

Views from Peers, MPs and the Public on the Legitimacy and Powers of the House of Lords

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The legitimacy and powers of the House of Lords continue to be the subject of lively debate. The chamber remains unelected, despite being reformed in 1999 to remove the majority of hereditary peers. Yet there is a widespread belief that this reform gave the chamber greater confidence to use its powers. The government has been defeated in the chamber almost 300 times in the six years since reform, and this year saw the biggest showdown for decades between the Commons and Lords, over the Prevention of Terrorism Bill.² The government has indicated its intention to trim the powers of the Lords, whilst the Liberal Democrats – who in practice hold the balance of power in most votes in the chamber – have indicated their opposition to this proposal. Indeed the Lib Dems have gone further, suggesting that the ‘Salisbury convention’, whereby the Lords does not block government manifesto bills, should no longer apply. These issues are set to come to a head in the next few weeks, when Lords and Commons must reach agreement on controversial measures such as the ID Cards Bill, the Racial and Religious Hatred Bill, and the new Terrorism Bill. All of these were indicated in some way in the Labour manifesto of 2005.

This paper seeks to throw light on the debate by summarising results from surveys of peers, MPs and the public on questions of the House of Lords’ legitimacy and powers. We asked similar questions to all three groups, allowing comparison between them, and between supporters of different parties. Some of the results of this research are surprising. Despite the continued unelected basis of the House of Lords there is significant support for its right to block government legislation, even amongst Labour MPs. A comfortable majority of the public support the Lords’ right to block measures that are unpopular, or on which Labour MPs have rebelled. In making this judgement the public show no interest in whether the measures were in the government’s manifesto. In addition there is strong resistance from the House to a restriction on its powers, including amongst Labour peers. Given this, and the levels of public support for the chamber, the government’s reform plans look unlikely to succeed. Meanwhile if its other legislation faces opposition in the Lords, MPs and the public seem as likely to back the peers as to back the government’s right to get its way.

Perceptions of House of Lords Legitimacy

One reason for a potential greater confidence by the House of Lords is a perception that the chamber became more legitimate as a result of the reform in 1999. The government itself claimed in 1998 that this would be one benefit of the reform: an argument now dubbed by peers as the ‘Jay doctrine’, after then Leader of the House of Lords Baroness Jay. Reasons for seeing the

¹ I would like to thank Mark Wainwright for his assistance in collating and analysing the data presented in this paper.

² For a discussion of the House of Lords in 2005, and discussion of the growing confidence of the chamber, see M. Russell and M. Sciara, ‘The House of Lords in 2005: A More Representative and More Assertive Chamber?’ in Rush, M. and Giddings, M. (ed.) *The Palgrave Review of British Politics*. Basingstoke: Palgrave (to appear, 2006).

chamber as more legitimate include not just the simple absence of hereditary peers, but also the fairer party balance that resulted, with Labour and the Conservatives almost equally matched, and the balance of power held by the Liberal Democrats and a large group of Crossbench independents.

Our first survey question to all three groups therefore focussed on the impact on Lords legitimacy of the 1999 reform. Respondents were offered five options, and their replies are shown in Table 1.

Table 1: The reform in 1999 to remove most hereditary peers made the House of Lords ...

	Far more legitimate	More legitimate	No change	Less legitimate	Far less legitimate	Total more legitimate
Public [§]						
Labour voters	19%	32%	36%	10%	4%	51%
Conservative voters	9%	19%	26%	20%	26%	28%
Liberal Democrat voters	19%	30%	28%	11%	11%	49%
All†	16%	27%	31%	13%	13%	43%
MPs						
Labour	18%	57%	23%	2%	0%	75%
Conservative	5%	23%	21%	32%	18%	29%
Liberal Democrat	4%	50%	46%	0%	0%	54%
All†*	12%	45%	28%	10%	5%	57%
Peers						
Labour	18%	69%	12%	0%	0%	88%
Conservative	3%	62%	22%	10%	3%	65%
Liberal Democrat	15%	69%	17%	0%	0%	63%
All†	11%	67%	17%	4%	1%	78%

§ Around 14% of the public responded ‘don’t know’ to this question. These respondents have been omitted from the analysis.

† This category includes supporters of other parties and none, as well as the three main parties. Amongst peers this includes the Crossbenchers and the Bishops.

* Note that as the MP survey was completed before the general election, the overall view of the House is now likely to be different from that indicated here because of the change to party balance. There is no reason to believe, however, that the views of individual party groups have changed.

This demonstrates that there is a shared perception that the reform made the House of Lords more legitimate. This view is held most strongly amongst the peers themselves, but also strongly by Labour and (to a lesser extent) Liberal Democrat MPs. The public are rather more sceptical, but Labour and Liberal Democrat supporters are far more likely to see the reform as having had a positive than a negative impact on Lords legitimacy (the totals saying ‘less legitimate’ were 14% and 22% respectively). The only dissenting groups are Conservative MPs and Conservative voters, amongst whom more see the reform as having damaged the House of Lords’ legitimacy than having enhanced it.

When should the House of Lords vote against a government bill?

The crux of the question about the House of Lords’ powers is when, if at all, it is justified for the chamber to oppose government legislation. We therefore included detailed questions on this in our surveys to the public, peers and MPs. The question as phrased to peers is shown in the box below. We sought explicitly to test attitudes to Lords intervention in manifesto and non-manifesto bills, and to test how attitudes changed when a bill did and did not have public support. We also asked whether Lords intervention would be more justified if backbench Labour MPs had already demonstrated their opposition to the bill.

The responses to this question provide a rich source of information from which to draw. However, they are also quite complex. There are four separate dimensions to the data: manifesto or non-manifesto measure, whether the measure has public or MPs’ support, type of respondent (MP/peer/public) and the respondent’s party allegiance. This makes it impossible to show all the various permutations here. What is provided is a summary of the most interesting contrasts and politically salient points.

Question from House of Lords survey
 Do you believe the House of Lords is justified in voting against elements in a government bill that implement ...

- A policy from the government’s manifesto that has strong public support?
- A policy from the government’s manifesto that has little public support?
- A policy from the government’s manifesto measure that many government MPs have voted against?
- A policy not in the government’s manifesto that has strong public support?
- A policy not in the government’s manifesto that has little public support?
- A policy not in the government’s manifesto measure that many government MPs have voted against?

Note that wording for the MP and public surveys were slightly different. In each case these surveys asked about ‘blocking’ a government bill - implying a more aggressive position by the Lords. If anything this difference would be expected to dampen the public and MPs’ support for the Lords to intervene.

Summary results for all six versions of the question and all three types of respondent are shown in Table 2. This also separately shows responses for all those questioned, and for Labour representatives and voters only. In order to simplify the data we show the proportion believing that it was justified for the Lords to vote against a government bill at least sometimes: that is, all those replying ‘sometimes’, ‘often’ or ‘always’. The figures in Table 2 are also shown graphically below in Chart 1.

Table 2: Proportion believing that it is *at least sometimes* justified for the House of Lords to vote against a government bill ...

Type of bill	All			Labour		
	Public [§]	MPs*	Peers	Public [§]	MPs	Peers
Manifesto bill, strong public support	48%	41%	72%	41%	13%	50%
Manifesto bill, little public support	66%	59%	93%	59%	32%	81%
Manifesto bill, many Labour rebels	70%	65%	96%	60%	40%	88%
Non-manifesto bill, strong public support	57%	68%	96%	45%	44%	89%
Non-manifesto bill, little public support	64%	74%	96%	57%	56%	92%
Non-manifesto bill, many Labour rebels	68%	77%	97%	59%	60%	92%

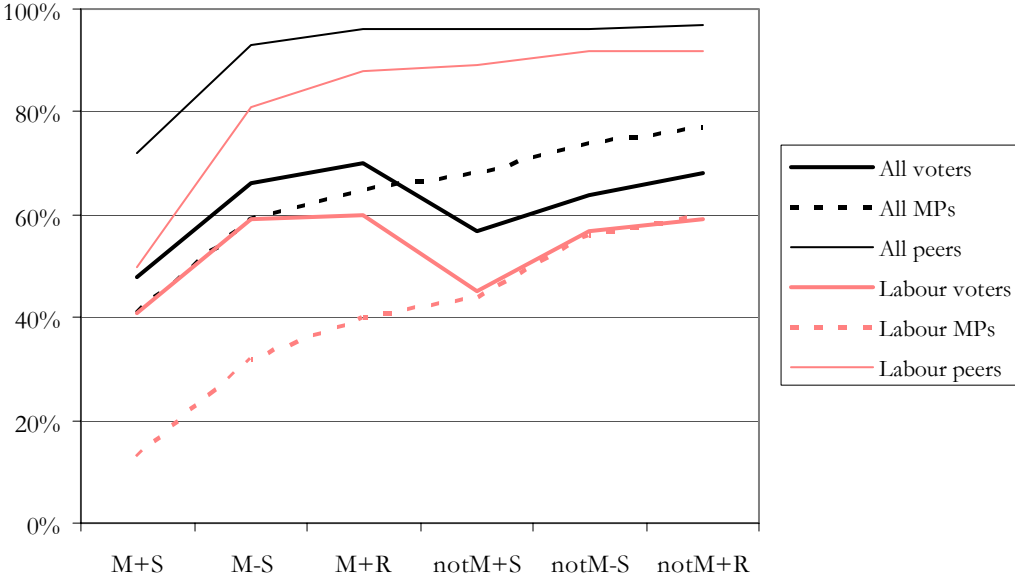
§ Around 6% of the public responded ‘don’t know’ to these questions. These respondents have been omitted from the analysis.
 * Note that as the MP survey was completed before the general election, the overall view of the House is now likely to be different from that indicated here because of the change to party balance. There is no reason to believe, however, that the views of Labour MPs have changed.

These results show some clear trends, and also some important differences between the different types of respondent. The type of bill which all groups are most resistant to the Lords blocking is one to implement a popular manifesto policy. This chimes with the traditions of the Salisbury convention. However, it is only a small shred of comfort for the convention’s defenders. Amongst MPs and peers, the level of support for Lords intervention then gradually increases as you work your way down the table. Intervention in a manifesto bill with little public support is considered more justified than intervention in a manifesto bill with strong public support, and

intervention where there has already been a backbench rebellion is considered more justified still. Once a bill is not in the manifesto support for Lords activism increases again, and further still when this implements a measure that is unpopular with the public and MPs.

In these views - perhaps unsurprisingly - peers are always more supportive of Lords action than are MPs, and Labour members always less supportive than representatives of other parties. However, a majority of Labour peers will still countenance opposition to a manifesto bill if it is popular, and 82% if it is unpopular. More surprisingly still, a majority (58%) of Labour MPs think it justified for the Lords to vote against a non-manifesto measure that has little public support, whilst 62% consider this acceptable where many Labour MPs have already opposed it. These last results contradict the common perception that the House of Lords is a rival to the House of Commons, and shows that the two chambers have the capacity to work in partnership to defeat government measures where there is public concern.

Chart 1: Proportion believing that it is *at least sometimes* justified for the House of Lords to vote against a government bill ...



M = manifesto, notM = not manifesto; S = strong support, -S = little support; R = rebels, -R = no rebels

As well as the views of Labour MPs, the responses to this question from the public are very interesting. Here the trend is rather different to that amongst peers and MPs. Whilst only a bare minority of the public (48%) think it is justified for the Lords to block a popular manifesto bill, this is a higher figure than amongst MPs. The difference between Labour MPs and their voters on this point is particularly stark (13% vs. 41%) - with Labour voters far more prepared to see the Lords blocking such measures. It is clear from the figures that whilst the public, like MPs and peers, think that the popularity of a measure is important in judging whether the Lords should intervene, they do not agree that the manifesto matters much at all. The proportion supporting Lords intervention in popular non-manifesto bills (48%) is little different to that on popular manifesto bills (57%). When it comes to unpopular measures the difference is negligible with respect to whether these are in the manifesto (67%) or not (66%). Support for intervention in bills where there has been a Labour rebellion is highest, at 71%, irrespective of whether the measure was in the manifesto. In interpreting these figures it is important to note that the fieldwork for the public survey took place two weeks after the general election, when the salience of manifesto promises should be at its highest. This was also only two months after the

showdown between the government and the Lords over the Prevention of Terrorism Bill. At this point even Labour supporters, whilst in general being slightly less supportive of Lords intervention, still on balance considered this appropriate on unpopular measures or those where MPs had rebelled.

A Change to the Powers of the House of Lords?

Our questionnaire to peers included many additional questions beyond those asked of MPs and the public. These help provide a greater sense of how members of the chamber view its work, and some give an indication of the level of opposition that the government could face if it sought to introduce a bill to restrict the powers of the Lords. The Labour manifesto proposed that the party would ‘seek agreement on codifying the key conventions of the Lords’ (the most obvious of which is the Salisbury convention) and would ‘legislate to place reasonable limits on the time bills spend in the second chamber - no longer than 60 sitting days for most bills’.

Table 3 summarises the responses by peers to three questions, for all peers and for Labour peers in particular. The first shows that there is an overwhelming belief (99%) amongst both groups that the chamber ‘should sometimes ask government to think again’. There is also widespread support for the proposition that the chamber ‘has had a valuable impact on policy in recent years’ – a view shared by Labour peers, despite the high number of government defeats.

Finally, the table shows the extremely low levels of support amongst peers for the proposition that ‘the formal powers of the House of Lords are too great’. Just 8% of peers overall agreed with this suggestion, whilst 84% disagreed. Most of those prepared to support the proposition were Labour peers, but even amongst this group fewer than a quarter agreed. Instead 63% of Labour peers chose to disagree (the remainder giving a neutral reply). Amongst Conservative peers 96% disagreed, as did 92% of Liberal Democrat peers and 88% of Crossbenchers.

Table 3: Peers’ views of the chamber’s impact and powers

	All peers			Labour peers		
	Strongly agree	Agree	Total agree	Strongly agree	Agree	Total agree
It is important that the House of Lords should sometimes ask government to think again	63%	36%	99%	31%	68%	99%
The Lords has had a valuable impact on policy in recent years	17%	64%	81%	7%	64%	71%
The formal powers of the House of Lords are too great	1%	7%	8%	2%	20%	22%

Note: other available responses were ‘strongly disagree’, ‘disagree’ and ‘neither agree nor disagree’.

With this level of opposition to change in the chamber’s powers, even amongst Labour’s own ranks, it is difficult to see how a bill to achieve this could pass through the House of Lords. Of course, the government does not need Lords approval for its legislation, as it can use the Parliament Acts to get bills onto the statute book with the support of the Commons alone after around one year’s delay. But governments are resistant to taking this step where a bill is controversial, as the delay will tend to focus public attention on the issue in the bill. Such public

scrutiny may not be to the government's benefit.³ A row about a bill to reduce the Lords' power could easily turn into a public debate about an 'overweening executive' trying to restrict proper parliamentary scrutiny of its activities. To win such an argument, government would need to be confident that the public were unhappy with the existing powers of the Lords. There is nothing in our results to suggest that this is the case. Indeed, if anything, quite the reverse.

The Research

The research reported in this paper is based at the Constitution Unit, University College London, and was funded by the Economic and Social Research Council (ESRC) under grant number RES-000-23-0597. The project runs from 1 August 2004 to 31 July 2007. Further information about the project and related publications can be found on the Constitution Unit's website at <http://www.ucl.ac.uk/constitution-unit/research/parliament>

Appendix: The surveys

The results in this paper draw on three surveys: of peers, MPs and the public. Details of these are as follows:

- **The public survey** was conducted for the Constitution Unit by MORI, with questions included in their regular omnibus survey. Fieldwork was conducted in late May 2005, approximately three weeks after the general election. There were 1,007 valid respondents. The results have been adjusted to be representative of population as a whole.
- **The survey of MPs** comprised questions included in a postal questionnaire survey circulated by the Constitution Unit in February 2004. There were 197 replies received, representing a response rate of 30% (a good response rate for a survey of this kind). The replies were broadly representative of the parties in the House at the time.
- **The survey of peers** was a postal questionnaire survey conducted by the Constitution Unit and circulated in February 2005. There were 396 replies received, representing a 57% response rate. The replies were broadly representative of the parties in the House at the time, with at least 50% of each group in the House responding except Bishops (at 46%). The replies were also representative of the House in terms of hereditary and life peers, pre- and post-1999 entrants to the House, and those who previously had or had not been MPs.

³ For example the Criminal Justice (Mode of Trial) Bill was dropped in 2000 following consistent Lords opposition despite having been introduced into the House of Commons (rather than Lords) precisely in order that the use of the Parliament Acts could be threatened. The bill sought to restrict access to jury trials.

The House of Lords is the upper house of the Parliament of the United Kingdom. Membership is by appointment, heredity or official function. Like the House of Commons, it meets in the Palace of Westminster. Members of the House of Lords are drawn from the peerage, made up of Lords Spiritual and Lords Temporal. The Lords Spiritual are 26 archbishops and bishops in the established Church of England. Most Lords Temporal are life peers, appointed by the monarch on the advice of the Prime Minister or House The House of Lords as it exists today is not a timeless relic of antiquity, but a Frankenstein's monster of shreds and body parts, assembled piecemeal over a century of constitutional tinkering. Liberal, Labour and Conservative governments have all sailed into the Bermuda Triangle of Lords reform, though few have completed the voyage. The peers guarded that independence jealously. When Queen Victoria created a life peerage in 1856 "exercising a power that had lain dormant for centuries" the Lords refused to admit him. If the Crown could create peers for life, they feared, it would be able to pack the Lords with its supporters. The Lords lost all power over finance bills, and its ability to veto other legislation was reduced to a two-year delaying power. A guide to the House of Lords and how peers are appointed. The government is unveiling its plans to reform the House of Lords, with MPs to vote on how many members should be elected and how many appointed. But what is the current situation? There are about 750 peers who have the right to sit in the House of Lords and take part in debates and votes. Of those, about 600 have been appointed for life. Most hereditary peers - people who inherited their title - were removed from the House of Lords in 1999 in the first stage of reforms. In 2003 the government proposed stripping the prime minister of the powers to decide how many peers are created, but the package was put on hold amid opposition to the idea of an all-appointed House of Lords. Bookmark with: Delicious.