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The House of Lords as a revising chamber

In reporting (13 November 1976) Mr Benn's proposals to abolish the House of Lords you reflect the widespread misunderstanding of the so-called revising function of that House. As a former Parliamentary draftsman I feel obliged to correct this. The question of the need for a second House ought surely to be debated on the facts as they really are. You say, as is customarily said on this topic, that there are provisions in certain Bills 'which could have been more clearly drafted, and would be improved by calm, unhurried reappraisal in a revising chamber'. This conjures up the picture of learned senators coolly adding deft touches to transform muddled clauses into limpid prose. The truth is far otherwise. More than 99 per cent of amendments made to public Bills in the House of Lords are not drafted by peers at all. Most of them are not even inspired by peers. They are drafted by the people who draft the Bills: parliamentary counsel.

They originate in various ways. Some result from outside pressure, some from government undertakings at a previous stage. Many originate within the department sponsoring the Bill. Others are initiated by the draftsman himself, who is at all points seeking to perfect his work. The rare amendment drafted by a peer which does get into the Bill can prove disastrous. An example arose on the recent Children Bill. I know because I was the draftsman concerned. A group of peers led by Lord Simon of Glaisdale insisted on amendments requiring that in cases of adoption or care the welfare of the child should be the 'first consideration'. This wording leaves it unclear whether factors affecting the child are or are not to be treated as weighted and, if they are to be treated as weighted, by how much. The first decided cases on the Children Act show that this uncertainty will bedevil an important area of law for years to come.

There is no need for further stages of a Bill introduced in the Commons to be in a second House. By slightly increasing the number of MPs, any further stage or stages thought desirable could equally be provided in the Commons itself. So far as drafting amendments go this would produce much the same final product as the present system does. Of course amendments of substance, made against the Government's advice, are a different matter.¹

¹ *The Times*, 18 November 1976.