

Parliament Act 1911 and Parliament Act 1949

One just before WW1 and one just after WW2

[The coup de grace for public support in Parliamentary legislation and the END of the 'semblance of democracy]

The Parliament Act 1911 is an [Act](#) of the [Parliament of the United Kingdom](#). It is constitutionally important and partly governs the relationship between the [House of Commons](#) and the [House of Lords](#) which make up the [Houses of Parliament](#). This Act must be [construed](#) as one with the [Parliament Act 1949](#). The two Acts may be [cited](#) together as the [Parliament Acts 1911 and 1949](#).^[1]

Following the rejection of the 1909 budget, the House of Commons sought to establish its formal dominance over the House of Lords, who had broken convention in opposing the Bill. The budget was eventually passed by the Lords after the Commons' democratic mandate was confirmed by holding [elections in January 1910](#). The following Parliament Act, which looked to prevent a recurrence of the budget problems, was also widely opposed in the Lords and cross-party discussion failed, particularly because over the proposed Act's applicability to passing an [Irish home rule](#) bill. After a [second general election in December](#), the Act was passed with the support of the monarch, [George V](#) who threatened to create sufficient [Liberal](#) peers to overcome the present [Conservative](#) majority.

The Act effectively removed the right of the Lords to [veto money bills](#) completely, and replaced a right of veto over other [public bills](#) with a maximum delay of two years. It also reduced the maximum term of a parliament from seven years to five.

Until the Parliament Act 1911, there was no way to resolve contradictions between the houses of parliament except through the creation of additional peers by the monarch.^[2] Queen Anne had created 12 Tory peers to vote through the [Treaty of Utrecht](#) in 1713.^[3] The [Reform Act 1832](#) was passed when the House of Lords dropped opposition—[William IV](#) had threatened to create 80 new peers by request of the Prime Minister, [Earl Grey](#)^[2]—creating an informal convention that the Lords would give way when the public was behind the House of Commons. For example, [Irish Disestablishment](#), which had been a major bone of contention between the two main parties since the 1830s, was—following intervention by the Queen—passed by the Lords in 1869 after [W.E. Gladstone](#) won the [1868 Election](#) on the issue. However, in practice this gave the Lords a right to demand that such public support was present and to decide the timing of a general election.^[2]

It was the prevailing wisdom that the House of Lords could not amend [money bills](#), since only the House of Commons had the right to decide upon the resources the monarch could call upon.^[2] This did not, however, despite the apparent contradiction, prevent it from rejecting such bills outright.^[2] In 1860 with the repeal of the [paper duties](#), all money bills were consolidated into a single budget. This denied the Lords the ability to reject individual components and the prospect of voting down the entire budget was seemingly unpalatable. It was only in 1909 this became a possibility.^[4] Until the Act, the Lords had equal rights over legislation compared to the Commons, but did not utilise its right of veto over financial measures by convention.^[5]

There had been an overwhelming Conservative-Unionist majority in the Lords since the Liberal split in 1886.^[2] With the Liberal Party attempting to push through significant welfare reforms with considerable popular

support, this seemed certain to cause problems in the relationship between the houses.^[12] Between 1906 and 1909, several important measures were being considerably watered down or rejected outright.^[6] This led to a resolution in the House of Commons declaring that the Lords' power should be curtailed, put forward by Liberal Prime Minister [Henry Campbell-Bannerman](#).^[6] In 1909, hoping to force an election,^[7] the Lords rejected the financial bill based on the government budget (the "[People's Budget](#)") put forward by [David Lloyd George](#),^[2] by 350 votes to 75.^[8] This, according to the Commons, was "a breach of the Constitution, and a usurpation of the rights of the Commons".^[6] The Lords suggested that the Commons justify its position as representing the will of the people; it did this through the [January 1910 general election](#). The Liberal government lost heavily, but remained in majority with the help of a significant number of [Irish Nationalist](#) and [Labour](#) MPs.^[6] The Irish Nationalists saw the continued power of the Lords as detrimental to securing [Irish Home Rule](#).^[4] Following the election, the Lords relented on the budget (since reintroduced by the government^[6]), passing the Lords on 28 April, a day after the Commons.^[9]

Passage

The Lords was now faced with the prospect of a Parliament Act, which had considerable support from the Irish Nationalists.^[4] A series of meetings between the Liberal government and Conservative opposition members was agreed. 21 such meetings were held between 16 June and 10 November.^[10] The discussions considered a wide range of proposals, with initial agreement on finance bills and a [joint sitting](#) of the House of Commons and Lords as a means by which to enforce Commons superiority in controversial areas; the number of Lords present would be limited such that a Liberal majority of 50 or more in the House of Commons could overrule the Lords.^[11] However, the issue of home rule for Ireland was the main contention, with Conservatives looking to exempt such a law from the Parliament Act procedure by means of a general exception for "constitutional" or "structural" bills. The Liberals supported an exception for bills relating to the monarchy and Protestant succession, but not home rule.^[11] Discussions were declared failed on 10 November.^[10]

The government threatened another dissolution if the Parliament Act were not passed, and followed through on their threat when opposition in the Lords did not diminish. The [elections of December](#) produced little change from January.^[12] The calling of a second dissolution of parliament now seems to have been contrary to the wishes of [Edward VII](#). At the same time, [George V](#) was asked if he would be prepared to create sufficient peers, which he would only if the matter arose.^[6] This would have meant creating over 400 new Liberal peers.^[13] George did, however, demand that it would have to be rejected at least once by the Lords before his intervention.^[11] Two amendments made by the Lords were rejected and opposition showed little sign of slipping. This led Asquith to declare George's intention to overcome the majority in the House of Lords by creating sufficient new peers.^[14] It was passed in the Lords by 131 votes to 114 votes, a majority of 17.^[15] This reflected a large number of abstentions.^[16]

Provisions

The preamble included the words "it is intended to substitute for the House of Lords as it at present exists a Second Chamber constituted on a popular instead of hereditary basis, but such substitution cannot be immediately brought into operation" at the request of prominent Cabinet member [Sir Edward Grey](#).^[17] The [long title](#) of the Act was "An Act to make provision with respect to the powers of the House of Lords in relation to those of the House of Commons, and to limit the duration of Parliament."^[18] Section 8 defined the [short title](#) as the "Parliament Act 1911".^[19]

The bill was also an attempt to place the relationship between the [House of Commons](#) and [House of Lords](#) on a new footing. As well as the direct issue of money Bills, it set new conventions about how the power the Lords continued to hold would be used.^[20] It did not change the composition of the Lords, however.^[13]

The Lords would only be able to delay [money bills](#) for one month,^[21] effectively ending their ability to do so.^[13] These were defined as any public bill which contained only provisions dealing with the imposition, repeal, remission, alteration, or regulation of [taxation](#); the imposition for the payment of debt or other financial purposes of charges on the [Consolidated Fund](#), or on money provided by Parliament, or the variation or repeal of any such charges; supply; the appropriation, receipt, custody, issue or [audit](#) of accounts of public money; and the raising or guarantee of any loan or the repayment thereof. It did not however, cover any sort of local taxes or similar measures. Some Finance Bills have not fallen within this criterion; Consolidated Fund and Appropriation Bills have. The [Speaker of the House of Commons](#) would have to certify that a bill was a money bill, endorsing it with a [Speaker's certificate](#).^{[13][22]} The [Local Government Finance Bill 1988](#), which introduced the [Community Charge](#) ("Poll Tax"), was not certified as a Money Bill and was therefore considered by the Lords.^[23] Whilst Finance Bills are not considered Money Bills, convention dictates that those parts of a Finance Bill dealing with taxation or expenditure (which, if in an Act alone, would constitute a Money Bill) are not questioned.^[24]

Other [public bills](#) could no longer be [vetoed](#); instead, they could be delayed for up to two years. This two-year period meant that legislation introduced in the fourth or fifth years of a parliament could be delayed until after the next election, which could prove an effective measure to prevent it being passed.^[13] Specifically, two years had to elapse between the second reading in the House of Commons in the first session and the passing of the bill in the House of Commons in the third session.^[21] The Speaker has to also certify that the conditions of the bill had been complied with. Significant restrictions on amendments are made to ensure that it is the same bill that has been rejected twice.^[25] The 1911 Act made clear that the life of a parliament could not be extended without the consent of the Lords.^[26]

Parliament had been limited to a maximum of seven years under the [Septennial Act 1715](#), but this was reduced by the passing of the Parliament Act 1911. Parliament would now be limited to five years, beginning the first meeting of parliament after the election. In practice, no election has been forced by such a limitation as all parliaments have been dissolved by the Queen on request of the Prime Minister.^[27] The reduction in parliament length was seen as a counterbalance to the new powers granted to the Commons.^[14]

Result

The Lords continued to suggest amendments to money bills over which it had no right of veto and in several instances these were accepted by the Commons. These included the China Indemnity Bill 1925 and the Inshore Fishing Industry Bill 1947.^[23] The use of the Lords' now temporary veto remains a powerful check on legislation.^[28]

It was used in relation to the [Government of Ireland Act 1914](#), which had been under the threat of a Lords veto, now removed. Ulster Protestants had been firmly against the passing of the bill. However, it never came into force because of the outbreak of the [First World War](#).^[29] Amendments to the Parliament Act 1911 were made to prolong the life of the [1910 parliament](#) following the outbreak of the First World War and [1935 parliament](#) because of the [Second World War](#). These made special exemptions to the requirement to hold an election every five years.^[30]

Legislation passed through the Parliament Act, without the consent of the Lords, is considered [primary legislation](#). This was of importance in *Jackson v Attorney General*,^[case 1] when the validity of the Parliament Act 1949 was questioned because it used the 1911 Act.^[26] The challenge asserted foremost that the 1949 Act was delegated rather than primary legislation, and that the 1911 Act had delegated power to the Commons. If this were the case, then the Commons could not empower itself through the 1949 Act without direct permission from the Lords. Since it was passed under the 1911 Act, it had never received the required consent of the

Lords.^[31] However, the 1949 Act was found to be legal.^[26] The 1911 Act, it was concluded, was not primarily about empowering the Commons, but rather to restrict the ability of the Lords to affect legislation.^[31] This ruling also means that efforts to abolish the House of Lords (a major constitutional change) using the Act could be successful, although the issue was not directly addressed in the ruling.^[32]

Analysis

The Parliament Act 1911 can be seen in the context of the [British constitution](#): rather than creating a written constitution, parliament chose instead to legislate through the usual channels in response to the crisis. This was a pragmatic response, which avoided the further problems of codifying unwritten rules and reconstructing the entire government.^[33] It is commonly considered a statute of 'constitutional importance', which gives it informal priority in parliament and in the courts with regards to whether later legislation can change it and the process by which this may happen.^[34]

It is also mentioned in discussion of [constitutional convention](#). Whilst it replaced conventions regarding the role of the House of Lords, it also relies on several others. Section 1(1) only makes sense if money bills do not arise in the House of Lords and the provisions in section 2(1) only if proceedings on a public bill are completed in a single session, otherwise they must fail and be put through procedure again.^[35]

The Parliament Act 1949 (12, 13 & 14 Geo 6 c 103) is an [Act](#) of the [Parliament of the United Kingdom](#).

This Act must be [construed](#) as one with the [Parliament Act 1911](#). This Act, and that Act, may be [cited](#) together as the [Parliament Acts 1911 and 1949](#).^[1]

This Act reduced the power of the [House of Lords](#) to delay certain types of legislation – specifically public bills other than money bills – by amending the Parliament Act 1911.

Parliament Act 1911

The bill was also an attempt to place the relationship between the [House of Commons](#) and [House of Lords](#) on a new footing.^[2]

Other [public bills](#) could no longer be [vetoed](#); instead, they could be delayed for up to two years. This two-year period meant that legislation introduced in the fourth or fifth years of a parliament could be delayed until after the next election, which could prove an effective measure to prevent it being passed.^[3] Specifically, two years had to elapse between the second reading in the House of Commons in the first session and the passing of the bill in the House of Commons in the third session.^[4]

Result

The 1949 Act effectively reduced this delay to a single year, by altering the wording of the 1911 Act.^[5] Section 2 defined the act's short title as the "Parliament Act 1949" and that the Parliament Acts 1911 and 1949 should be construed together under that name, particularly with reference to Section 4 of the 1911 Act, which described the wording used when an act was passed in this method.^[6]

Legal challenge

In *Jackson v Attorney General*,^[case 1] the validity of the Parliament Act 1949 was questioned because it used the 1911 Act.^[7] The challenge asserted foremost that the 1949 Act was delegated rather than primary legislation, and that the 1911 Act had delegated power to the Commons. If this were the case, then the Commons could not empower itself through the 1949 Act without direct permission from the Lords. Since it was passed under the 1911 Act, it had never received the required consent of the Lords.^[8] However, the 1949 Act was found to be legal.^[7] The 1911 Act, it was concluded, was not primarily about empowering the Commons, but rather to restrict the ability of the Lords to affect legislation.^[8] This ruling also means that efforts to abolish the House of Lords (a major constitutional change) using the Acts could be successful, although the issue was not directly addressed in the ruling.^[9]

References

Cases

1. [^] [2005] UKHL 56, [2005] 4 All ER 1253.

Citations

1. [^] The Parliament Act 1949, section 2(2)
2. [^] Bradley, Ewing (2007). p. 27.
3. [^] Bradley, Ewing (2007). p. 204.
4. [^] Joint Committee (2002). Section 7.
5. [^] "[Parliament Act 1949: Section 1](#)". *legislation.gov.uk*. Retrieved 18 October 2011.
6. [^] "[Parliament Act 1949: Section 2](#)". *legislation.gov.uk*. Retrieved 18 October 2011.
7. [^] ^a ^b Bradley, Ewing (2007). p. 68.
8. [^] ^a ^b Barnett, Jago (2011). p. 445.
9. [^] Bradley, Ewing (2007). p. 74.

Money bill

It is often a [constitutional convention](#) that the [upper house](#) may not block supply. There is often another requirement that non-money bill type clauses may not be attached to a money bill.

[Loss of supply](#) in the [lower house](#) is conventionally considered to be an expression of the house's [loss of confidence](#) in the government resulting in the government's fall.

Bangladesh

A money bill is specifically defined by Article 81 of the [Constitution of Bangladesh](#). The [President of Bangladesh](#) can send back all bills passed by the [Parliament](#) for a review except a money bill. However, a money bill can be introduced to the [Parliament](#) only at the President's recommendation. Additionally, tax can only be levied by the Parliament.^[1]

India

Procedure for a Money Bill:

1. Money Bills can be introduced only in [Lok Sabha](#) (the directly elected 'people's house' of the Indian Parliament).
2. Money bills passed by the Lok Sabha are sent to the [Rajya Sabha](#) (the upper house of parliament, elected by the state and territorial legislatures or appointed by the [president](#)). The Rajya Sabha may not amend money bills but can recommend amendments. A money bill must be returned to the Lok Sabha within 14 days or the bill is deemed to have passed both houses in the form it was originally passed by the Lok Sabha.
3. When a Money Bill is returned to the Lok Sabha with the recommended amendments of the Rajya Sabha it is open to Lok Sabha to accept or reject any or all of the recommendations.
4. A money bill is deemed to have passed both houses with any recommended amendments the Lok Sabha chooses to accept, (and without any that it chooses to decline).
5. The definition of "Money Bill" is given in the Article 110 of the Constitution of India. A financial bill is not a Money Bill unless it fulfills the requirements of the Article 110.
6. The Speaker of the Lok Sabha certifies if a Finance bill is a Money Bill or not.
7. Policy cut motion-disapproval of the given policy.symbolically the members demand that the amount of the demand be reduced to rel.they may also suggest alternative policy.
8. Economy cut motion - It is demanded that the amount of the policy be reduced by specified amount.
9. Token cut motion - Used to show specific grievance against the govt.also states that the amount of the demand be reduced Rs. 100.
10. Finance bill is supposed to be enacted in 75 days(including the parliament voting and presidents accent).

Republic of Ireland

In the [Republic of Ireland](#), the [Senate](#) may not delay a money bill more than 21 days. The [President of Ireland](#) may not refuse to sign a money bill and may not refer such a bill to the [Supreme Court](#) to test its [constitutionality](#).

United Kingdom

In the [United Kingdom](#), section 1(1) of the [Parliament Act 1911](#) provides that the [House of Lords](#) may not delay a money bill more than a month. It is at the discretion of the [Speaker of the House of Commons](#) to certify which bills are money bills, and his decision is final and is not subject to challenge. Section 1(2) of the Act states:

A Money Bill means a [Public Bill](#) which in the opinion of the Speaker of the House of Commons contains only provisions dealing with all or any of the following subjects, namely, the imposition, repeal, remission, alteration, or regulation of taxation; the imposition for the payment of debt or other financial purposes of charges on the [Consolidated Fund](#), the [National Loans Fund](#) or on money provided by Parliament, or the variation or repeal of any such charges; supply; the appropriation, receipt, custody, issue or audit of accounts of

public money; the raising or guarantee of any loan or the repayment thereof; or subordinate matters incidental to those subjects or any of them. In this subsection the expressions "taxation," "public money," and "loan" respectively do not include any taxation, money, or loan raised by local authorities or bodies for local purposes.^[2]

The reference to the National Loans Fund was inserted on 1 April 1968^[3] by [section 1\(5\)](#) of the [National Loans Act 1968](#).

For this purpose, the expression "Public Bill" does not include any Bill for confirming a [Provisional Order](#).

Bradley and Ewing said that the statutory definition of Money Bill is "strictly interpreted".^[4] Most annual [Finance Bills](#) have not been certified to be Money Bills.^{[5][6][7]}

Similar Requirements in Non-Westminster Systems

United States

While the [United States of America](#) is not a parliamentary democracy, [Article I, Section 7](#) of the U.S. Constitution requires that all bills raising revenue originate in the [House of Representatives](#), consistent with British constitutional practice; by convention, [appropriation bills](#) (bills that *spend* money) also originate in the House. Unlike in most Westminster systems, there are no limits on the [Senate's](#) ability to amend revenue bills or any requirement for the Senate to approve such bills within a certain timeframe. Both appropriations and revenue bills are often referred to as money bills to contrast them with [authorization bills](#).