

The Salisbury convention that avoided complete Lords reforms for the last century is dead, but achieving any mandate for change that peers must accept remains very difficult

The government's proposals to reform the House of Lords are only the latest in a long line of initiatives. [Iain McLean](#) takes an in-depth history of movements to reform the House of Lords, and finds that while over much of the 20th century, political parties fought over reform, 2010 was the first time that an elected upper house was in the manifestos of all three major parties.



House of Lords reform is not a new idea. The Levellers argued that sovereignty lay only with the people. Parliament was their agent and acted only as far as the people authorized it to. Furthermore, some things, such as freedom of religion, were beyond Parliament's power to curtail. The Levellers' solution to the problem of the House of Lords was to abolish it.

The 'Glorious Revolution' of 1688-9 put parliamentary, not popular, sovereignty firmly in the saddle. Monarchs were subject to Parliament. Parliament could change the terms of accession, as it did in 1701 and 1707, and again in 1936. The Leveller Thomas Rainborough's theory of popular sovereignty went underground in the UK, though of course not in the US, whose constitution claims to speak in the name of *We the People*. Throughout the nineteenth century this led to an intellectual vacuum. In whose name did the House of Lords speak? In whose name was it entitled to speak?

For some Victorians, the answer to both questions was the same: for landed property and the established Church. For many of their Lordships, these facts were self-evident and self-justifying. But not for all. The Duke of Wellington, no less, got a landowning House to vote to repeal protection to landowners. His successors tried less hard, or not at all. From Wellington's time until 1911, the Lords caused no trouble to Conservative governments, but considerable trouble to Liberal governments. They protected the interests of land and church effectively, giving way only when the party that won a Commons election had done so with a clear mandate for a particular reform.

Soon after that, the Conservative leader in the Lords Lord Salisbury codified this into a doctrine that still stands, although it is now tottering. He expressed it with his usual candour to a colleague:

The plan which I prefer is frankly to acknowledge that the nation is our Master, though the House of Commons is not, and to yield our opinion only when the judgement of the nation has been challenged at the polls and decidedly expressed. This doctrine, it seems to me, has the advantage of being: (1) Theoretically sound. (2) Popular. (3) Safe against agitation, and (4) So rarely applicable as practically to place little fetter upon our independence.

This is the core of the Salisbury doctrine. In 1945, the election of a majority Labour government put the Conservative leader in the Lords, Lord Cranborne (later Lord Salisbury) into the position of having to handle the relations between an overwhelmingly Conservative Lords and a left-wing Commons. Lord Cranborne made an agreement with Lord Addison, the Leader of the House, which Cranborne explained in a Lords speech in August 1945:

Whatever our personal views, we should frankly recognize that these proposals were put before the country at the recent General Election and that the people of this country, with full knowledge of these proposals, returned the Labour Party to power. The Government may, therefore, I think, fairly claim that they have a mandate to introduce these proposals. I believe that it would be constitutionally wrong, when the country has so recently expressed its view, for this House to oppose proposals which have been definitely put before the electorate.

This 'Salisbury-Addison convention' is generally interpreted to imply that the Lords do not vote on second or third reading against a government manifesto bill, and that they do not agree to 'wrecking amendments' to such a bill.

What, if anything, does Salisbury-Addison mean now? The Liberal Democrats say they were never party to it and do not consider themselves bound by it. And is the 2010 Coalition Agreement a government manifesto, or something else? The feisty House of Lords in the 2010 Parliament has not hesitated to lunge at promises in the Coalition Agreement. In autumn 2010 the Lords almost defeated the bill to equalise Commons constituencies and to provide for the referendum on Alternative Vote. In 2011 they defeated a proposal for elected police commissioners and look set to defeat, or heavily amend, the proposals for an elected House in the 2011 White Paper and the ensuing joint committee.

All of these were in the Coalition Agreement: therefore Salisbury-Addison does not seem to apply, and it will have to be rewritten, whether or not an elected house ensues from the 2011 White Paper. The White Paper interprets Salisbury-Addison more expansively:

[W]hether or not a Bill has been included in a Manifesto, the House of Lords should think very carefully about rejecting a Bill which the Commons has approved (Cm 8077/2011, para. 6).

The Labour filibuster in the Lords against the Parliamentary Voting System and Constituencies Bill in late 2010 shows that many Labour peers, at least, do not accept that interpretation. Their actions invite Conservative peers to reject the government interpretation of Salisbury-Addison when a Bill they dislike comes to them from a future Labour-controlled Commons.

The Make-up of the House

Life peers arrived first in 1958, and with them the first attempts to rebalance the overwhelmingly Conservative composition of the House. All incoming (and most outgoing) Prime Ministers have created peers of their own party, and usually a proportionate number from the opposition parties. As a result, most members of the Lords now take a party whip. By the House of Lords Act 1999, most hereditary Peers left the House, leaving 92 who are replaced by by-elections among the hereditary peers of each party, with only peers who are members of the House eligible to vote.

The best-known attempt since 1911 to secure an elected house fell foul of this fact. A scheme for an elected House was devised by the Labour government of 1966-70. With many other preoccupations, the Bill was not ready for its Second Reading until February 1969. As amusingly related in the sponsoring minister's (Richard Crossman) diary, many of the Cabinet and many of his own MPs were uninterested or hostile. An alliance of extremes killed the bill. Michael Foot, on the Labour left, wanted the complete abolition of the Lords. Enoch Powell, on the Conservative right, wanted it to remain unaltered. Their weapon was time. As Parliamentarians, Foot and Powell knew that the 1911 clock was ticking: not only on the Lords reform bill but on every bill that the Labour government wanted to get through the Conservative Lords. Therefore they need not defeat the bill in the Commons, only delay it. The Cabinet dropped the bill in April 1969 in order to preserve scarce parliamentary time for its industrial relations reforms, which were also defeated, later in the same year.

In order to rely on the Salisbury-Addison convention, then, a party must put a commitment to an elected upper house in its manifesto; must win an election; and (just as important) must legislate early in its term.

The Liberals and predecessors have been in favour of an elected upper house since 1911; but, having few seats in the Commons, they have never until 2010 been able to get that commitment taken seriously. Labour enthusiasm for an elected Parliament was higher under Keir Hardie than under Tony Blair. The Blair government commissioned the (Wakeham) Royal Commission, which reported in 2000 in favour of a relatively small elected element. Recent Labour manifestoes, up to 2005, called for a more representative upper house but did not call for it to be elected. Its 2010 manifesto did. The Conservatives joined the party in 2005 and 2010. The Commons have held two multi-option votes. In 2003, they managed to defeat every option, including the status quo. Parliamentary rules therefore delivered the status quo. In 2007, they voted alternatively for an 80 per cent elected and a 100 per cent elected house. The Lords themselves have always voted to remain unelected.

The reception of the 2011 White Paper, in both Houses and in much of the media, was hostile. A Martian listening to the debates would be surprised to learn that an elected upper house was in the manifestoes of

all three major parties in 2010. The papers were full of articles, often by non-elected peers, explaining that a non-elected house was the best way to preserve the forum of expertise that the Lords say they are. But they would say that, wouldn't they? The argument is not proven. But it is not self-evident that an elected house would be less expert than the present one. It would also advance Thomas Rainborough's dangerously radical belief that the poorest he that is in England has a life to live, as the greatest he, and therefore each of them has a right to be governed only by those they have consented to govern them.

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On Monday, 18 July, the Constitution Society, CentreForum and British Government @ LSE hosted the debate, **The future of the House of Lords**. The debate brought together MPs, peers and academics to discuss the proposals set out in the Draft Bill and the prospects for reform of the House.

The speakers were:

- [Mark Harper MP](#), Minister for Political and Constitutional Reform, who was in favour of the proposed reforms;
- [Professor Patrick Dunleavy](#), London School of Economics, who was also in favour, but urged the reforms to go further;
- [Professor the Rt Revd Lord Harries](#), who was skeptical of the proposals and advocated a hybrid system;
- [Professor Tim Bale](#), University of Sussex, who was against the proposals.

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