

## Erskine May, Chapter V, pp. 308-316

### The Reform Bill of 1832

#### Rejection of the First Bill by the Lords

The memorable events of 1831 and 1832, arising out of the measures for extending the representation of the people, exposed the authority of the House of Lords to a rude shock; and even threatened its constitution with danger. Never since the days of Cromwell had that noble assembly known such perils. The Whig Ministry having, by a dissolution, secured a large majority of the Commons in favour of their second Reform bill, its rejection by the Lords was still certain, if the opposition should put forth their strength. For seventy years, the House of Lords had been recruited from the ranks of the Tory party; and was not less hostile to the Whig ministry than to Parliamentary reform.(1) The people had so recently pronounced their judgment in favour of the bill, at the late election, that it now became a question,—who should prevail, the Lords or the Commons? The answer could scarcely be doubtful. The excited people, aroused by a great cause, and encouraged by [309] bold and earnest leaders, were not likely to yield. The Lords stood alone. The king's ministers, the House of Commons, and the people were demanding that the bill should pass. Would the Lords venture to reject it? If they should bend to the rising storm, their will indeed would be subdued,—their independent judgment set aside; but public danger would be averted. Should they brave the storm, and stand up against its fury, they could still be overcome by the royal prerogative.

Already, before the second reading, no less than sixteen new peers had been created, in order to correct, in some measure, the notorious disproportion between the two parties in that House; but a majority was still known to be adverse to the bill. A further creation of peers, in order to ensure the success of the measure, was then in contemplation;(2) but the large number that would be required for that purpose, the extreme harshness of such a course, and the hope,—not ill-founded,—that many of the peers should yield to the spirit of the times, discouraged ministers from yet advising this last resource of power. The result was singular. The peers hesitated, wavered, and paused. Many of them, actuated by fear, by prudence, by policy, or by public spirit, refrained from voting. but the bishops,—either less alarmed, or less sensible of the imminent danger of [310] the occasion,—mustered in unusual force. Twenty-two were present, of whom twenty-one voted against the bill. Had they supported ministers, the bill would have been saved: but now they had exactly turned the scale,—as Lord Grey had warned them that they might,—and the bill was lost by a majority of forty-one.

The House of Commons immediately supported ministers by a vote of confidence; the people were more excited than ever; and the reformers more determined to prevail over the resistance of the House of Lords.

#### The Second Bill

Parliament was prorogued merely for the purpose of introducing another Reform Bill. This bill was welcomed by the Commons, with larger majorities than the last; and now the issue between the two Houses had become still more serious. To 'swamp the House of Lords' had, at length, become a popular cry: but at this time, not a single peer was created. Lord Grey, however, on the second reading, while he declared himself averse to such a proceeding, justified its use in case of necessity. The gravity of the crisis had shaken the courage of the

majority. A considerable number of 'waverers,' as they were termed, now showed themselves; and the fate of the bill was in their hands. Some who had been previously absent, including five bishops, voted for the bill; others who had voted against the former bill, abstained from voting; and seventeen who had voted against the last bill actually voted for this! From these various causes, the second reading was carried by a majority of nine.

[311] Meanwhile it was well known, both to ministers and the people, that the further progress of the measure was exposed to imminent danger; and while the former were contemplating, with reluctance and dread, the immediate necessity of a further creation of peers, the popular cry was raised more loudly than ever, that the House of Lords must be 'swamped.' Such a cry was lightly encouraged by reckless and irresponsible politicians: but the constitutional statesmen who had to conduct the country through this crisis, weighed seriously a step which nothing but the peril of the times could justify. Lord Brougham—perhaps the boldest of all the statesmen concerned in these events—has thus recorded his own sentiments regarding them: 'When I went to Windsor with Lord Grey, I had a list of eighty creations, framed upon the principles of making the least possible permanent addition to our House and to the aristocracy, by calling up peers' eldest sons,—by choosing men without any families,—by taking Scotch and Irish peers. I had a strong feeling of the necessity of the case, in the very peculiar circumstances we were placed in; but such was my deep sense of the dreadful consequences of the act, that I much question whether I should not have preferred running the risk of confusion that attended the loss of the bill as it then stood, rather than expose the constitution to so imminent a hazard of subversion.'<sup>(3)</sup>

### **Ministers Advise Creation of Peers**

[312] No sooner was the discussion of the bill commenced in committee, than ministers suddenly found themselves in a minority of thirty-five.<sup>(4)</sup> Now, then, was the time, if ever, for exercising the royal prerogative; and accordingly the cabinet unanimously resolved to advise the king to create a sufficient number of peers, to turn the scale in favour of the bill; and in the event of his refusal, to tender their resignation. He refused; and the resignation of ministers was immediately tendered and accepted. In vain the Duke of Wellington attempted to form an administration on the basis of a more moderate measure of reform: the House of Commons and the people were firm in their support of the ministers; and nothing was left for the peers, but submission or coercion. The king unwillingly gave his consent, in writing, to the necessary creation of peers;<sup>(5)</sup> but in the meantime,—averse to an offensive act of authority,—he successfully exerted his personal influence with the peers, to induce them to desist from further opposition.<sup>(6)</sup> The greater part of the [313] Opposition peers absented themselves; and the memorable Reform Bill was soon passed through all its further stages. The prerogative was not exercised; but its efficacy was not less signal in overcoming a dangerous resistance to the popular will, than if it had been fully exerted; while the House of Lords—humbled, indeed, and its influence shaken for a time—was spared the blow which had been threatened to its dignity and independence.

### **Opinions of Wellington and Grey**

At no period of our history, has any question arisen of greater constitutional importance than this proposed creation of peers. The peers and the Tory party viewed it with consternation. 'If such projects,' said the Duke of Wellington, 'can be carried into execution by a minister of the crown with impunity, there is no doubt that the constitution of this House, and of this country, is at an end. I ask, my lords, is there any one blind enough not to see that if a minister can with impunity advise his sovereign to such an unconstitutional exercise of his prerogative, as to thereby decide all questions in this House, there is absolutely an end put to the power and objects of deliberation in this House, and an end to all just and proper means of decision. . . . ?

And, my lords, my opinion is, that the threat of carrying this measure of creating peers into execution, if it should have the effect of inducing noble lords to absent themselves from the House, or to adopt any particular line of conduct, is just as bad as its execution; for, my lords, it does by violence force a decision on [314] this House, and on a subject on which this House is not disposed to give such a decision.'(7)

He was finely answered by Lord Grey: 'I ask what would be the consequences if we were to suppose that such a prerogative did not exist, or could not be constitutionally exercised? The Commons have a control over the power of the crown, by the privilege, in extreme cases, of refusing the supplies; and the crown has, by means of its power to dissolve the House of Commons, a control upon any violent and rash proceedings on the part of the Commons; but if a majority of this House is to have the power, whenever they please, of opposing the declared and decided wishes both of the crown and the people, without any means of modifying that power,—then this country is placed entirely under the influence of an uncontrollable oligarchy. I say, that if a majority of this House should have the power of acting adversely to the crown and the Commons, and was determined to exercise that power, without being liable to check or control, the constitution is completely altered, and the government of this country is not a limited monarchy: it is no longer, my lords, the Crown, the Lords and the Commons, but a House of Lords,—a separate oligarchy,—governing absolutely the others.'

It must not be forgotten that, although [315] Parliament is said to be dissolved, a dissolution extends, in fact, no further than to the Commons. The peers are not affected by it,—no change can take place in the constitution of their body, except as to a small number of Scotch representative peers. So far, therefore, as the House of Lords is concerned, a creation of peers by the crown, on extraordinary occasions, is the only equivalent which the constitution has provided, for the change and renovation of the House of Commons by a dissolution. In no other way can the opinions of the House of Lords be brought into harmony with those of the people. In ordinary times the House of Lords has been converted gradually to the political opinions of the dominant party in the state, by successive creations: but when a crisis arises, in which the party, of whose sentiments it is the exponent, is opposed to the majority of the House of Commons and the country, it must either yield to the pressure of public opinion, or expose itself to the hazard of a more sudden conversion. Statesmen of all parties would condemn such a measure, except in cases of grave and perilous necessity: but, should the emergency be such as to demand it, it cannot be pronounced unconstitutional.(8)

### **Position of the Lords since the Act**

[316] It was apprehended that, by this moral coercion, the legitimate influence of the peers would be impaired, and their independence placed at the mercy of any popular minister, supported by a majority of the House of Commons. To record the fiats of the Lower House,—sometimes, perhaps, with unavailing protests,—sometimes with feeble amendments,—would now be their humble office. They were cast down from their high place in the legislature,—their ancient glories were departed. Happily, these forebodings have not since been justified. The peers had been placed, by their natural position, in opposition to a great popular cause; and had yielded, at last, to a force which they could no longer resist. Had they yielded earlier, and with a better grace, they might have shared in the popular triumph. Again and again, the Commons had opposed themselves to the influence of the crown, or to popular opinion, and had been overcome; yet their permanent influence was not impaired. And so was it now with the Lords. The Commons may be overcome by a dissolution,—the Lords by a threatened creation of peers,—the crown by withholding the supplies; and all alike must bow to the popular will, when constitutionally expressed.

## Footnotes.

1. 'I stated my views of the present state of the House of Lords, which had given to a party in it, which had possessed the Government for the last seventy years, a power which enabled them to resist the united wishes of the House of Commons, and the people.'—Minute by Earl Grey of his Conversation with the King, 1st April, 1832—Earl Grey's Corr., ii. 305.
2. The king, in a letter to Earl Grey, 8th Oct., 1831, wrote:—The evil (i.e., a collision between the two Houses) cannot be met by resorting to measures for obtaining a majority in the House of Lords, which no government could propose, and no sovereign consent to, without losing sight of what is due to the character of that House, to the honour of the aristocracy of the country, and to the dignity of the crown.'—Earl Grey's Corr. with Will. IV, i. 362.
3. Lord Brougham's Political Philosophy, iii. 308. The British Constitution, 1861, p. 270. See also Minute of Conversation with the King, 1st April. 1832, in which the number of peers to be created was estimated at fifty or sixty.—Earl Grey's Corr. with Will. IV., ii. 304.
4. 151 and 116.
5. 'The king grants permission to Earl Grey, and to his chancellor, Lord Brougham, to create such a number of peers as will be sufficient to ensure the passing of the Reform Bill,—first calling up peers' eldest sons. WILLIAM R. Windsor, May 17th, 1832.'—Roebuck's Hist. of the Whig Ministry, ii. 331-333. On the 18th May the king wrote to Earl Grey:—'His Majesty authorises Earl Grey, if any obstacle should arise during the further progress of the bill, to submit to him a creation of peers to such extent as shall be necessary to enable him to carry the bill,' etc. etc.—Earl Grey's Corr., ii. 434.
6. See his Circular Letter. [supra](#), [p. 144](#) ; and [infra](#), [Chapter VI](#).
7. May 17th, 1832. Hans. Deb., 3rd Ser., xii. 995. 'In 1819, the King of France created sixty-three new peers, in order to overcome the party opposed to the ministry.' Lord Colchester's Diary, iii. 71.
8. In a minute of Cabinet, 13th January 1832, it was said: 'It must be admitted that cases may occur, in which the House of Lords, continuing to place itself in opposition to the general wishes of the nation, and to the declared sense of the House of Commons, the greatest danger might arise, if no means existed of putting an end to the collision which such circumstances would produce, and which, while it continued, must unavoidably occasion the greatest evils, and in its final issue might involve consequences fatal on the one hand to public liberty, and to the power and security of the government on the other. It is with a view to a danger of this nature, that the constitution has given to the crown the power of dissolving, or of making an addition to the House of Lords, by the exercise of the high prerogative of creating peers, which has been vested in the king for this as well as for other important purposes.'—Earl Grey's Corr., ii. 98.

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