

THE HOUSE OF  
LORDS IN THE REIGN  
OF CHARLES II

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## Introduction

For many years historians of Tudor and Stuart parliaments have neglected the House of Lords, concentrating on the House of Commons. Only recently have scholars begun both to recognise and to study parliament as a trinity consisting of king, Lords and Commons. For the early Tudor period Lehmborg's two books on Henry VIII's parliaments emphasise the interaction between the Lords and the Commons.<sup>1</sup> Michael Graves and Jennifer Loach have demonstrated the significance of the House of Lords in the government of mid-Tudor England, whilst G. R. Elton has emphasised its business functions during the reign of Elizabeth I.<sup>2</sup> For the early Stuart period most of the work on the Lords remains unpublished.<sup>3</sup> One notable exception is Elizabeth Read Foster's institutional study covering the years 1603 to 1649.<sup>4</sup>

The later Stuart period is even more neglected. Most of what has been written on the parliaments of Charles II's reign has focused on the relations between king and Commons.<sup>5</sup> A recent attempt to minimise the assertiveness of the Commons has done so without reference to the Lords.<sup>6</sup> The standard work on the upper House is still A. S. Turberville's two-part narrative essay published in 1929/30, which made little use of manuscript sources, and no use of the documents in the House of Lords Record Office.<sup>7</sup> Both C. H. Firth

<sup>1</sup> S. E. Lehmborg, *The Reformation Parliament* (Cambridge, 1970); *The later parliaments of Henry VIII, 1536–1547* (Cambridge, 1977).

<sup>2</sup> M. A. R. Graves, *The House of Lords in the parliaments of Edward VI and Mary I* (Cambridge, 1981) and *The Tudor parliaments: Crown, Lords and Commons, 1485–1603* (1985); J. Loach, *Parliament under the Tudors* (Oxford, 1991); G. R. Elton, *Parliaments of England, 1559–1581* (Cambridge, 1989).

<sup>3</sup> For example, J. B. Crummett, 'The lay peers in parliament, 1640–1644' (University of Manchester PhD thesis, 1955); J. Stoddart, 'Constitutional crisis and the House of Lords, 1621–1629' (University of California PhD thesis, 1966); and J. S. A. Adamson, 'The peerage in politics, 1645–9' (Cambridge University PhD thesis, 1986).

<sup>4</sup> E. R. Foster, *The House of Lords, 1603–1649: structure, procedure and the nature of its business* (Chapel Hill, 1983).

<sup>5</sup> See, for example, D. T. Witcombe, *Charles II and the Cavalier House of Commons, 1663–1674* (Manchester, 1966) and J. R. Jones, *The first Whigs: the politics of the Exclusion Crisis, 1678–1683* (1961).

<sup>6</sup> J. Miller, 'Charles II and his parliaments', *Transactions of the Royal Historical Society*, 5th series, 32 (1982), 1–23.

<sup>7</sup> A. S. Turberville, 'The House of Lords under Charles II', *EHR*, 44 (1929), 400–17 and 45 (1930), 58–77.

and M. Schoenfeld have written on the actual restoration of the House in 1660, while E. S. De Beer has produced an interesting though brief sketch of the Lords in 1680.<sup>8</sup> Richard Davis has widened our knowledge of committee procedures and the activities of the government's critics in the chamber, and James Hart has illuminated aspects of the Lords' judicial functions.<sup>9</sup> A detailed study which combines both politics and the governmental functions of the House is therefore long overdue.

The House of Lords was an extremely important organ of government. Nearly all Charles II's ministers and privy councillors sat not in the Commons but in the Lords where they influenced proceedings in both Houses. The House had a decisive impact on the character of legislation; drafting bills, amending countless others and, in some instances, re-writing those sent up from the Commons. Occasionally it rejected bills which a majority of lords disapproved of, the most famous being the Exclusion Bill in November 1680. In contrast with the Commons, the Lords was a court of law; indeed, it was the highest court of appeal in the land. It received a steady stream of petitions and provided an invaluable service to litigants who could not find redress elsewhere by giving a settlement that was final. With regard to impeachments initiated by the Commons, the peers acted as judges and jurors, conducting the trial of the accused and pronouncing judgment.

Much of the religious and political history of the reign is inexplicable without reference to the Lords. The House played a major role in the enactment of legislation which constituted the church settlement in the early 1660s. Many of the subsequent attempts to secure a broader Anglican church, incorporating peaceable Protestant dissenters, originated in the Lords. By studying the Lords the history of political parties may be seen in perspective. From the mid-1670s, when the Commons was split between the Court and Country parties, political opinions in the Lords were also polarised along similar party lines. In fact the embryonic parties which first appeared in the Lords in 1675 had, by 1681, transformed themselves into the 'Tory' and 'Whig' parties.<sup>10</sup>

If we are to deepen significantly our understanding of the political history of the reign an examination of the House of Lords is essential. The purpose of this book is to examine the political and institutional aspects of the Lords,

<sup>8</sup> C. H. Firth, *The House of Lords during the Civil War* (1910); M. P. Schoenfeld, *The restored House of Lords* (The Hague, 1967); E. S. De Beer, 'The House of Lords in the parliament of 1680', *BIHR*, 20 (1943-5), 22-7.

<sup>9</sup> R. W. Davis, 'Committee and other procedures in the House of Lords, 1660-1685', *HLQ*, 45 (1982), 20-37 and 'The "Presbyterian" opposition and the emergence of party in the House of Lords in the reign of Charles II', in C. Jones (ed.), *Party and management in parliament, 1660-1784* (Leicester, 1984), pp. 1-35; J. Hart, *Justice upon petition: the House of Lords and the reformation of justice, 1621-1675* (1991).

<sup>10</sup> The labels 'Whig' and 'Tory' were not in common usage until 1681. See Mark Knights, *Politics and opinion in crisis, 1678-81* (Cambridge, 1994), pp. 110-11.

and in doing so we will consider several important questions. Why and how was the chamber restored in 1660 following its eleven-year abolition? How effectively did the House execute its business functions, and how did these compare with the functions of the House of Commons? Was the Lords a rubber-stamp for royal policies and in what ways did the king exert influence over the peers? Why did the chamber so frequently become embroiled in conflicts with the Commons over issues of parliamentary privilege? What religious views did peers hold and what contribution did they make to the character of religious legislation during the reign? Why did political parties develop in the Lords during the 1670s? What were their aims and how were they organised?

A major difficulty facing scholars of this period is the inadequacy of unofficial sources on the proceedings of the House of Lords. Unlike the Commons, for which one has Milward's diary and Grey's comprehensive *Debates*, there are comparatively few surviving accounts of debates in the Lords.<sup>11</sup> Bishop Henchman's parliamentary journal provides a useful insight into debates between 1664 and 1667, though, unlike Lord Wharton's fuller account of two debates in 1663 and 1665, it does not recount the speeches of individual peers. By far the best-documented sessions are those of 1675, 1679 and 1680, for which reports of key debates and voting lists survive.<sup>12</sup>

Among the most informative sources are the official records preserved in the House of Lords Record Office, an archive that has been under-used by historians of the period. These include the Manuscript Minute Books containing the draft notes of proceedings made by assistant clerks in the House. Together with other material – protests, reports of conferences and lists of committee appointments – they provided the basis of the Manuscript Journals, which were published in the eighteenth century as *The Journals of the House of Lords*. The Manuscript Minutes contain a wealth of information not found in the printed *Journals* and sometimes record the figures for votes in the House. By far the richest source for the Lords' handling of legislation is the series of three Committee Minute Books covering the years 1661 to 1681. These books, which contain notes taken by an assistant clerk during the meetings of committees appointed to scrutinise legislation, provide a step-by-step account of proceedings and list proposed amendments. Two further sets of minute books, those for the Committees for Privileges and

<sup>11</sup> *The diary of John Milward Esq.*, ed. C. Robbins (Cambridge, 1938); A. Grey, *Debates of the House of Commons from the year 1667 to the year 1694*, 11 vols. (1763).

<sup>12</sup> Bodl., Rawlinson MSS A. 130. For the evidence confirming Henchman as the author of the diary, see R. W. Davis, 'Committee and other procedures', *HLQ*, 45 (1982–3), 29. Wharton's report of the 1663 debate on the earl of Bristol's attempted impeachment of Lord Clarendon is in Carte MSS 81, fols. 226–7 and that of 1665 on the Five Mile Bill has been printed: C. Robbins, 'The Oxford session of the Long Parliament of Charles II, 9–31 October 1665', *BIHR*, 41 (1946–8), 214–24.

Petitions, shed light on the peers' attitudes to their privileges and illuminate judicial procedures. Besides these, there is a virtually complete series of Proxy Books for the period, which record both the names of peers making a proxy and those instructed to cast votes on their behalf in divisions of the House. Lists of proxies are extremely useful for any analysis of political alignments as peers normally entrusted their proxies to their friends, relatives or, more often than not, to their political allies. The Record Office also has an extensive collection of Main Papers, incorporating draft bills, amendments, petitions and a variety of miscellaneous documents. Together these official sources explain how the House processed legislation, dealt with legal cases and interacted with the House of Commons: occasionally they illuminate government policies and show how ministers and privy councillors endeavoured to manage the House.

These official records have been supplemented by private correspondence, newsletters, ambassadors' reports and contemporary memoirs. Particularly useful for this study was the voluminous correspondence of the duke of Ormond and of the earl of Essex, deposited respectively in the Bodleian (Carte MSS) and British Libraries (Stowe MSS). These lords, in their capacity as Lord Lieutenants of Ireland, spent long periods away from England and were kept informed of parliamentary affairs by the letters of their friends and associates. Many of the parliamentary papers of the earls of Anglesey, Arlington and Huntingdon and Lord Wharton are also in the Bodleian Library. Lord Treasurer Danby's vast collection of papers in the British Library provides a clear insight into the management of the Lords during the 1670s.<sup>13</sup> The regular despatches from the French ambassador and the Venetian Resident in England frequently spotlight events in the House, but need to be treated with caution especially as foreign diplomats did not possess a thorough grasp of English parliamentary politics. Few peers from this period have left memoirs; by far the most important to have survived are those written by the first earl of Clarendon, the king's Lord Chancellor until 1667. The *Continuation of his Life*, which he completed in exile in France in 1672, contains lengthy passages on the upper House, though these are not necessarily entirely accurate as he wrote largely from memory.<sup>14</sup>

What follows is divided into five sections: the first considers the actual restoration of the House in April 1660. The second examines both its membership and business functions from 1660 to 1681 when Charles II dissolved

<sup>13</sup> See BL, Add. MSS 28,042–103 and Egerton MSS 3,328–32, 3,345–6 (Papers on the duke of Leeds).

<sup>14</sup> E. Hyde, *The continuation of the life of Edward, earl of Clarendon, 1660–67*, 3 vols. (Oxford, 1827).

his last parliament. Relationships with the king and the House of Commons are analysed in the third section. Religion provides the focus of the fourth, and in particular, the Lords' involvement in the Restoration church settlement and in later endeavours to moderate the severity of the penal laws against Protestant nonconformists and Catholics. The final section discusses factions, interest groups and the development of organised political parties in the chamber during the 1670s.