HL, representing a mere 5.4% of the total membership of 801 peers, which is a percentage that does not reflect the percentage of ethnic minorities in the national population.⁶⁴ In Malaysia, there is no statistical data on the representation of ethnic minorities in the DN and this can be a stumbling block to assessing the degree of the DN's representativeness.

A Level Playing Field – The Australian and US Upper Chambers

Unlike the UK and Malaysia, members of the upper chambers of Australia and the United States are elected by the electorate. The Founding Fathers of the United States felt it desirable to have an upper chamber (Senate) that was directly elected by popular vote and subsequently reformed to allow such a system.⁶⁵

⁶² Feargal McGuinness, *House of Lords Statistics* (2012) Briefing Paper SN/SG/3900 4.

⁶³ Inter-Parliamentary Union, *Malaysia: Dewan Negara (Senate)* <<http://www.ipu.org/parline-e/reports/2198.htm>> accessed 22 February 2014.

⁶⁴ John Wood and Richard Cracknell, *Ethnic Minorities in Politics, Government and Public Life* (2013) Briefing Paper SN/SG/1156 <<file:///C:/Users/user/Downloads/sn01156.pdf>> accessed 22 February 2014.

⁶⁵ Constitution of the United States, 17th Amendment.

Unlike the HL and the DN, the Australian and American Congress are not necessarily consistently under the control of the ruling government's political party. Since 2001, both houses of the US Congress were and still are controlled by different political parties - Democratic Party in the Senate and the Republican Party in the House of Representatives.⁶⁶ The fear of political allegiance and an unfair advantage in the passing of bills is therefore less of a concern.

In Australia, should the Senate and the House of Representatives arrive at legislative deadlock on two consecutive occasions on a piece of legislation, a double dissolution is permitted to resolve such disagreement.⁶⁷ Should there be such a trigger, the present day government can petition to the Governor General (the representative of the Australian monarch) for the dissolution of both houses of Parliament and call for fresh elections.⁶⁸

Section 58 Constitution of Australia and Article 1, Clause 7 of the Constitution of the United States respectively provide that no law shall be passed unless there is general consensus between the two houses. All bills must receive the approval of both chambers; no chamber can overrule the other.⁶⁹ This is contrary to the UK and Malaysian approach in which the lower house has the power to bypass their respective upper chambers.

Until September 2012, through the House of Lords Reform Bill 2012, it was the desire of the UK coalition government to reform the HL with possibly the above considerations in mind.

⁶⁶ Tom Murse, 'Party in Power: Political Makeup of Congress in the 2000s' *About.com* <<http://uspolitics.about.com/od/thecongress/tp/Party-In-Power.htm>> accessed 22 February 2014.

⁶⁷ Constitution of Australia, s 57.

⁶⁸ Over the course of history, there have been 6 double dissolutions with the last occurring to the government of Bob Hawke in 1987.

⁶⁹ Heringa and Kiiver (n 20) 81.

Calls for Reform

As such, the immediate discussion will revolve around the position in the UK. The UK has been far more progressive in reforming the upper chamber in comparison to Malaysia. Malaysian politicians have voiced their concerns about unfair representation of the opposition in the upper house,⁷⁰ but there has not been any concerted effort to table a bill in the Dewan Rakyat (the Malaysian equivalent of the House of Commons) that addresses this concern.

In the UK, reformation of the HL has been a subject of much debate for over a century.⁷¹ Central to this contention is the composition of the upper chamber and how membership to the upper chamber should operate. While the majority of hereditary peers have been removed,⁷² a recent Commons debate revolved on the proposal that the system of appointment of life peers (members appointed by the Executive to serve for life) should be replaced with a system where the majority of the upper chamber is composed of elected members.⁷³

General consensus has been achieved between the three main parties in Westminster that the Lords should be reformed; however there is less agreement as to how it should be reformed,⁷⁴ as seen by the abandonment and formal withdrawal of the most recent (admittedly noble) effort by the

⁷⁰ Goh (n 32).

⁷¹ Debate began upon the enactment of the Parliament Act 1911.

⁷² House of Lords Act 1999, s 2.

⁷³ HC Deb 9 July 2012, vol 548, col 24 (Nick Clegg, Deputy Prime Minister).

⁷⁴ Interview with Dr. Mark Elliot (n 55).

ruling government – the House of Lords Reform Bill 2012.⁷⁵ The loss of the bill was as a result of lack of support from the Conservative MPs.⁷⁶

Bearing in mind the peculiar nature of the British constitution, is such a reform necessary to make the HL acceptable and legitimate?⁷⁷ With the arguable handicap of an unwritten constitution, the Judiciary is left with the inability to declare legislation unconstitutional even when it runs contrary to the Rule of Law. As such, the position of the HL as a counter weight to Executive control in the House of Commons is paramount.⁷⁸

Since the two chambers complement each other and do not simply replicate each other's work,⁷⁹ having an elected upper chamber which will ultimately be a house controlled to some extent by political parties, may not necessarily produce a more efficient legislative body.⁸⁰ On this premise, the proposals may actually undermine the efficacy of the HL.

The challenges facing Westminster to initiate the HL's reform by overseeing a constitutional reform, exacerbated with the strong affinity in remaining a state without a written constitution, may be an impediment to see the continued approval of an elected second chamber in the foreseeable future.⁸¹

⁷⁵ HC Deb 3 September 2012, vol 549, col 35.

⁷⁶ Christopher Hope, 'David Cameron suffers biggest Commons rebellion over Lords reform' *The Telegraph* (London, 10 July 2012) <<http://www.telegraph.co.uk/news/politics/9391036/David-Cameron-suffers-biggest-Commons-rebellion-over-Lords-reform.html>> accessed 15 January 2014.

⁷⁷ Interview with Dr. Mark Elliot (n 55).

⁷⁸ *ibid.*

⁷⁹ *ibid.*

⁸⁰ *ibid.*

⁸¹ *ibid.*

Should democracy truly wish to reign, there are a plethora of mechanisms that will aid in achieving just that. Among them are the following:

- i. Reform the upper chamber and allow for it to be the lower chamber's constitutional equal.

This approach will be similar to that of the Australian⁸² and United States Congress⁸³ whereby the Senate and the House of Representatives are co-equals; legislation will not be enacted unless granted by both chambers.

The upper chamber should be granted with the power of veto and not just the ability to delay a government bill for a limited. To have a genuine check and balance system, delay in the legislative agenda is the price that must be paid. However, the fear is the possibility of legislative deadlock and a situation similar to that of the Australian double dissolution.⁸⁴

- ii. Subject Cabinet Ministers appointed to the upper chamber to parliamentary questions in the elected lower chamber.

In a brief 2010 report,⁸⁵ the *House of Commons Procedure Committee* suggested that Ministers in the HL be subjected to questioning in

⁸² Constitution of Australia, s 58.

⁸³ Constitution of the United States, Art 1 s 7.

⁸⁴ Commonwealth of Australia Act 1900, s 57.

⁸⁵ House of Commons Procedure Committee, *Accountability to the House of Commons of Secretaries of State in the House of Lords* (HC 2009-2010, 496).

the Commons with regards to Government policies.⁸⁶ This would ensure that Ministers appointed to the HL are fully accountable to the elected House.⁸⁷ In fact there were instances of peers addressing the lower House directly, ‘as did Lord Melville in 1805 and the Duke of Wellington in 1814. If the House could show such flexibility two centuries ago, [surely it] should be able to act in a similar spirit now’.⁸⁸

Conclusion

The electorate is entitled to the very best its country has to offer. Therefore, the pursuit of an optimally functioning legislative body should persist. Although recovery of the economy in modern times is the top priority of every government, this should neither inhibit nor nullify proposals for justifiable constitutional reform.

To expect politicians to risk their political careers to challenge and extirpate decades of constitutional certainty and consistency is perhaps being a tad too optimistic. The best a present day democracy should strive to do is to adopt a Parliamentary model that accommodates efficient law-making with the production of quality legislation being the primary focus.

⁸⁶ *ibid* [13]-[14].

⁸⁷ Public Administration Select Committee, *Goats and Tsars: Ministerial and other appointments from outside Parliament* (HC 2009-10, 330) para 61.

⁸⁸ Business and Enterprise Committee, *Departmental Annual Report and Scrutiny of the Department for Business, Enterprise and Regulatory Reform* (HC 2007-08, 1116).