Compare and contrast the scrutinising powers of the House of Lords and the Senate [25]

Chris L

Selected/Elected
A great difference between the two upper houses is that in the HoL life peers are appointed, however in America, Senators are elected. It is argued that Lords do not represent the electorate as they do not take part in elections, but instead are selected by the Prime Minister, unlike members of the Senate who are voted into their positions. Nevertheless, the fact that Lords are not elected means that when it comes to scrutinising legislation, they can make the right decision even if the decision is different to the public opinion. This is because Lords do not have to worry about being re-elected as they can hold their title for life. Senators on the other hand are under pressure from their constituencies to maintain their seat at the next mid term election.

Length of Terms
Another distinction that shows two contrasting houses is how long their terms in office are. For Senators they are elected every 6 years, whereas when Lords are elected they are there for life. With a greater length of time in the legislative branch, Lords are able to build up expertise in certain fields, giving them a vast amount of knowledge when scrutinising bills. Senators must maintain a high profile in the media so their constituents know what they are doing, which will take time away from gaining a better perspective on bills coming through the house. The fact that Lords hold their positions for life means that they do not need to worry about elections and so they are not compelled to turn up to Westminster as often as a Senator would turn up to Congress. So it could be argued that a Senator would have a better work rate than life peers.

Power of the Houses
Ever since the creation of Congress in the US Constitution, the Senate has always shared power equally with the House of Representatives; but in the UK over time the HoL has went from being the more dominant house, to the inferior house. In America, legislation goes through both houses concurrently, meaning the Senate has the same amount of input as the House of Representatives and in the conference committee there is representatives from both houses. This means that legislation cannot go through Congress without the support from a majority in both the lower and upper houses, but in Westminster the HoL has lost much of its power. This is because of various reasons such as the Parliament Acts of 1911 and 1949 which first limited the legislation blocking powers of the HoL to only two years in 1911, and then in 1949 the HoL could only delay bills for one year. Under the Act the HoL also could not interfere with “budget bills” weakening their authority even further. Finally there is the Salisbury convention proposed by Lord Salisbury who believed the Government was given a clear mandate for the policies proposed in its manifesto, and so it would be improper for the Lords to block government bills mentioned in their manifesto. With a strong separation of powers in the American system, the President has been unable to influence Congress as the Prime Minister influences Parliament, and so the Senate has always been independent and strong. For instance, the Senate can takes part in the impeachment of Presidents such as Bill Clinton or Associate Justices like Samuel Chase. Even though the President is the C-I-C he needs the Senate to declare war and ratify his treaties on the international stage; however, the last time the Senate actually declared war was against Japan in 1941, yet since then America has fought in Vietnam, Korea, and Afghanistan without consulting the Senate. This is because the President has not used the term war but covered them up by calling them "hostile conflict". Also, instead of making treaties the President has undermined the Senate by creating executive agreements instead.

Appointments
The Lords are appointed to their positions by the Prime Minister and so it could be argued that the Prime Minister has some influence over the Lords, as it could be seen that they are indebted to him. Then again, Lords have security of tenure and so the Prime Minister is unable to pressurise them in voting a certain way. For instance, Tony Blair made David Trimble a life peer, but Trimble became a Conservative backbencher as he had no allegiance to the Prime Minister and so he is able to scrutinise and make key decisions independently. In the USA, the Vice-President is the President of the Senate and so he could be taking powers away from the elected Senators. An example is in 1993 when Al Gore had the casting vote over the budgeting bill as it was a tie break of 49-49; however this is not very common and less significant than the HoL point. The Presidents power of patronage is checked by the Senate when he is appointing people to the Supreme Court or the executive branch. For example, when Ronald Regan nominated Robert Bork to be an Associate Justice, the Senate rejected the Presidents choice. This power allows the Senate to scrutinise nominations so they know they will be capable for the role they are to undertake. When the President is looking to appoint someone new to the executive they will also be investigated by the Senate, but when the President is entering office after the election the Senate will usually allow the President to employee who he wants because of his national mandate.

Party Influence
In America there is limited party loyalty, this is because there is no whip system like there is in the UK, and so the President cannot force Senators to vote a certain way with legislation. Also in America, Senators will usually get elected by their personality and policies rather than in the UK where MPs depend on the party banner; this is because the two main parties in America cover such a broad spectrum of party ideologies and Senators from the same party may have different views. In Westminster, Lords will not be influence by the whip system like MPs because they have security of tenure and so they can vote in the way they see best. On the other hand, Lords are appointed by the Prime Minister and so Lords may continuously support the Prime Minister who appointed them without question.

To conclude, I believe that both Senators and Lords are very independent, meaning that their decisions will not be influenced by anyone else because of the Lords security of tenure and the fact that there is no whip system in American politics. However, with the Parliament Acts of 1911 and 1949 the Lords have lost a great deal of their power to scrutinise effectively, but Senators still are able to do so.
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Tim

The House of Lords and the Senate separately, are both very good and powerful scrutinising powers, but they are very differently from each other. These differences can even be seen in the way the members are chosen to sit in each house. In Britain the Lords have not been elected, and therefore they don’t owe the public any favours, but this alone doesn’t mean they will “pledge their allegiance” to purely doing what is good and right, instead of what is popular, as chances are, they have supported and have been a loyal supporter of someone to get where they are! In the US Senate, things are very different. The Senators are elected each for a six year term by the public which could make them more likely to do what is “right” and what is “best” for the people of their states, and indeed the whole of the US, as they have been elected by the people.

The Parliament acts of 1911 and 1949 have in turn taken away the power from the HoL that allowed them to reject a bill outright. The most they can do now is delay a bill for a maximum of 1 year, and then the government (if they still want it) can pass it anyway. This is taking a big power of scrutiny away from the HoL. Could the house possibly be seen as being pointless as no matter what their decision is, it can always be overridden by the government anyways (after one year). The Senate however, has a number of powers which cannot be taken away from them by any act or decision made, as they have powers enumerated to them in Article 1 of the US constitution which are exclusive only to the Senate. The President cannot declare war or ratify treaties without first going through the Senate chamber for approval. They also hold a lot of power over the appointments the President makes, as they have to approve of the person before they can take up the position, meaning that if the Senate don’t like them the President will have to find another candidate, and this keeps going until the Senate eventually approves of a worthy candidate. An example of this is when Ronald Regan tried to make Robert Bork a Supreme Court judge in 1987, but was struck down by the Senate. The President can however (through the War Powers Act of 1973) send troops into a country without the approval of the Senate for a 90 day period, undermining the Senate. A good example of this is that the last time the Senate actually declared war was against Japan in 1941, but since then the US has fought Vietnam, Korea, etc. If the President wishes to keep the troops in an area for a period longer than 90 days he must seek approval from the Senate to do so.

In the HoL representation is not a big issue. The Lords are chosen by the PM to sit in the chamber, and are not voted in by any constituents which mean they are free to do what they wish as they do not owe anyone anything. These, in theory, sound excellent because they are free to scrutinise properly and do not have any constituents which they have to listen to. They are free to do what is best for the country and not what the ‘popular opinion’ of the people is. However in reality, many of the Lords allegiances will lye with the PM that has put them in the house, and the party he/she belongs to. In the Senate, 2 senators from each state have been elected by the people. This means the Senators job is not only to do what is right and best for the country, but they have to do what the people wish, as it is the people who have put him in his position, and it is the people who hold the power to take him out of it. While the Lords are free from pressure from constituents the Senators are under pressure to vote how their constituents wish. The Lords are also in the position for life and cannot be “unelected”, which also leaves them free to do what is right, and not what is popular. While, in the Senate, each senator holds the position for a six year term which might make them feel under pressure as they will want to get re-elected. This makes them more inclined to vote they way the people wish, but not what is best for the country/state just to secure re-election.

Another big difference between the Senate and the HoL is where their loyalties lye. In Britain, the political system is dominated by the party system in which, every member of a party is expected to vote with the party lines which means things get done “easier” and more gets done. However, in America the parties don’t have a lot of influence over the vote. This means that Senators in the US are free to be a lot more independent and vote in the way they deem is best for the country (or the way their voters want them too). This is good for the country as it can mean the difference between what is right and what is popular being done. The HoL works relatively the same way, and even though some members will identify themselves as supporting one party or another they have a lot more freedom than their counterparts in the commons to do what is right, because there is not whip system in the Lords.