2.2 Parliament

Parliament is made up of the HoL (includes Archbishop and 26 Bishops), HoC and Executive branch (PM and Cabinet, chosen from leading MPs of the dominant part ie. party in government)

Does Parliament operate under the Westminster model?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
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<tbody>
<tr>
<td>1. Westminster is bicameral</td>
<td>1. Primary law must be compatible with EU law, arguably reducing Parliament’s sovereignty</td>
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<tr>
<td>2. Parliament is sovereign</td>
<td>2. Devolution</td>
</tr>
<tr>
<td>3. FPTP voting system usually creates strong, single party government</td>
<td>3. Wider use of referendums allows public to make decisions</td>
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<td>4. Limited role for judges, who can never challenge Parliament’s authority</td>
<td>4. PMs becoming increasingly Presidential, distancing themselves from party</td>
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<td>5. Fusion of power between executive and legislative branch</td>
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<td>6. Main political battleground is between government and opposition</td>
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The principle of Parliamentary sovereignty:

- One of the 2 pillars of UK constitution
- Parliament is the source of all political power. It is the highest level of authority. Though Parliament can delegate power these powers can always be recalled/restored
  - Power is currently devolved/subsidised to: MPs, Welsh Assembly, N Irish Assembly, Scottish Parliament, local authorities such as elected mayors (there are currently 17)
- Parliament is omnicompetent; it can create any laws it wants, and they must be enforced by all police and authorities
- Laws passed in the past are not binding and Parliament can change them. Similarly, current Parliament cannot create laws which will bind successors
  - In 1997 Blair brought in the Social Chapter of the Maastricht Treaty (1992), which Major had previously disincluded

Is parliament still sovereign/has the location of sovereignty changed?

<table>
<thead>
<tr>
<th>Parliament IS still sovereign because ...</th>
<th>Parliament is NOT sovereign because ...</th>
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</thead>
<tbody>
<tr>
<td>1. Devolved power eg. through the Devolution Acts of 1998 can still be recalled at any time - it is not legally entrenched</td>
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</tbody>
</table>
  - a. In 2002-07 devolved power was revoked in N Ireland |
  - b. Governments can choose whether or not to hold a referendum |
  - c. EU membership can be recalled, and EU membership still allows for national sovereignty - especially since Cameron’s renegotiations, which declare that the UK is exempt from “ever closer union” |
| 1. Power has been decentralised/devolved/ subsidised, eg. to Scottish Parliament and Welsh/Northern Irish Assembly, and is practically entrenched as they have reached ‘devo-max’ |
| 2. Referendums allow people to voice their opinion on matters, and though they are not legally binding, in reality government has to listen to their outcome |
| 3. All primary legislation must be compatible with the EU |
| 4. Since the 2010 coalition, governments have had fixed 5-year terms so have not been able to choose when to hold elections |
| 5. Despite a wish to enact/change a law, depending on the context of the time Parliament may not always be able to eg. due to powerful pressure group opposition, |

Overall, Parliament is still sovereign in principle however in reality/de facto, some decisions are out
2.2 Parliament

The functions of Parliament:

- **Debate, scrutinise, deliberate**: Parliament, especially HoL who do not have to deal with manifesto legislation, must have good dialectic and spend sufficient time analysing Acts before they become Bills to ensure there are no loopholes
  - Infact, in accordance with the Salisbury Convention, HoL cannot delay manifesto legislation
- **Represent the people**: As the HoC has the people’s mandates and the HoL peers are selected by those with the mandate, Parliament must represent the national interest and make decisions with the people’s interests in mind. Also each MP must represent their constituents, eg. with private members bills. To do this well, MPs/Lords should adhere to Burke’s theory of the MP
- **Pass legislation**: Legislation passes through HoC, HoL and Royal Assent (rubber stamp). Legislation may begin in either House, except ‘money bills’. Parliament therefore has legal-rational authority. It must also abide by the principle of rule of law (AV Dicey 1885), one of the 2 pillars of the UK Constitution, decreeing that all people are equal in the eye of the law and Parliament can never be arbitrary. Legislation must pass through Parliament to be legitimate.
- **Chambers act as checks and balances**: within themselves, to each other and to the PM to prevent elective dictatorships (Lord Hailsham in 1976), a term was used to describe eg. Thatcher, 1979-90
- **Opposition**: the opposition party to the government must act as a check and balance, keeping politics adversarial. This instigates debate which should theoretically lead to the best possible policy formulation, and forces government to justify its decisions. Opposition policies are said to hold governments accountable. There are worries that Labour lead by Corbyn is failing on this issue, such as their long silence over the contentious EU referendum.
- **Accountability**: Parliament holds the government accountable by criticising bills (the opposition may even present alternatives) and questioning ministers, often publicly. In accordance with IMR, ministers who feel they have failed should resign, such as Lord Carrington who resigned as Foreign Secretary in 1982 following an Argentinian invasion of the Falkland Islands
- **Control government’s finances**: HoL has no say whatsoever in financial affairs, and Parliament almost always just lets the government of the day collect their taxes and control finances. This is why HoL blocking the 2015 tax credit slash was so radical

Does Parliament do its job effectively? In this essay, when criticising Parli., intertwine plausible reforms

<table>
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<tr>
<th>Yes</th>
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</table>
| - Debate, scrutinise and deliberate:  
  - HoC has daily debates, and every Bill is read 3 times in HoC before it becomes an Act. Structure of the room is designed for debate, too  
  - HoL has more time than HoC (due to the Salisbury convention) and can very effectively debate and scrutinise legislation where HoC fails to  
  - Select committees deliberate over certain pieces of legislation to save time, and use the members’ expertise  
- Represent: | - Debate, scrutinise, deliberate function  
  - There is a shortage of time and many bills are not deliberated over for long enough  
  - Knee-jerk legislation in particular such as the Terrorism Act 2006 is often looked back on with disregard, and found to be inadequate  
  - Quality of debate is dependant on the style of the PM - Blair didn’t encourage particularly good dialectic, for example, as he didn’t always provide his P. with enough |
2.2 Parliament

- MPs represent every constituency
- Private members bills allow MPs to represent specific issues in their localities

Pass legislation:
- Large majority governments are effective and efficient
- Because Parliament is bicameral, each house can be scrutinising/passing its own legislation, so it is 2x as efficient

Act as check and balance:
- Parliament is bicameral. This is an important check and balance as the houses regulate each other and encourage adversarial politics and dialectic, even when the opposition party in HoC is divided

Provide opposition:

Hold government accountable:
- Regular, ‘fair and free’ elections
- House Liaison Committee interviews the PM twice a year

Control government finances

Free to access and view for public/shown on TV allows public engagement

Represent:
- Parliament is unrepresentative of society; only 205/802 HoL peers are female, only 191/650 MPs are female, only 5% HoL peers come from ethnic minority backgrounds, only 4% MPs come from ethnic minority backgrounds, compared to 12% of population
- The larger house is unelected
- Large majorities in particular do not always listen to public opinion
  - In 2006 the government was debating whether or not to extend the detention period for suspected terrorists and a YouGov poll revealed that 72% of Britons were in favour of the extension following the 2005 7/7 bombings, but that aspect of the bill was voted down on the grounds that people have the right to liberty until proven guilty

Pass legislation:
- More legislation is passing through Parliament than ever before, but it is decreasingly effective

Act as check and balance:
- Due to the FPTP 2-party inclination, large majority governments are not uncommon and can lead to elective dictatorships (Lord Hailsham 1976) which greatly reduces the checks HoC can do on within itself

Provide opposition:
- Effective parties are reliant on party unity: some people question whether Labour today provide effective enough opposition to the Tories, for they are so internally divided - Corbyn rated 36 of his own MPs as ‘hostile’ in March

Hold government accountable:
| 2.2 Parliament | ○ Other than at election time, govs are not regularly held accountable  ● Control government finances: |

Parliamentary reforms which have taken place:
- Attempts to make Parliament more family friendly
  ○ some days are only 9-5pm, all-night sittings are limited, there is a creche for infants
- 2009 The Select Committee on the Reform of the House of Commons, or the Wright Committee was set up under Brown. Their reforms included:
  ○ giving more independence to select committees
  ○ creation of the Backbench Business Committee in 2010 which was allocated limited time each week during which MPs chose which debate to have
  ○ creation of the House Liaison Committee, which subjects the PM to a rigorous interview biannually
- Statutory register of lobbyists Act 2014
  ○ Increased transparency by forcing lobbyists to disclose their names on a publicly available register
  ○ This is in reaction to the many expensive lobbying firms which have sprung up recently, especially in London, which are very expensive - essentially giving an advantage to those protests/campaigns who can afford lobbying firms
- Recall of MPs Act 2015 (response to expenses scandal)
  ○ States that if an MP is given a prison sentence or suspended from HoC for at least 21 days, a petition will be released in their constituency and if enough constituents desire, a by-election will be called
  ○ An attempt to clean up the image of MPs

Proposed reforms of HoC:
- Electoral reform
  - To break the duopoly of the two-party system and prevent large Commons majorities, and a proportional system could lead to election of more female and ethnic minority MPs. But, a more proportional coalition government would be less efficient
- Increase research facilities and support for MPs
  - To better scrutinise both proposed legislation and consequences of old legislation
- Reduce unnecessary procedures in passing bills/grant more powers to select committees
  - Save MPs time, and thus allow them longer to scrutinise bills. Also make government more accountable. Non-controversial bills could only pass through select committees
- Increase number of private members bills
  - Allow MPs to advance interests of their constituents, esp. minority/disadvantaged groups, which could in turn decrease voter apathy if people feel that their MP works for them
    - (On a similar note, Corbyn began asking questions in PMQs directly from his constituents)
- Strengthen the independance of departmental select committees
  - This has happened since the coalition; committee chairs are paid more and all members are elected by a secret ballot of MPs, so the committees have more authority

Proposed reforms of HoL:
2.2 Parliament

→ Become a **totally elected chamber**, as both SNP and Green vowed to do in 2015 general election. Even the Conservative manifesto states there was a ‘strong case for introducing and elected element into our second chamber’, but later said it was not a priority (so likely nothing will change before 2020)
  ◆ This would give them democratic legitimacy and make them more representative, more accountable and less London-centric (in accordance with the theory of the mandate)
  ◆ But... would waste time and money on elections and lead to a power struggle with HoC, which could lead to stalemates over bills, disagreements over who represents the people and time wasted
  ◆ If the chamber just mirrored HoC it would become superfluous - and if a government had a majority in both houses it would be too powerful

→ Become a **partially elected chamber**
  ◆ Suggested by Clegg in 2011 - his proposal for a House of 450 peers, 80% elected and 20% appointed, was turned down by HoL and the Conservative MPs in Commons
  ◆ Would lead to divisions and power struggles within HoL, with elected peers feeling superior

→ Give **temporary peerages**
  ◆ Good to get fresh ideas. Many would also like to make an impact and feel they have a limited time, so more could get done
  ◆ Green Party pledged in 2015 manifesto to introduce 10-year fixed terms for elected peers

→ Make it **less Westminster-centric**
  ◆ Well over ¼ peers reside in London or the Southeast

→ Reforms proposed by **Campaign for Effective Second Chamber**, an inter-Parliamentary cross-party pressure group from both houses of Parliament, formed 2001:
  ◆ Force peers who attend <25% sessions to quit
  ◆ Slash Lords to 600 members (smaller than or equal to HoC)
    ◆ Would make House more efficient and cheaper to run
  ◆ Keep bishops/cross-benchers largely as they are, because as Lords who vote freely (not aligned to any particular party) they are beneficial to democracy
  ◆ Hold internal elections to determine which Lords stay
  ◆ ‘One in-one out’ policy so there are never more than 600 Lords, as with the current life peerage situation the number is steadily increasing, and has already surpassed the HoC membership

→ Improve its reputation by **evicting peers** convicted of serious criminal offences
  ◆ Lord Jeffrey Archer was made a life peer in 1992, then imprisoned for perverting the course of justice in 2001, but still has his peerage today
  ◆ Provisions to begin this have been started with the House of Lords Reform Act of 2014, which made ‘provisions’ for the removal of Lords in ‘extenuating circumstances’

**Is HoL becoming more significant over time?**

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<tr>
<th>Yes</th>
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2.2 Parliament

- As large government majorities in the House of Commons are common, it often falls to the House of Lords to oppose government (act as a check and balance)
  - during Labour’s 1997-2005 years
- Blair’s 1999 reforms (leaving only 92 life peers) gave Lords more authority
  - 2004 following a plea from inmates of Belmarsh Prison, HoL deemed Anti-terrorism... Act 2001 unacceptable, as it allowed suspects to be detained without trial. Government was forced to accept amendments to the bill
- As coalition gov. had no real mandate, HoL became very vocal in opposing it
  - In 2010-12, HoL delayed 40 bills, or amendments to bills (undemocra.?)
- Since Human Rights Act became law in 2000, Lords (many of whom are lawyers or human rights experts) took it upon themselves to protect people’s rights
  - Criminal Justice Bill Oct 2014
- Since their increased activities in 2010-2015 they have been more vocal anyway
  - Protesting Cameron’s proposed tax credit slash in October 2015
- In 2004 they contested the Prevention of Terrorism Bill (became an Act in 2005), as it impeded “innocent until proven guilty”, which led to the longest inter-house Parliamentary debate in history, of 30 hours

- It is still very unrepresentative of society
  - only 205/802 peers are women
- Has no mandate
- Used to be able to veto bills, but has lost that right since 1949. Now can only block bills for up to 1 year, or up to 1 month for economic bills - it is a ‘supine’ chamber
- Salisbury convention
  - HoL cannot interfere with manifesto legislation
- Money Bills (Bills designed to raise money through taxes or spend public money) must start in the Commons and must receive Royal Assent no later than a month after being introduced in the Lords, even if the Lords has not passed them. HoL can’t amend Money Bills
  - They protested Cameron’s proposed tax credit slash in October 2015, but cuts went ahead anyway

Should HoL be reformed?

<table>
<thead>
<tr>
<th>Yes</th>
<th>No</th>
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<tbody>
<tr>
<td>1. It is larger than HoC and yet has no mandate</td>
<td>1. It was already reformed in 1997, and there is little public opinion for it today</td>
</tr>
<tr>
<td>a. This is inherently undemocratic, as it is unaccountable</td>
<td>a. Tories turned in down in 2010</td>
</tr>
<tr>
<td>2. It is unrepresentative of society</td>
<td>b. Greens and Lib Dems both has it on their 2015 manifesto, but weren’t elected</td>
</tr>
<tr>
<td>a. only 205/802 HoL peers are female, only 5% peers come from ethnic minority backgrounds compared to 12% of population, the average age for a Lord is 69</td>
<td>c. Lost veto powers in 1949</td>
</tr>
<tr>
<td>3. It is a supine chamber</td>
<td>2. It is crucial in deliberating and scrutinising legislation, esp as they have more time than HoC</td>
</tr>
<tr>
<td>a. Currently, it does very little - they only sit from 2:30pm most days!</td>
<td>a. They have the power of delay for up to 1 year, or 1 month with economic bills, which gives them quality time to debate</td>
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</table>
2.2 Parliament

With reform they could have more rights and be more impactful
4. The process of selecting peers is largely controlled by the PM and therefore benefits the governing party
   a. By 2015 Cameron had appointed 326 life peers, of whom over 60% were Tory

3. It safeguards civil liberties in the UK
   a. Especially important as there is no codified constitution
   b. In Oct 2014 Lords rejected the Criminal Justice Bill as it did not adequately protect under-15s
4. In changing political circumstances it remains stable
   a. In 2010 coalition it was even more active than usual, for there HoC had no mandate
5. “If it ain’t broke, don’t fix it”
   a. The whole spirit of the constitution is based on this conservative approach
   b. It has worked fairly well for so long, and has traditional authority (Weber)
6. There is no obvious ideal reform
   a. Detail the faults in each proposal

Should HoC be reformed?

<table>
<thead>
<tr>
<th>Yes</th>
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</tr>
</thead>
</table>
| 1. Due to FPTP making large majorities common, HoC is often dominated by one party  
   a. This stops HoC from effectively checking government  
   b. This also means there is often little dialectic, as the majority of MPs are only there to toe the party line  
   c. This leaves it susceptible to the whims of any overmighty PM with a majority |
| 2. 2-party system impedes change  
   a. LDs lose out on voicing their opinion as the ‘3rd party’ |
| 3. Commons is very unrepresentative of British society  
   a. Only 191/650 MPs are female, only 4% MPs come from ethnic minority backgrounds, compared to 12% of population |
| 4. The makeup of Commons is disproportionate to how people voted  
   a. UKIP got 12.5% of the vote and 1 seat |
|                                                                   | 1. Reform is complete:  
   a. Select House Committees have more power than before, due to the Wright Committee  
   b. Recall of MPs has been introduced (2015) |
| 2. House Liaison Committee holds PM to account with rigorous biannual interviews |
| 3. People voted against AV reform in 2011 |
| 4. The presence of a government vs. an opposition creates good dialectic |
| 5. Has worked this long, “If it ain’t broke, don’t fix it” traditional conservative British attitude |

The Parliamentary Whip system:
- Chief Whip known as the ‘eyes and ears of the Prime Minister’. Job is to maintain discipline in Parlia.
- Because MPs are elected due to their party’s policy, their job is essentially to toe the party line
2.2 Parliament

- If an MP goes against the party Whip, they may have their ‘whip withdrawn’, meaning that they lose the ability to vote in Parliament. (They could also end up of the Chief Whip’s ‘shitlist’, which could cost them further promotions)
  - This is less likely to happen if the party in power only has a small majority, as they need all MPs in HoC and able to vote when they pass legislation - eg. an MP is less likely to have their whip ‘withdrawn’ under Cameron, who only has a majority of 12, than under Blair or Thatcher who had large majorities and therefore lots of MPs to spare
- Cyril Smith is a famous ex-whip, who admitted later to physically intimidating MPs with his girth
- Though there is also a whip system in the House of Lords, it is much weaker. Many HoL peers are cross-bench MPs, meaning that they are not tied to a particular party, therefore they have no party whip watching them

Role of the backbench MP:
- Represent the constituents: But HoC is socially unrepresentative
- Debate issues in the chamber: Backbench Business Committee 2010 helps here
- Work on select committees and/or legislative committees
  - Since 2010, chairs of Departmental Select Committees have been elected by MPs (not whips)
- Develop private members bills/legislation: David Steel’s Abortion Act, 1967 legalised abortion
  - However very few PMBs pass - only 7 in 2009-10, and that was the most in years
- Call ministers to account: Prime Ministers Question Time (but some MPs are afraid to question their ministers for fear of being reprimanded)

Past Questions:
June 2015
“The House of Commons is in greater need of reform than the House of Lords”. Discuss (40)

June 2014
“Parliament carries out none of its functions adequately”. Discuss (40)

Jan 2013
With reference to the source, outline two criticisms of David Cameron’s appointments to the House of Lords
With reference to the source and your own knowledge, explain three considerations that are taken into account when appointing Life Peers
Assess the arguments in favour of a largely or wholly elected second chamber

June 2013
“The House of Lords is now more effective than the House of Commons in checking government power”. Discuss (40)

June 2012
How effective are backbench MPs? (40)

Jan 2012
With reference to the source, why are legislative committees needed?
With reference to the source and your own knowledge, explain the ways in which backbench MPs can call government to account
To what extent has the formation of a coalition altered the relationship between parliament and government?

June 2011
2.2 Parliament

With reference to the source, describe 3 proposals that seek to strengthen parliamentary representation by increasing popular participation (5)

With reference to the source and your own knowledge, explain how 3 of these proposals seek to make government more accountable to Parliament (10)

To what extent will the coalition government’s proposals bring about an effective reform of Parliament? (25)