

Representation and stability in a bicameral legislature

John A Robinson

The sharing of legislative power between different houses is widely regarded as a democratic virtue. Even a non-representative secondary house with limited powers, such as the UK House of Lords or Canadian Senate, acts to check the activities of the primary house (the Commons). Design of a bicameral system from scratch may divide powers and vary the type of representation between the houses according to some fundamental political principle. But reform of an existing system has to contend with the inertia of vested power. So deliberations on the future of the UK House of Lords assume that the primary house's supremacy is unshakable. The legitimacy that might attend democratisation of the secondary house is potentially a threat to the authority of the Commons. As a result, even reform-minded MPs sign up to a formula for the secondary house that is not truly democratic, for example where only a portion of the seats are subject to elections. This is not a compromise – it is the trumping of democracy by hypothetical stability, much as proportional representation is trumped by the supposed virtues of first-past-the-post. Yet it is possible to design the constitution of the secondary house to maximise voter power in the system as a whole, without threatening the primacy of the Commons. The key is to make the secondary house democratically representative of the country in a way that the primary house is not, with a degree of legitimacy commensurate with its subordinate authority. Both of these can be achieved by ensuring that together the two houses represent the electorate with true proportionality.

Assume for the time being that the two houses are equal in their democratic importance (though unequal in power), and that they have equal numbers of seats. These are simplifying assumptions – neither is essential, as the Appendix will show. The primary house is elected on a constituency basis with first past the post elections. The secondary house is then filled so that the proportion of seats across both houses held by each political party is equal to its share of the total popular vote. The system as a whole is perfectly proportional (within rounding to the number of seats), the supposed stability of the majoritarian system is preserved in the primary house, it is very unlikely that any party will have a majority in the secondary house, and the secondary house has exactly the same deviation from proportionality as the primary house. The last point means that the secondary house has the same formal legitimacy as the primary house (at least according to the most popular measure of disproportionality), but because its make-up contrasts with the results of constituency elections, it has lower intuitive legitimacy. This is a good thing because of the primary house's legislative supremacy.

The method suggested for filling the secondary house “tops up” the system as a whole. But the primary and secondary houses retain their individual identities. Each has a different representative character: the primary house has traditional first-past-the-post majority amplification, while the secondary house is more balanced, but opposition parties predominate. Neither chamber is turned into an automatic coalition machine. The primary house retains its adversarial character, and cross-party alliances in the secondary house are fluid because of the need to retain distinctive party identities, without which opposition parties will not be able to make future gains in the primary house. It is certainly possible for opposition parties to use their collective

majority in the secondary house to irritate the government, but the primary house still has the power not only to overrule, but also to reduce the rights of the secondary house, and so there is a built-in pressure to temper obstructionism with genuine “sober second thought”. Small parties can use their majority-making power to bargain compromises into amendments and so put their policies on the agenda, even if these are subsequently overruled in the primary house.

A bicameral legislature constituted as just described is able:

- To meet the Jenkins Commission’s four “incompatible” requirements for voting reform:
 - Broad proportionality
 - The need for stable government
 - Extension of voter choice
 - the maintenance of a link between MPs and geographical constituencies
- To use most of the existing machinery of first-past-the-post electoral systems, including the requirement that voters make only one choice
- To use most of the existing practices and procedures of the secondary house, with the cross-party make-up enforcing a different mode of debate, revision and compromise from that of the primary house.

Arguably, the method changes the two problems of disproportionate representation and secondary house reform into one question about the weight of authority in the legislature. Assuming the secondary house has *some* power but not as much as the primary house, then in principle the weighting from votes to seats in the two houses can be adjusted to equalize the legislative power of each elector’s vote. The appendix describes how this can be done. However, it is probably impossible to quantify the relative authorities of the two houses, and equal weighting has the virtue of simplicity.

Here is a table showing the results that would have accrued from use of the system in the UK General Elections of 1992, 1997 and 2001. The percentage of votes and of seats in the Primary house (the House of Commons) are actual.

	1992			1997			2001		
	Votes %	Primary house seats %	Secondary house seats %	Votes %	Primary house seats %	Secondary house seats %	Votes %	Primary house seats %	Secondary house seats %
Con	41.9	51.6	32.3	30.7	25.0	36.4	31.7	25.0	38.4
Lab	34.4	41.6	27.2	43.2	63.4	23.0	40.7	62.5	18.9
LD	17.8	3.1	32.5	16.8	7.0	26.6	18.3	7.9	28.7
Other	5.9	3.6	8.2	9.3	4.6	14.0	9.4	4.4	14.4

It is possible to achieve or impose policy objectives through the mechanism for filling the secondary house. Party lists and highest-polling runner-up algorithms are possible, but in either case, the assignment of individuals to seats can be modified by targets of gender, ethnic or other representation in the system as a whole (i.e. the two houses considered together). Rather than an imposed policy, the method provides the freedom for political parties to commit to some policy of group representation and then to fill their allocation of seats in the secondary house to meet such commitment. For example, should a party desire that 20% of all its members in the legislature are of noble blood, they need only ensure that sufficient qualifying people are included on

their list, or as candidates in constituency elections. The filling of their seats in the secondary house will then be made according to the declared proportion. The commitment to a particular level of group representation therefore becomes part of the party's manifest of policies on which the electorate makes a judgement.

Appendix

The method proposed can be adapted to any size of secondary house and any quantified measure of the relative importance of the two houses. In the discussion above, the two houses were assumed to have equal numbers of seats and equal importance. This led to the allocation

$$s_i = 2v_i - p_i$$

where v_i is the proportion of the vote, p_i the number of seats in the primary house and s_i the number of seats in the secondary house, all for party i .

However it is clear that the secondary house does not have the same power as the primary house. While it may be argued that the relative power of the secondary house is zero, because it can always ultimately be overruled, the fact that it has some role to play suggests that its power or authority is some fraction, say r , of that of the primary house. If we were able to specify r , then, for equalizing voter power, we would want:

$$s_i = \frac{1}{r}((1+r)v_i - p_i)$$

That is, the proportions of the seats in the two houses are weighted by their relative powers before setting their average equal to the share of the vote. The result of discounting the value of seats in the secondary house in this way is that the house becomes more disproportional than the Commons. Voters denied their choice of constituency MP have correspondingly more effect on the composition of the secondary chamber (because the method is compensating for the lower power of seats in that chamber). Although weighting allows this trading of representation for legislative power, in an attempt to equalize voter power, the virtues of simplicity may well mean that r should be set at 1 in practice.

The assumption of equal numbers of seats in both houses can easily be removed. What counts is the proportion of each party's representation overall, and the weighting (if any) applied to reflect the relative importance of the two houses in achieving overall proportionality. Therefore the secondary house can be substantially smaller than the primary house. If the number of seats in the secondary house is reduced, the relative power of each individual representative's vote or voice is increased, so there might be an argument to make the ratio between the number of seats in the secondary house and the number in the primary house equal to r as previously defined. Again, however, the simple solution is to avoid explicit consideration of how to weight relative powers. Instead, weighting both houses equally, the secondary house size can be set on the basis of the minimum percentage of the popular vote that should guarantee inclusion in the legislature. For example, with a primary house of size 660, a secondary house of size 340 guarantees a seat in the legislature for any party which receives over 5/10000 of the total popular vote (assuming rounding upwards).