

**The House of Lords in 2005: A More
Representative and Assertive Chamber?**

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February 2006

ISBN: 1 903 903 47 5

Published by The Constitution Unit
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First Published February 2006

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Preface

The House of Lords is the subject of almost constant attention. However, most of this attention focuses on the prospects for its reform. There is relatively little discussion about how the Lords operates now, and what its impact is on policy and politics. Similarly, the effect of the reform that has already taken place - in 1999, to remove the bulk of the hereditary peers - is little examined. Instead the chamber is seen as being constantly in a transitional state, always awaiting the next stage of its reform. As such it is widely deemed inadequate, often dubbed 'weak', and generally passed over since it is not expected to be around in its present form too much longer.

The irony is that this has been the case not just since 1997, but through most of the twentieth century. During that time the Lords underwent a series of reforms, each considered minimal and short term. Yet some of these - notably the passage of the Parliament Acts in 1911 and 1949 and the creation of life peers in 1958 - made a substantial difference to how the chamber operated and how it was perceived. And all of these reforms, despite their intent as stopgap measures, continue to define the powers and membership of the chamber today.

We should then question whether the reform of 1999 might similarly prove less than minimal. This is a question of importance in its own right, but doubly so if it turns out that we wait as long for the next stage of reform as we waited for the last. The question is the focus of a research project at the Constitution Unit funded by the ESRC (grant no. RES-000-23-0597) running from 2004 to 2007.¹ This briefing is a product of the project.

In this briefing we look at the work of the House of Lords in the calendar year 2005. We argue that it may in retrospect be seen to be an important year for the development of the Lords. The chamber proved to be assertive in its treatment of government legislation, became more representative in its membership, and ended the year with new friends on the liberal left as well as the traditional conservative right. Although the story presented here ends in December 2005 (due to the origins of the briefing - see below), more recent events appear to bear out our conclusions. In particular, the government in February suffered two defeats in the House of Commons on the Racial and Religious Hatred Bill - with Labour rebels prepared to back amendments to the bill made by the House of Lords. Shortly afterwards the government announced that it would not seek to reverse key defeats to the Identity Cards Bill made in the Lords, presumably in fear of this behaviour being repeated. It remains early days to assess whether the House of Lords is a stronger and more supported institution than it was before 1999, but the evidence is certainly gathering. We suggest that this has the potential to change two of the fundamentals of British politics - the party system (in terms of the role of third and minor parties) and the relationship between parliament and the executive.

The text of this briefing (minus appendices) is due to appear shortly as a chapter in *The Palgrave Review of British Politics, 2005* edited by Michael Rush and Philip Giddings (Basingstoke: Palgrave). We are grateful to the publishers for their permission to publish it in this form.

¹ See <http://www.ucl.ac.uk/constitution-unit/research/parliament/house-of-lords.html> for further details of the project and its outputs.

Summary of key points

- There was no progress on Lords reform during 2005. Labour opinion remained split, and the party's manifesto promised another free vote on composition alongside a cut to the Lords' delaying power. But no firm action followed. The Conservatives may be equally split, but new leader David Cameron appointed Ken Clarke (co-author of proposals published early in the year to create a largely elected House) as co-ordinator of a party taskforce on democracy.
- The election of the third Labour government in May on only 35 percent of the vote, which delivered 55 percent of House of Commons seats, led to renewed questioning of the legitimacy of government seeking to get its legislation through parliament unamended. This point was particularly stressed by the Liberal Democrats (long time supporters of PR) who used it to renounce the 'Salisbury convention' whereby the House of Lords should not block government manifesto measures. These claims were helped by the fact that the Lords is now more representative in party terms - indeed reflecting the balance of general election vote shares more closely than does the House of Commons.
- Changes in membership of the Lords in the year included 46 new appointees and 21 deaths and retirements (see appendices for details). The size of the chamber therefore continues to grow, seemingly inexorably. The balance of power continues to be held by the Liberal Democrats and Crossbenchers, but there is growing interest in membership amongst the minor parties.
- The year saw the biggest row between the government and the Lords since the early twentieth century, over the Prevention of Terrorism Bill. This resulted in 18 government defeats, some very large, significant rebellions amongst Labour peers, and the longest parliamentary sitting day on record. Despite government attempts, the Lords appeared not to be undermined by this disagreement, but if anything strengthened.
- Due to the peculiar nature of an election year, and the very specific circumstances around this bill, it is difficult to draw firm conclusions about changes in the Lords impact over the year. But it can be argued that the Commons defeats over the new Terrorism Bill in November took place 'in the shadow' of likely Lords defeats. This and other events over the year (reinforced in early 2006) demonstrated that a stronger upper house may not undermine the strength of the lower house but boost it - if the two chambers choose to act in partnership.
- One product of a strengthening of the Lords is a strengthening of the Liberal Democrats, who in practice generally hold the balance of power in the chamber. As a result they had unprecedented access into discussions over key legislation during the year.
- Not only the Salisbury Convention but the convention that the Lords does not block delegated legislation came under strain during the year. If the government seeks to implement controversial policies using this route, there is a real threat that the convention will be broken.
- If the Lords is indeed strengthening there is evidence that the public are comfortable with this situation. Research by the Constitution Unit shows that two-thirds of the public believe the Lords is justified in voting down measures that are unpopular or on which Labour MPs have rebelled. These views are shared by a majority of Labour voters and even of Labour MPs. In these circumstances attempts by government to stifle the powers of the Lords (as was suggested in the manifesto) may prove politically impossible to achieve.
- Thus there was no seismic change in the House of Lords in 2005, in terms of reform. However a series of small changes mean that whilst on the surface all remains the same, at a deeper level maybe everything may have changed.

Introduction

The year 2005 may well be seen as highly significant for the House of Lords, though not for reasons that might have been expected. During Labour's first term of office, and the early part of its second, many had hoped that this general election would see the first directly-elected members of the UK's second chamber. However, thanks to lack of agreement over Lords reform, this did not occur. Neither Labour's 2005 manifesto nor post-election announcements provided any greater prospect of reform in the third term. If anything, a settlement looked further away than ever. By 2005, the notion that the chamber, dubbed 'transitional' in 1999 (with the departure of most hereditary peers), might continue to exist for many years was starting to take hold.

None of this, however, prevented it being a year of important change for the House of Lords. Indeed almost the reverse. 2005 witnessed the biggest row between the government and the peers since the start of the twentieth century, leading to the biggest defeats in the Lords since Labour came to power, and the longest parliamentary sitting day on record. These and other events suggested that the chamber was growing increasingly assertive. Intrinsicly linked to this were compositional issues. Labour returned to power on the smallest share of the vote ever recorded for a government in a British election, but concurrently became the largest party in the Lords for the first time. This led to increasing questioning of the convention that governments should get their way - particularly from the Liberal Democrats, whose votes are pivotal in the chamber. By the end of the year it seemed that on the surface everything remained the same in the House of Lords, but at a deeper level everything might have changed. This had implications for government and the House of Commons, and even for the party system, as well as for the Lords itself.

Lords reform doesn't happen (again)

Early in the year, the impending general election provided a new focus for debates about Lords reform. Eight years in, there had already been three government white papers, a royal commission report, and another from a joint committee of MPs and peers, whose proposals were subject to 'free' votes in both Houses of Parliament.² The Labour manifestos of 1997 and 2001 had promised further reform following the removal of most hereditary peers. Yet no firm conclusions had been reached and no further action taken.

In February 2005, a cross-party group of senior parliamentarians sought to 'break the deadlock', by publishing a detailed report and draft bill.³ They attempted to build on the points of agreement in earlier reports, and the perceived 'centre of gravity' around a largely-elected House amongst both MPs and the public. The group was co-ordinated by Liberal Democrat Shadow Leader of the Commons, Paul Tyler, along with his former opposite numbers Robin Cook (Labour) and George Young (Conservative), plus Labour's Tony Wright and Conservative Kenneth Clarke.⁴ Their central recommendation was for a 70 per cent elected chamber, using proportional representation, with members serving the equivalent of three House of Commons' terms. The rest would be appointed, mostly chosen by a statutory appointments commission and taking no party whip, but with a maximum of four per Parliament selected by the Prime Minister to serve as ministers. No immediate change was proposed to the chamber's powers, but reform of the legislative process might follow, once the compositional changes had bedded down.

² See P. Norton, 'Reform of the House of Lords: A View from the Parapets', *Representation*, 40 (2004) 185-99. Or for a summary see the report at Note 3.

³ K. Clarke, R. Cook, P. Tyler, T. Wright and G. Young, *Reforming the House of Lords: Breaking the Deadlock* (London: Constitution Unit, 2005).

⁴ 28 other senior figures also endorsed the report, including former Labour leader Neil (now Lord) Kinnock and former Conservative leader William Hague.

The group's Second Chamber of Parliament Bill was introduced by Paul Tyler, but had no chance of making progress before the Parliament's dissolution in April.⁵ However, the real aim was to influence party manifestos for the May general election. In this, the opposition parties proved more receptive than Labour. The Liberal Democrat manifesto promised to 'replace [the Lords] with a predominantly elected second chamber', and the Conservatives that they would 'seek cross-party consensus for a substantially elected House of Lords'. In contrast to these brief statements, the Labour manifesto included a long section on Lords reform, but with rather different objectives. The commitment to remove the remaining hereditary peers (which appeared in the 2001 manifesto) was repeated, and a free vote was again promised on composition. More concretely, the manifesto promised to 'seek agreement on codifying the key conventions of the Lords' and 'legislate to place reasonable limits on the time bills spend in the second chamber - no longer than 60 sitting days for most bills',⁶ but inclusion of this level of detail was aimed less at the general public than at the Lords itself. Under the post-1945 'Salisbury convention', it has been generally accepted that the chamber should not block government manifesto commitments. Proposals to reduce the Lords' powers seemed certain to aggravate peers, but these public statements could later be called in the government's defence.

Even these proposals were not progressed when parliament resumed after the election. The Queen's Speech made no mention of a bill and, instead, a new joint committee was promised, to consider Lords' procedure and powers. This had still not been established by the end of the year. In October, the Lord Chancellor, Lord Falconer, promised the Labour Party Conference that a bill would follow in the 2006-07 session. However, similar promises in 2003 (including in the Queen's Speech itself) had never been acted upon.

The continuing inaction over reform reflected profound differences within the governing party. The Labour manifesto insisted that 'a reformed Upper Chamber must be effective, legitimate and more representative without challenging the primacy of the House of Commons'. A more detailed Labour Party discussion paper struggled to reconcile commitments to protect Commons' primacy with making the chamber 'as democratic as possible'.⁷ In truth, Labour was split between those who aspired to reform the Lords to make it weaker, allowing government bills to pass easily, and those who prioritised a more democratic composition, which would tend to make it stronger. Although there might have been consensus in the party on the need for reform, the objectives of reformers were diametrically opposed.

Labour's indecision enabled the Conservative Party to benefit by pointing to inaction, without having to confront its own similar internal splits – carefully masked by the guarded words in its manifesto.⁸ But on balance the prospect of a stronger, elected, chamber has become more attractive to the Conservatives the longer they remain in opposition, and the further from this position Labour ministers get. All four candidates in the party's leadership contest had supported a majority elected second chamber in 2003 and after his victory David Cameron appointed Ken

⁵ Considering what had gone before, and what followed, the government's response to the proposals was surprisingly generous. In a debate in Westminster Hall David Lammy, junior minister at the Department for Constitutional Affairs, described the report as a 'serious contribution to the debate which deserves ... appreciative consideration' (HC Debs., 23 February 2005, c. 93WH).

⁶ These proposals largely reflected the recommendations of a committee of Labour peers: Labour Peers Working Group on House of Lords Reform, *Reform of the Powers, Procedures and Conventions of the House of Lords*, July 2004, debated in the Lords on 26 January 2005.

⁷ The Labour Party, *House of Lords Reform: The Next Steps*, Discussion paper from the Crime, Justice, Citizenship and Equalities Policy Commission (London: Labour Party, March 2005). The words 'as democratic as possible' resulted from a decision of the 2004 Party Conference, reluctantly accepted by ministers.

⁸ Also demonstrated by votes in the Commons in 2003. Here Conservative MPs were split roughly 50:50 on the option of a largely-elected chamber. See I. McLean, A. Spirling and M. Russell, 'None of the Above: The UK House of Commons votes on reforming the House of Lords', *Political Quarterly*, 74 (2003) 298-310.

Clarke, a well known proponent of this view, to head a taskforce reviewing policy on constitutional issues.⁹

On the Labour side too, interest has focused on the views of a potential new leader, and whether change at the top could break the logjam on Lords reform. As Gordon Brown was the only Cabinet minister absent when the Commons voted on the issue in February 2003, his own position remained ambiguous. By 2005, many reformers had come to see him as their best hope, particularly given that this was an issue where he could define himself against the perceived failures of Tony Blair. Should this attract Brown, the Tyler group proposals may yet be resurrected, as the package closest to a consensual path through the morass. As the group claimed, there appears to be a latent majority in the Commons for a largely-elected chamber, so supporting this could win the Chancellor many friends. But there are also many powerful opponents of this approach, some of whom (not least in the Labour whips’ office), a future premier would be brave to take on.

Changing composition: a more representative chamber?

Although conventional reform remained stalled, there were important changes to the composition of the House of Lords, influencing perceptions both inside and outside. The year 2005 saw 46 new additions to the chamber in total. The largest group resulted from the dissolution honours list, which added 27 retiring MPs – 16 Labour, six Conservative and five Liberal Democrat. The only previous political appointees in 2005 had been the two retiring European Commissioners, Neil Kinnock (Labour) and Chris Patten (Conservative). More controversially, immediately after the election, the former Downing Street adviser Andrew Adonis was appointed a junior education minister and made a peer. Twelve new life peers also joined the Crossbenches during the year. Most were chosen by the House of Lords Appointments Commission, responsible from 2000 for adding ‘independent’ members to the chamber. A slightly unseemly scrap emerged early in the year, with the Commission privately expressing unhappiness at the Prime Minister’s habit of cutting across its role by directly appointing retiring senior office-holders as peers. (The last were David Hope, the outgoing Archbishop of York, and John Stevens, former Commissioner of the Metropolitan Police, in January.) Responding to these concerns, Downing Street issued a statement that in future there would be no more than ten such appointments per Parliament. The next similar members were chosen in March by the Commission rather than Number 10.¹⁰ The Commission’s third ‘main’ batch of five peers was then added to the chamber in July. See Table 1 and Appendix A for details of new members added during the year.

Table 1: New members of the House of Lords, 2005

Affiliation	Route of entry						Total
	Prime Minister	Appoint. Comm.	Hereditary Byelection	Dissolution honours	Lord of Appeal	Bishop	
Conservative	1		2	6			9
Labour	2			16			18
Lib. Dem.			1	5			6
Crossbench	3	7	1		1		12
Bishop						1	1
Totals	6	7	4	27	1	1	46

⁹ David Cameron, David Davis and Liam Fox all voted for an 80 per cent elected House in February 2003. Ken Clarke was absent from the vote, but his position was well known.

¹⁰ These were Dame Rene Fritchie, retiring Commissioner for Public Appointments and David Ramsbotham, retiring Chief Inspector of Prisons. The Number 10 appointments, however, began again immediately after the election, with the ennoblement of Sir Andrew Turnbull, former Cabinet Secretary.

By the end of December 2005 the chamber had 719 members, as shown in Table 2, significantly more than the 666 entitled to sit after the hereditaries departed in 1999. Despite 21 deaths (see Appendix B), new appointments continue to increase the size of the chamber inexorably. This is not helped by the system of by-elections built into the 1999 Act to replace hereditary members who die. Four new members entered the chamber via this route in 2005.¹¹

Table 2: Composition of the House of Lords, 1 January 2006

Affiliation	Life Peers	Hereditary Peers	Serving Law Lords	Bishops	Total
Conservative	156	49	0	0	205
Labour	206	4	0	0	210
Lib. Dem.	69	5	0	0	74
Crossbench [†]	149	32	12	0	193
Bishops	0	0	0	26	26
Other [‡]	9	2	0	0	11
Total	589	92	12	26	719

Source: House of Lords website

[†] Including eight Ulster Unionist Party members and one Plaid Cymru member, who by convention sit as Crossbenchers.

[‡] This group largely comprises members who have left one of the main parties, and it includes one member representing the Green Party.

As a result of the various changes, Labour became the largest party in the Lords, although the balance of power continued to be held by the Liberal Democrats, Crossbenchers, and others. In fact, since the departure of the bulk of hereditaries, the balance in the Lords has more closely reflected general election vote shares than does the House of Commons. The discrepancy continued after the 2005 election, where Labour won 55 per cent of Commons seats on a little over 35 per cent of the vote. A crude application of the deviation from proportionality (DV) measure (representing the proportion of seats held by the ‘wrong’ political party when compared with vote shares) to party members in both Houses gives a Commons score of 20.4, compared to a Lords score of 16.8.¹² The presence of a large number of independents and others in the Lords confuses such a calculation. But arguably the 31 per cent of the chamber made up by these members approximates well to the 38 per cent of the electorate who did not vote at all.

Despite being unelected, the notion that the House of Lords is now a ‘representative’ chamber – perhaps even more representative than the House of Commons – has thus grown in currency. The extent of this feeling was reflected by debates in the minor as well as the major parties. Following its strong performance at the general election, the Democratic Unionist Party of Northern Ireland launched a noisy claim that it was entitled to seats in the House of Lords. Its rival the Ulster Unionist Party already had eight members (who by convention sit with the Crossbenchers), whilst the DUP had none. Similarly, the Scottish Nationalist Party, traditionally scornful of the idea of taking seats in the Lords, debated at its conference whether this policy

¹¹ For details of the byelection system see D. Shell, ‘Labour and the House of Lords: A Case Study in Constitutional Reform’, *Parliamentary Affairs*, 52 (2000) 429-441.

¹² See P. Dunleavy and H. Margetts, ‘The Experiential Approach to Auditing Democracy’ in D. Beetham (ed.) *Defining and Measuring Democracy* (London: Sage, 1994). The measure sums the absolute difference between proportion of seats in the legislature and proportion of votes cast for each party, and divides by two. The relatively high score for the Lords is partly because of its poor representation of minor parties. If a similar calculation is applied to only the three main parties, the Commons scores 16.9 and the Lords 11.4.

should be dropped. Although the party ultimately decided against change, it too embraced the notion that it was 'owed' a certain number of seats by virtue of its general election votes.

The most vocal group on the implications of the new pattern of representation in the Lords, however, was the Liberal Democrats. Holding 15 per cent of party seats, and given the relatively low propensity of the Crossbenchers to vote, in practice they generally hold the balance of power. When the Liberal Democrats vote with the government in the Lords, it generally wins; when they vote with the Conservatives, it generally loses. Only 13 of the 293 government defeats in the Lords since 1999 occurred despite Liberal Democrat support.

A change of attitude by the Liberal Democrats is thus highly significant, and just such a change was seen in the latter part of 2005. Given the government's poor share of the general election vote, the Lib Dems – long committed to proportional representation – started to question Labour's legitimacy to force through its policies. In particular the conventions of the House of Lords came increasingly into doubt. As the then party leader, Charles Kennedy, said in his response to the Queen's Speech in the House of Commons:

Since 1947, the House of Lords has operated the Salisbury convention, which recognises that back then, nearly 60 years ago, there was a majority Labour Government but an overwhelmingly Conservative hereditary-dominated House of Lords. ... in those days the Labour majority in this House was 146, supported by 48 per cent of the popular vote cast at that election. What a far cry from where we find ourselves today in this House – but also what a far cry from the position that the Prime Minister has set up in the other House, because now, for the first time in history, Labour is the largest single party in the House of Lords ... It is absolutely ridiculous that this Government should now fall back on a 60-year-old convention relating to absolutely different political circumstances in order to justify the contents of today's Queen's Speech.¹³

Such sentiments were strongly reiterated by the Liberal Democrat leader in the Lords, Lord McNally, who suggested that 'the continual plea to the Salisbury convention is the last refuge of legislative scoundrels'.¹⁴ The party's main concern was with civil liberties, particularly over anti-terrorism legislation, and national identity cards. As discussed below, these measures threatened to be extremely problematic for the government in the Lords. However, problems over civil liberties began even before the election, and the Liberal Democrat pronouncements, with respect to the Prevention of Terrorism Bill.

The Prevention of Terrorism Bill: a watershed or a one-off?

The Prevention of Terrorism Bill was a response to a Law Lords' ruling that the detention of foreign terror suspects under the 2001 Anti-Terrorism, Crime and Security Act was 'discriminatory and disproportionate'. The government then sought to give the Home Secretary powers to issue 'control orders', so that those who could not be deported or face trial could be subjected to house arrest or other lesser restrictions, such as limits on internet and mobile phone use.

This was a highly contentious bill, which the government sought to push through on a curtailed timetable before the existing powers under which detainees were held at Belmarsh prison expired. It faced an extremely bumpy ride in the Commons. In debate on the main stages on 28 February, the Home Secretary, Charles Clarke, indicated that there would be concessions, but infuriated

¹³ HC Debs., 17 May 2005, cc. 50-51.

¹⁴ HL Debs., 6 June 2005, c.760.

MPs by insisting that these would be made in the Lords, not the Commons. Consequently, 62 Labour MPs rebelled on a cross-party amendment requiring all control orders to be made on the authority of a court rather than ministers. This reduced the government's majority to 14, then the second smallest since 1997.¹⁵ Immediately afterwards, Robin Cook, appearing on *Newsnight*, suggested that the Commons had 'sent the House of Lords a message' that concessions should be sought. That such a senior Labour backbencher would appeal to the second chamber to defeat his government demonstrated the degree of change in the interaction between the Commons and the Lords.

When the bill reached the Lords, the government introduced amendments so that the most severe control orders, resulting in house arrest, would be issued by the courts and not politicians.¹⁶ However, this was insufficient for peers, who insisted that the courts should make all control orders. This was to be the biggest issue of principle when the bill was debated. Also highly controversial was the proposal by the opposition parties to insert a 'sunset clause', to ensure that the bill expired after a specified time.¹⁷ This, they argued, would enable a more considered bill to be fully debated, without the pressure of time created by the court ruling. Before the bill even entered Parliament there had been intense meetings between party leaders on these and other issues, which continued throughout. Notably the Liberal Democrats, despite their relative weakness in the Commons, attended these on an equal basis to the Conservatives, in silent recognition of their pivotal position in the Lords.

The Prevention of Terrorism Bill evoked a level of resistance from the second chamber unprecedented since the constitutional crisis sparked by Lloyd George's budget in 1909. In total there were 18 government defeats. Not just the number but the size of these was significant: only eight times since 1999 has the government lost by over 100 votes in the Lords, and six were on this bill.¹⁸ The scale of defeats reflected the strength of opinion across the chamber. The largest, on the inclusion of a sunset clause of 30 November 2005, saw the government lose by 187 votes. Indeed, it would still have done so if all Conservatives peers had abstained.¹⁹ This vote saw the largest rebellion amongst Labour peers since 1999 – 24 members, amongst them Lord Irvine, the former Lord Chancellor – and an unusually high turnout amongst Crossbench peers.²⁰ The defeats on the role of courts in the making of control orders attracted similar coalitions. The bill passed repeatedly from one chamber to the other, with the final session of 'ping pong' lasting a marathon 32 hours on 10-11 March²¹. Throughout, a small number of Labour MPs in the Commons supported the Lords' amendments. The final outcome was a compromise, whereby there was some judicial involvement in issuing all control orders, and the government promised to review the law within a year and bring in a more considered bill. Whilst not being written into the bill this was seen as a victory for its opponents. Labour MP Mark Fisher mischievously

¹⁵ P. Cowley, *The Rebels: How Blair Lost his Majority* (London: Politico's, 2005).

¹⁶ These were also referred to as 'derogating' control orders as they required derogation from the European Convention of Human Rights (ECHR).

¹⁷ Other disagreements between the government and the Lords included that the Lord Chief Justice (rather than the Lord Chancellor) should decide the rules of court and that these should be compatible with the ECHR, that the burden of proof needed to issue controls should be increased from 'suspicion' to a balance of probabilities test, and that those subject to control orders should continue to be able to claim social security benefits. See Appendix C.

¹⁸ The other two were on the Anti-Terrorism, Crime and Security Bill, 2002, where the Lords removed government proposals to create an offence of incitement to religious hatred, and the Communications Bill, 2003, to require that Ofcom prioritised the interests of the citizen over the consumer.

¹⁹ There were 110 votes for the government (102 Labour, seven crossbench and one other) and 297 against (24 Labour, 142 Conservative, 63 Liberal Democrat, 60 crossbench, four bishops and four others).

²⁰ Other Labour members voting in favour of the sunset clause included Lord Morris, a former Attorney General; crossbench supporters included Lord Donaldson, former Master of the Rolls, and Lord Condon, former Commissioner of the Metropolitan Police.

²¹ Note that this counted as one continuous parliamentary day, so the votes in Appendix C are all dated 10 March.

claimed that: ‘we have a sunset clause that “would smell as sweet” and sound as sweet “by any other name”’.²²

The row over the Prevention of Terrorism Bill was atypical in various ways. First, there were extraordinary time pressures on the government to enact the bill. Second, the confrontation took place when the general election was anticipated shortly, a situation which both government and opposition sought to turn to their advantage. It seemed that Tony Blair was relishing a fight with his opponents, to appear responsive to perceived populist pressure on terrorism. Conservative leader Michael Howard went so far as to suggest: ‘We have said that we will co-operate with the government if there is a sunset clause in the Bill. I have come to the conclusion that this Prime Minister wants this Bill to fail’.²³ The Prime Minister did little to dispel this impression, challenging the Conservatives, ‘If they want to vote against it, let them: we will be content ultimately to have the verdict of the country on it’.²⁴

But ministers presented this as much as a battle of strength between a government majority in the House of Commons and an intransigent House of Lords, as between government and opposition parties. Had Blair won such an argument, this could have strengthened his position in going to the country calling for a reduction in the upper chamber’s powers. His new Lord Chancellor, Lord Falconer, appealed to familiar sentiments when he addressed peers on the bill, arguing, ‘As a constitution, we accept the primacy of those in the Commons. Yes, you can disagree with them, and yes, you can ask them to listen again, but you must ultimately accept that the Commons is the prime House in our Parliament’.²⁵ This met with defiant opposition from his Conservative shadow, Lord Kingsland, who suggested that ‘the noble and learned Lord the Lord Chancellor chose to deliver to your Lordships’ House an ultimatum about the relative power of another place [the House of Commons] ... But we have our constitutional duty in this House, which has been given to us by, among other institutions, another place. It would be wholly wrong for us to shirk it’.²⁶

In the end it was not clear-cut who won this mammoth parliamentary battle. The government got its bill, albeit significantly amended and on the promise of a revised bill in the new parliamentary session. But in terms of moral authority, there was a strong body of opinion that backed the Lords – including many on the liberal left. Amongst the newspapers only *The Sun* and *The Express* failed to do so, with *The Independent* suggesting that it was ‘appropriate that ... the House of Lords, unelected though it is, should have cast itself as the guardian of our rights and liberties’.²⁷ The Lords had shown its capacity to provide a strong institutionalised opposition to the government and did not appear to have suffered greatly as a result. Indeed the stature of the chamber was probably enhanced. The threat of similar difficulties when the issues in the bill returned seemed very real.

Other legislation: continuity or change?

The bigger question is whether the Lords is growing more assertive over day-to-day government policy, and this is far more difficult to assess. Because of the election, the 2004-05 session was a short one and therefore, in some respects, unrepresentative of Lords’ behaviour. Continuity can be seen in the fact that (excluding the Prevention of Terrorism Bill) most defeats the Lords inflicted were successfully overturned in the Commons. Time constraints meant the government had to drop eleven bills in April, one of which – the Identity Cards Bill – had promised to be

²² HC Debs., 10 March 2005, cc. 1865-6.

²³ HC Debs 9 March 2005, c. 1512.

²⁴ Ibid.

²⁵ HL Debs., 10 March 2005, c. 1001.

²⁶ HL Debs., 10 March 2005, c. 1003.

²⁷ *The Independent*, 12 March 2005.

particularly contentious. By the end of the session there had been 37 defeats (see Table 3), compared to 64 in 2003-04. However, the better comparator is the short session prior to the 2001 election, when there were 40 Lords divisions and only two defeats. In 2004-5, in contrast, there were 67 divisions, more than half of which resulted in defeat. Even after divisions on the Prevention of Terrorism Bill are subtracted, the government still lost 19 votes in this session. This is a dangerously small data set on which to detect a trend, but it does little to counter the notion of a more assertive chamber.

Table 3: Government defeats in the House of Lords, 2005*

Subject	Calendar year 2005	2004-05 session total
<i>2004-5 session business</i>		
Commissioners for Revenue and Customs Bill	2	2
Constitutional Reform Bill	2	4
Disability Discrimination Bill	1	1
Education Bill	5	5
Gambling Bill	1	1
Inquiries Bill	2	2
Prevention of Terrorism Bill	18	18
Public Services Ombudsman (Wales) Bill	1	1
Railways Bill	2	2
Motions and other business	1	1
Total	35	37
<i>2005-6 session business</i>		
Charities Bill	1	
Criminal Defence Service Bill	1	
Equality Bill	1	
Identity Cards Bill	1	
Racial and Religious Hatred Bill	1	
Road Safety Bill	4	
Motions and other business	1	
Total	10	
Grand Total for 2005 Calendar Year	45	

* Details of all defeats in the calendar year are listed in Appendix C.

The two bills on which the government faced ‘ping pong’ at the end of the 2004-05 session both illustrated interesting trends. The first was the Constitutional Reform Bill, which sought to abolish the office of Lord Chancellor and establish a new Supreme Court to take on the judicial functions of the House of Lords. On its introduction in 2004, it had prompted hostility in the chamber, resulting in an extraordinary vote at second reading to refer it to a select committee. Following the committee’s report, the Lords had voted that the office of Lord Chancellor should be retained. This was conceded by the government. In 2004 and early 2005, defeats were inflicted by a coalition of Conservative and Crossbench peers, insisting that the Lord Chancellor remain a member of the Lords and a senior lawyer. On this the government, backed by the Liberal Democrats, held firm. If the Lords had a victory, therefore, it was largely symbolic. As the Lord Chancellor could in future be an MP, it also meant that the chamber could find itself without a presiding officer. A committee to consider a possible Speaker for the Lords was therefore

reconvened and asked to report by 31 December.²⁸ Some peers expressed concern that the tradition of ‘self-regulation’ in the chamber would be eroded, but the government is in no position to force an outcome on peers, who will decide the matter themselves.

The second subject of ‘ping pong’ was the Inquiries Bill, setting out procedures for the establishment of inquiries into matters of public concern, such as the recent Hutton and Butler investigations into aspects of the Iraq war. In a report published shortly after the bill,²⁹ the House of Commons Public Administration Select Committee (PASC) recommended a draft amendment stipulating that the terms of reference of inquiries into ministerial misconduct should be set by Parliament, not by ministers. It also backed the Lord Chief Justice’s proposal that he should have a veto over which inquiries judges should chair. The bill started in the Lords and appropriate amendments were tabled by Conservative and Liberal Democrat peers. In both cases the government was defeated. But when the bill reached the Commons, shortly before the end of the session, these defeats were reversed. At third reading an amendment was tabled by PASC members Tony Wright and Anne Campbell on the first of these matters, but later withdrawn (in part due to pressure of time). Thus, on its return to the Lords, the government, argued that the bill had no ‘bouncebackability’, and that peers should not press the point, as PASC members were now prepared to back the bill.³⁰ Consequently, the Liberal Democrats withdrew their support for the amendments. Here the Lords had again pursued MPs’ concerns on a bill but, in Robin Cook’s words, the Commons had not ‘sent the Lords a message’ that was loud enough.³¹ Ironically, Tony Wright himself had often indicated how Labour MPs reluctantly vote for government measures, knowing that ‘the Lords will sort it out’.³² On this occasion the Lords demonstrated its reluctance to ‘sort it out’ on its own, once a measure had been abandoned by its Commons proponents.

The 2005-6 parliamentary session held many prospects for trouble in the Lords, but they remained largely untested by the end of the calendar year. The legislative programme included the controversial Identity Cards Bill, as well as the new Terrorism Bill and Racial and Religious Hatred Bill. All faced a potentially rocky passage in the Lords. Attempts to create an offence of incitement to religious hatred had twice been decisively defeated by peers in 2001 and were subsequently dropped.³³ There were major campaigns against the proposal and a small rebellion amongst Labour MPs. The government suffered an unusually large defeat during the Lords committee stage on a cross-party amendment to tighten up the definition of religious hatred - losing by 145 votes. On both ID cards and terrorism, the government sought to head off trouble by making concessions before the bills were introduced. On the latter, a new offence of ‘glorifying’ terrorism was initially proposed, but was amended following resistance by opposition parties and senior judges. (Such cases indicate the difficulty of measuring the Lords’ power, in that much of Parliament’s real influence comes through preventing measures ever being introduced, rather than through defeats.) Nonetheless, the Commons defeated the government in November over the proposals in the bill to hold terrorist suspects without charge for up to 90 days. This defeat can be seen to have taken place ‘in the shadow’ of potential Lords opposition. It was fairly clear, given the events earlier in the year, that the peers would defeat the measure if it

²⁸ The committee had initially been established in July 2003, shortly after the planned abolition of the Lord Chancellor had been announced. Its first report was published that November: Report of the Committee on the Speakership of the House, *The Speakership of the House of Lords*, HL 199, 2002-03.

²⁹ Public Administration Select Committee, *Government by Inquiry*, HC 51-I, 2004-05.

³⁰ Baroness Ashton of Upholland, HL Debs., 7 April 2005, c. 891.

³¹ Events might have developed differently had the matter come before the Commons with more opportunity for debate, but the imminence of the election allowed ministers to tell MPs that the whole bill would be lost if the amendments were pressed.

³² For example speaking on the House of Lords Reform Bill: HC Debs., 21 January 2003, c. 217.

³³ The government had attempted to add the clause to the Anti-Terrorism, Crime and Security Bill but was defeated by 99 votes at report stage and 113 votes during ‘ping pong’.

reached them. MPs could either wait for this to happen, or they could deal with the matter themselves. Strengthened in the knowledge that defeat would occur in either case (and of course by the narrower Commons majority) they chose to take the latter course. On other matters in the bill, notably the amended glorification clause, MPs expressed discontent but ultimately backed down. By the end of the year this remained for the Lords to sort out.

Finally, there was an unusual level of tension over delegated legislation, where the Lords has a power of veto which, by convention, it does not use. The biggest incident concerned implementing controversial measures liberalising drinking hours under the Licensing Act 2003, which depended on an order-making power. In November, the opposition parties tried to block the necessary order in the Commons, threatening to throw the new licensing regime into disarray. There were strong rumours that the order would be defeated in the Lords, but in the end peers contented themselves with defeating the government on a motion condemning the order, rather than the order itself. Equally tense was the question of a proposed order under the Criminal Justice Act 2003 to restrict the right to trial by jury in complex fraud cases. The government had gained this order-making power as part of a compromise with the Lords over the original bill, following repeated defeats on the issue. However, when ministers announced their intention to use the power, there were threats that the order would be defeated. This time the government chose not to take the risk, and the proposal was dropped. In both cases the Lords' threats were therefore not carried through, but it was significant that they were made at all. Like other conventions, the chamber's self-denying ordinance on delegated legislation looked increasingly under strain. Should government continue to use this 'back-door' route for contentious measures, it should soon be expected to snap.

Conclusion

To sum up, 2005 may be remembered as a year in which changing perceptions of the House of Lords were translated into real changes in its behaviour. In turn, more confident action by unelected peers over controversial measures changed the way in which the chamber was viewed. It ended the year seeming stronger and more assertive, and – thanks to the civil liberties focus of many of the year's controversies – with new friends on the liberal left as well as the more traditional conservative right.

The strengthening of the second chamber has often been presented as a threat to the elected House of Commons. However, events this year showed it might instead lead to a strengthening of Parliament as a whole. Issues on which the chamber most firmly challenged government reflected the concerns of MPs, and splits in the governing party. Backbench Labour opinion (demonstrated through rebellions) has, like public opinion, the capacity to boost the chamber's sense of legitimacy in demanding policy change. The capacity for the Commons and the 'semi reformed' Lords to assert themselves in partnership – as they did over the terrorism bills - could thus re-enliven Parliament as a whole.

The group most obviously benefiting from these developments is the Liberal Democrats, who now hold the balance of power on most issues in the Lords. Despite the government's majority in the Commons, this means the third party can no longer be dismissed as peripheral in parliamentary affairs. Speeches from frontbench Liberal Democrat MPs must be listened to carefully, if only to discern how a measure will fare in the upper house. The party has won influence without the electoral reform that it has long championed, thanks to the new dynamics in the House of Lords. Its senior representatives – including those in the House of Commons – now have unprecedented seats at the negotiating table on major issues. The Lords, though remaining unelected, has thus shown its capacity to alter the dynamics of the party system, as well as Parliament itself.

The perceived greater representativeness of the second chamber has put great pressure on its conventions. Controversial measures in Labour's (unusually long and detailed) manifesto may yet lead to their total collapse. Aspirations to codify the conventions appear doomed, through lack of political agreement – never minding the sheer technical complexity. But larger-scale reform also remains unlikely. Both main parties are split over issues of composition, whilst proposals to limit the chamber's powers would meet with major resistance in the Lords itself. Labour's manifesto commitment to limit the chamber's time for consideration of legislation caused Liberal Democrat Leader Lord McNally to pledge repeatedly to 'use every power at my disposal, irrespective of the Salisbury convention' to preserve the powers of the current House.³⁴

The new dynamic of the House of Lords may therefore alter British politics in fundamental ways and prove difficult to reverse. Meanwhile, despite continuing dissatisfaction with the undemocratic basis of the chamber, this appears to suit the public. Survey evidence released by the Constitution Unit in December 2005 showed that two-thirds of the public believed the Lords was justified in voting down measures that were unpopular or on which Labour MPs had rebelled. These views were shared by a majority of Labour voters, and even of Labour MPs.³⁵ Unless this changes, governments of either colour may find it hard to suppress the will of the House of Lords.

³⁴ HL Debs., 6 June 2005, c.759-60.

³⁵ See <http://www.ucl.ac.uk/constitution-unit/research/parliament/house-of-lords.html>

Appendix A: New members of the House of Lords in 2005

Date took oath	Lords name	Party	Previous name	Route entered House†	Notes
19/01/2005	Lord Patten of Barnes	Conservative	Chris Patten	PM	Ex European Commissioner
31/01/2005	Lord Kinnock	Labour	Neil Kinnock	PM	Ex European Commissioner
25/01/2005	Earl Glasgow	Lib Dem	Earl Glasgow	HBE	Replaced Earl Russell
15/03/2005	Lord De Mauley	Conservative	Lord De Mauley	HBE	Replaced Lord Burnham
04/04/2005	Viscount Eccles	Conservative	Viscount Eccles	HBE	Replaced Lord Aberdare
21/06/2005	Lord Hope of Thornes	Crossbench	David Hope	PM	Ex Archbishop of York
23/05/2005	Lord Adonis	Labour	Andrew Adonis	PM	Ex Downing St adviser
23/05/2005	Lord Ramsbotham	Crossbench	David Ramsbotham	APC	Ex Chief Inspector of Prisons
24/05/2005	Lord Stevens of Kirkwhelpington	Crossbench	John Stevens	PM	Ex Metropolitan Police Commissioner
14/06/2005	Lord Kirkwood of Kirkhope	Lib Dem	Archy Kirkwood MP	DH	
14/06/2005	Baroness Taylor of Bolton	Labour	Ann Taylor MP	DH	
15/06/2005	Lord O'Neill of Clackmannan	Labour	Martin O'Neill MP	DH	
15/06/2005	Lord Tyler	Lib Dem	Paul Tyler MP	DH	
21/06/2005	Baroness Morris of Yardley	Labour	Estelle Morris MP	DH	
22/06/2005	Lord Howarth of Newport	Labour	Alan Howarth MP	DH	
22/06/2005	Lord Foster of Bishop Auckland	Labour	Derek Foster MP	DH	
27/06/2005	Lord Chidgey	Lib Dem	David Chidgey MP	DH	
27/06/2005	Baroness Tonge	Lib Dem	Jenny Tonge MP	DH	
28/06/2005	Lord Foulkes of Cumnock	Labour	George Foulkes MP	DH	
28/06/2005	Lord Hamilton of Epsom	Conservative	Archy Hamilton MP	DH	
28/06/2005	Viscount Montgomery of Alamein	Crossbench	Viscount Montgomery	HBE	Replaced Baroness Strange
29/06/2005	Lord Jones of Cheltenham	Lib Dem	Nigel Jones MP	DH	
29/06/2005	Baroness Shepherd of Northwold	Conservative	Gillian Shepherd MP	DH	
04/07/2005	Lord Stratford	Labour	Tony Banks MP	DH	
04/07/2005	Lord Lyell of Markyate	Conservative	Nicholas Lyell*	DH	
05/07/2005	Lord Bilston	Labour	Dennis Turner MP	DH	

Date took oath	Lords name	Party	Previous Name	Route entered House†	Notes
05/07/2005	Lord Moonie	Labour	George Moonie MP	DH	
06/07/2005	Baroness Bottomley of Nettlestone	Conservative	Virginia Bottomley MP	DH	
06/07/2005	Lord Mawhinney	Conservative	Brian Mawhinney MP	DH	
13/07/2005	Baroness Clark of Calton	Labour	Lynda Clark MP	DH	
13/07/2005	Lord Soley	Labour	Clive Soley MP	DH	
18/07/2005	Lord Smith of Finsbury	Labour	Chris Smith MP	DH	
18/07/2005	Baroness Adams of Craigielea	Labour	Irene Adams MP	DH	
19/07/2005	Baroness Fritchie	Crossbench	Dame Rennie Fritchie	APC	Ex Commissioner for Public Appointments
19/07/2005	Lord Anderson of Swansea	Labour	Donald Anderson MP	DH	
20/07/2005	Baroness Corston	Labour	Jean Corston MP	DH	
20/07/2005	Lord Goodlad	Conservative	Alastair Goodlad MP	DH	
11/10/2005	Lord Cunningham of Felling	Labour	Jack Cunningham MP	DH	
12/10/2005	Lord Mance	Crossbench	Lord Justice Mance	LOA	
12/10/2005	Lord Turner of Ecchinswell	Crossbench	Adair Turner	APC	Ex Director of CBI
17/10/2005	Bishop of Exeter	Bishop	Bishop of Exeter	B	Replaced retiring Bishop of Derby
18/10/2005	Lord Rees of Ludlow	Crossbench	Sir Martin Rees	APC	President of the Royal Society
25/10/2005	Baroness Deech	Crossbench	Ruth Deech	APC	
25/10/2005	Baroness Valentine	Crossbench	Jo Valentine	APC	
06/12/2005	Lord Hastings of Scarisbrick	Crossbench	Michael Hastings	APC	
07/12/2005	Lord Turnbull	Crossbench	Andrew Turnbull	PM	Retiring Cabinet Secretary

† Key: PM = Prime Minister's Appointment, HBE = Hereditary Byelection, APC = Appointments Commission, DH = Dissolution Honours, LOA = Lord of Appeal, B = Bishop

* Nicholas Lyell left the House of Commons in 2001

Appendix B: Deaths and retirements in 2005

Death/Retired Date	Name	Party	Type†
01/01/2005	Lord Burnham	Conservative	HP
23/01/2005	Lord Aberdare	Conservative	HD
28/02/2005	Archbishop of York*	Bishop	B
05/03/2005	Lord Sheppard of Liverpool	Labour	L
11/03/2005	Baroness Strange	Crossbench	HP
26/03/2005	Lord Callaghan of Cardiff	Labour	L
30/03/2005	Lord Roll of Ipsden	Crossbench	L
18/04/2005	Lord Bruce of Donington	Labour	L
26/04/2005	Lord Campbell of Croy	Conservative	L
28/04/2005	Lord Orme	Labour	L
25/05/2005	Lord Trotman	Crossbench	L
31/05/2005	Bishop of Derby*	Bishop	B
31/05/2005	Baroness Blatch	Conservative	L
12/07/2005	Lord King of Wartnaby	Other	L
14/07/2005	Lord Carlisle of Bucklow	Conservative	L
16/08/2005	Lord Whaddon	Labour	L
21/08/2005	Lord Lane	Crossbench	LOA
26/08/2005	Lord Fitt	Other	L
31/08/2005	Lord Donaldson of Lymington	Crossbench	L
06/11/2005	Lord Alexander of Weedon	Conservative	L
03/12/2005	Lord Belstead	Conservative	L
16/12/2005	Lord Barber	Conservative	L
18/12/2005	Baroness Fisher of Rednal	Labour	L

† Key: B = Bishop, HD = Hereditary Peer elected to serve as Deputy Chairman, HP = Hereditary Peer elected by party, L = Life Peer under the Life Peerages Act 1958, LOA = Lord of Appeal.

* Retired.

Appendix C: Government defeats in the House of Lords in 2005

Date of Division	Bill	Subject	Govt majority
08/02/2005	Disability Discrimination Bill	To require that people diagnosed as suffering from depression for at least six months must be treated as having long-term impairment	-7
10/02/2005	Public Services Ombudsman (Wales) Bill	To give a public authority the right to appeal an ombudsman report to an independent adjudicator before the report is made to the Welsh Assembly	-5
21/02/2005	Education Bill	To ensure that the list of those who are given permission to inspect schools will be available to the public to ensure that teachers know who they are and that they have been through the proper procedure for appointment	-16
21/02/2005	Education Bill	To put on the face of the Bill that schools should be developing 'rigorous internal procedures of self-evaluation'	-19
21/02/2005	Education Bill	To introduce a new category for the chief inspector to report and keep the Secretary of State informed on: the behaviour and discipline of pupils and levels of truancy in those schools	-7
28/02/2005	Inquiries Bill	To establish rules governing inquiries where ministerial misconduct is being investigated, requiring a resolution to pass both Houses approving the inquiry, its terms of reference and identity of its chair (as proposed by PASC)	-7
28/02/2005	Inquiries Bill	To require the consent of (rather than consultation with) the Lord Chief Justice if a judge is appointed to head an inquiry by the Secretary of State	-18
02/03/2005	Education Bill	To ensure that primary schools in rural areas cannot be closed without consulting parents, relevant borough, district or parish council and "consideration of" transport implications and any other viable alternative	-2
02/03/2005	Education Bill	To ensure that special schools cannot be closed without consulting local authorities and parents of pupils at the schools	-22
07/03/2005	Prevention of Terrorism Bill	To give the power to make all (not just derogating) control orders to a court, rather than to the Home Secretary	-130
08/03/2005	Prevention of Terrorism Bill	To limit the restraints stipulated in a control order to those exactly specified in the Bill	-127
08/03/2005	Prevention of Terrorism Bill	To specify that those subject to control orders shall be entitled to social security and unemployment benefits	-101
08/03/2005	Prevention of Terrorism Bill	To insert a sunset clause of 30 November 2005	-187
08/03/2005	Prevention of Terrorism Bill	To require that the Lord Chief Justice, after consulting with Lord Chancellor, establishes the rules under which judges make control orders	-102
08/03/2005	Prevention of Terrorism Bill	To require that rules of court with respect to control orders comply with Article 6 of the ECHR	-62
10/03/2005	Prevention of Terrorism Bill	To insist the court makes all control orders. Also to insist on a "balance of probabilities" test for all (not just derogating) control orders, and that at the full hearing it will be necessary for the Director of Public Prosecutions to inform the court that there is no reasonable prospect of prosecution (previous amendments	-88

Date of Division	Bill	Subject	Govt majority
		passed without division: 07/08/2005, Col. 512).	
10/03/2005	Prevention of Terrorism Bill	To remove the power of the Secretary of State to appoint a person to conduct an annual review of the operation of control orders. Instead a committee of 5 Privy Counsellors, one nominated by each leader (including the Crossbenchers) and one by the Lord Chief Justice, should consider the Act as a whole and recommend future legislation	-98
10/03/2005	Prevention of Terrorism Bill	To insist to insert a sunset clause of 31 March 2006	-149
10/03/2005	Prevention of Terrorism Bill	To insist that the Lord Chief Justice, after consulting with the Lord Chancellor, makes the rules of court. Also, to insist that rules comply with ECHR (Article 6) and to have rules approved by affirmative resolution.	-71
10/03/2005	Gambling Bill	To include a definition of a “casino premises” at the start of the Bill	-18
10/03/2005	Prevention of Terrorism Bill	To insist for the second time that the court makes all control orders using “balance of probabilities” test. Also to insist for the second time that the Lord Chief Justice, after consulting with the Lord Chancellor, makes rules of court (which are subject to affirmative resolution), and that these should be compatible with the ECHR	-70
10/03/2005	Prevention of Terrorism Bill	To reject the government’s new proposal that the Secretary of State should appoint a person to conduct an annual review of the entire act, instead to insist that a committee of 5 Privy Counsellors should do so.	-67
10/03/2005	Prevention of Terrorism Bill	To insist for the second time to insert a sunset clause of 31 March 2006	-85
10/03/2005	Prevention of Terrorism Bill	To insist for the third time that the court makes all control orders using “balance of probabilities” test, that the Lord Chief Justice makes rules of court, after consulting with the Lord Chancellor (which are subject to affirmative resolution), and that these are compatible with the ECHR	-55
10/03/2005	Prevention of Terrorism Bill	To insist to reject the government’s new proposal that the Secretary of State should appoint a person to conduct an annual review of the entire act, instead to insist for the second time that a committee of 5 Privy Counsellors should do so.	-58
10/03/2005	Prevention of Terrorism Bill	To insist for the third time to insert a sunset clause of 31 March 2006	-68
10/03/2005	Prevention of Terrorism Bill	To insist for the fourth time that judges should make all control orders using “balance of probabilities” test.	-48
10/03/2005	Prevention of Terrorism Bill	To insist for the fourth time to insert a sunset clause of 31 March 2006	-71
15/03/2005	Constitutional Reform Bill	To insist on previous amendment that the Lord Chancellor must be a member of the House of Lords	-16
15/03/2005	Constitutional Reform Bill	To insist on previous amendment that the Lord Chancellor must be a senior lawyer	-14
22/03/2005	Higher Education (Northern Ireland) Order	To “regret that the Government have not provided the opportunity for the people of Northern Ireland to express their	-18

Date of Division	Bill	Subject	Govt majority
	2005 (Motion for Approval)	opinion on the matter, either through democratically elected institutions or by means of a referendum”	
22/03/2005	Commissioners for Revenue and Customs Bill	To ensure that instructions for when confidential taxpayer information can be disclosed should only be delegated to the commissioners or a single commissioner (public interest grounds)	-11
22/03/2005	Commissioners for Revenue and Customs Bill	To remove a clause stipulating that disclosures requested by the Treasury are subject to a statutory instrument, proposing that a ‘super-affirmative’ alternative would be preferable	-8
06/04/2005	Railways Bill	To require the Secretary of State to act on the advice of a Passenger Transport Executive, following consultation on a franchise agreement, unless this will have an adverse effect on services or require additional public expenditure	-22
06/04/2005	Railways Bill	To stipulate that the Office of Rail Regulation cannot rule that a service is curtailed or discontinued without consultation and payment of compensation to the organisation responsible	-23
12/10/2005	Charities Bill	That the terms and conditions of the Charity Commission’s staff do not require the approval of the Secretary of State	-32
17/10/2005	Criminal Defence Bill	To remove exemptions from receiving legal aid	-8
25/10/2005	Racial and Religious Hatred Bill	To restrict the grounds on which incitement to religious hatred could be applied	-149
09/11/2005	Equality Bill	To remove a religious harassment clause	-90
14/11/2005	Licensing Act 2003 (Second Appointed Day) Order 2005 (Motion for Approval)	That the order be re-considered on 30 June 2006 allowing more time to address the public’s concerns about extended drinking hours	-33
16/11/2005	Identity Cards Bill	That only people or organisations “who reasonably require proof” should be entitled to ask for verification of identity	-14
22/11/2005	Road Safety Bill	That local authorities can ring-fence money received from speeding fines on local road safety measures	-41
22/11/2005	Road Safety Bill	That new heavy goods vehicles should be fitted with retro-reflective tape	-17
29/11/2005	Road Safety Bill	To discontinue the compulsory surrender of old form driving licenses	-8
29/11/2005	Road Safety Bill	Local planning bodies to consult with specified authorities where there is a proposal to alter or introduce level crossings.	-29

