

**The House of Lords in 2006:
Negotiating a
Stronger Second Chamber**

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Full details of the project and its publications can be found at:

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

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Summary of Key Points

- The House of Lords, and prospects for its reform, were much in the news in 2006. No real progress was made with reform, although the chamber continued to develop gradually.
- The biggest story related to the allegations of 'c y.04001 687.6805.9198()29 1201MC /Ps12 rTc figuith had lo

Compositional changes

Overall Labour continues – for only the second year – to be the largest party in the Lords. But the balance of power remains with the Liberal Democrats, Crossbenchers and ‘others’, as shown in Table 1.

Table 1: Composition of the House of Lords, 1 January 2007

Affiliation	Life Peers	Hereditary Peers	Serving Law Lords	Bishops	Total	Losses in 2006	Gains in 2006*	Net change
Conservative	159	47	0	0	206	5	7	+2
Labour	207	4	0	0	211	4	8	+4
Lib. Dem.	73	5	0	0	78	0	5	+5
Crossbench†	153	33	12	0	200	8	14	+6
Bishops	0	0	0	26	26	1	2	+1
Other‡	12	2	0	0	14	0	0	0
Total	618	91**	12	26	735	18	36	+18

Source: Calculated from House of Lords Information Office figures and Hansard.

* Based on dates that members take the oath

** There was one vacancy, due to the death of Lord Mowbray and Stourton in December

† Including nine Ulster Unionist Party members, three Democratic 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 the one Green Party member.

The controversy over appointments resulted in a delay in announcing a new peerage list at the start of the year. This was finally published in April minus the five names of the original major lenders. It comprised seven Labour, seven Conservative, five Liberal Democrat and four ‘Crossbench’

desire to leave the House. He introduced the Life Peerages (Disclaimer) Bill, which would have allowed a peer to renounce their position, and require the Prime Minister to appoint a replacement from the same political party. However, it had no chance of becoming law. Full lists of those entering and departing the chamber during 2006 are given in Appendix A and Appendix B.

Table 2: Arrivals and departures from the House, 1999-2006

Total at start of period†	Losses	Gains*	Net chas
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surreal quality. It was unclear at times whether Lords' conventions were being discussed in the past, present or future tense, and evidence sessions included much reflection on questions such as when a convention is a convention and whether it is possible for conventions to be codified at all. While widely accepted conventions (such as the confidence vote applying in the Commons alone) were barely mentioned, the committee concentrated on matters that were so contentious they seemed impossible to agree, and could therefore probably no longer be considered conventions.

Aside from providing rich material for scholars of philosophy or law to pore over, the committee's work served other useful purposes. The evidence from the clerks provided interesting data, and the parties were pressed to state their positions. The Liberal Democrats maintained their view that reform of the chamber has rendered the Salisbury convention obsolete, but also proposed that no bill (whether in the manifesto or not) should be rejected outright by the Lords.²² In its report in November the committee concluded that conventions by their nature must remain 'flexible and unenforceable', but suggested that some understandings might be reached between the chambers by mutual resolution. These could include manifesto bills not being subject to 'wrecking' amendments, government legislation being considered by the Lords in 'reasonable time' and both chambers being given notice before considering each other's amendments.²³ Even the terms of these agreements, however, would remain necessarily ill-defined. The committee also stated, in a conclusion troubling for the government, that current conventions could not necessarily be expected to hold if the chamber were reformed in future to include elected members.

Reform in action: the Lord Speaker

Although wholesale Lords reform did not happen, 2006 nevertheless saw real reform of another kind. In 2003 the government announced its intention to abolish the office of the Lord Chancellor, who historically acted as presiding officer in the Lords. Although strong opposition to the proposals resulted in the post of Lord Chancellor being retained, the final settlement – in the Constitutional Reform Act 2005 – allowed the post to now be held by a member of the Commons. As the Lords was potentially left with no presiding officer, a select committee was set up to consider the role and powers of a Speaker for the Lords.

In July 2005, the House agreed a resolution that it should 'elect its own presiding officer' and 'consider further how to implement this resolution with full regard to the House's tradition of self-regulation'.²⁴ The committee then provided concrete proposals. It concluded that the Lords should not have a 'House of Commons type speaker'.²⁵ To respect the established culture of self regulation the new Lord Speaker, like the Lord Chancellor, should therefore have no power to, for example, select amendments, call on peers in debates, or intervene when members speak for too long or stray from the point. There was some debate over whether the Speaker should take over the role performed by the Leader of the House (a government minister) of deciding the order of speakers at question time. Even this was considered a step too far, though the Speaker, rather than

²² The party's written evidence to the committee stated that 'the House should not vote down entire Government Bills at Second Reading, as to do so would run contrary to its role as a revising chamber' and 'the House should not reject whole Bills at Third Reading either, but we strongly believe that the House must maintain its unfettered right to amend at Third Reading'. HL 265-II, p. EV 66.

²³ Joint Committee on Conventions, *Conventions of the UK Parliament*, Report of Session 2005-06, HL 265-I, November 2006, pp. 76-9.

²⁴ HL Debs., 673, 12 July 2005, c. 1002.

²⁵ Report of the Committee on the Speakership of the House, *The Speakership of the House of Lords*, HL 92, 2005-06, para. 8.

the Leader, will now rule on the admissibility of Private Notice (i.e. urgent) Questions. In addition, the Lord Speaker will have a role representing the House at home and overseas.

At the Motion for Approval debate in January 2006, Lord Strathclyde, the Conservative Leader in the House, moved an amendment to combine the Speaker's position with that of the already existing Chairman of Committees. This proposal reflected concern about whether two posts (and two salaries) were justified – however it was dropped due to lack of support. Another amendment to transfer the Leader's duties at Question Time to the Speaker was defeated on a free vote, and it was agreed to proceed on the basis of the committee's report.

The election of the first Lord Speaker took place at the end of June by secret ballot, using the alternative vote system, by which candidates are ranked in order of preference and those with fewest votes eliminated on each round.²⁶ Each of the nine candidates provided a 75-word statement describing why they wanted the position. On 4 July it was announced that Baroness Hayman, who was the clear leader on the first ballot, had defeated Lord Grenfell (a Deputy Speaker) by 263 votes to 236 in the final round.²⁷ Baroness Hayman is a former Labour minister, but upon election she announced that she would give up the whip and she now sits as an unaligned peer.

On the surface, it appears that little has substantively changed. It has been emphasised that self-regulation, as the subject of the 2003-04 inquiry, should remain. As the committee noted, many feared

MPs believe the chamber is more legitimate since its 1999 reform.²⁹ The indications are, therefore, that this may have significantly boosted the strength of Parliament as a whole.

A kind of partnership had already been demonstrated over the Terrorism Bill in late 2005, when MPs inflicted their first defeats on the Blair government, over the period for which police could detain suspected terrorists. Although the bill had not yet been to the second chamber, this could be seen as a pre-emptive strike by the Commons, knowing that the Lords would certainly have amended the bill.³⁰ The other main issue of concern to MPs was that of 'glorification' of terrorism, where the government had avoided defeat by one vote.³¹ Peers voted by a large margin to remove all references to 'glorification'; but, following minor concessions by the government, MPs were persuaded to overturn the Lords amendments. At this stage, the Conservatives in the Lords dropped their opposition and the 'glorification' clause was accepted. Without continued Commons support

On the Racial and Religious Hatred Bill the partnership was more effective. Here the key sticking point between ministers and Parliament was the definition of 'incitement' to religious hatred.³² In 2005, the government faced public campaigns, rebellions in the House of Commons and the largest Lords defeat of the 2005-06 session. Peers did not seek to remove the clause, but to clarify that ridicule, insult or abuse would not be sufficient grounds to prove incitement. The government's offer of a 'freedom of expression' clause did not go far enough to placate either peers or MPs. When the bill returned to the Commons in February as amended by the Lords, the Conservative spokesperson, Dominic Grieve, proposed that 'the Government can have their legislation . . . in the form that the Lords have wisely altered and it can then go forward'.³³ Similarly, Labour's Tony Wright suggested that 'the Lords delivered to us a Bill which, if it did not completely square the circle, did it as well as it was humanly possible'.³⁴ Such claims are normally mere debating points, but to everyone's surprise a majority of MPs agreed. The Commons inflicted two defeats by voting not to overturn the Lords amendments.³⁵ On this occasion, the two Houses' interests remained aligned, and in partnership they achieved their preferred policy positions.

The Identity Cards Bill, like the Terrorism Bill, demonstrated a less visible partnership, but nonetheless put the government under significant pressure. Despite its controversial nature, the bill had a relatively smooth passage through the Commons. In the Lords, the largest points of contention were the costs of the scheme and the extent of compulsion of the cards. On the latter point the peers sought to turn the Salisbury convention on its head, by arguing that they, not the government, were defending the election manifesto.³⁶ This had stated that ID cards would be introduced 'initially on a voluntary basis as people renew their passports', but the bill required all passport applicants to apply for a card.³⁷ Consequently, there were four rounds of 'ping-pong' on the bill, driven by a coalition of Conservative and Liberal Democrat peers. This continued despite insufficient support for their position in the House of Commons each time the amendments returned. The minister, Baroness Scotland, argued that 'the Government, with the support of the elected House, will continue to resist them strongly backed down'.³⁸ ticed, however, was that an early .1.180defeat, removing the

reluctantly accepted by ministers, without being put to the Commons. Following the problems over the Terrorism and Racial and Religious Hatred the government chose not to take the risk. Again, the prospect of MPs and peers united in extract major policy conce tion nment.

greater rebelliousness of the Commons also acts to boost the power of peers. This inter-cameral partnership, if it continues and grows, could represent a real shift of power within the British Westminster system.

Appendix A: New members of the House of Lords in 2006

Date took oath	Lords name	Party	Previous name	Route entered House	Notes
25.01.06	Archbishop of York	Bishop	John Sentamu	B	Replaced retiring Archbishop of York
28.03.06	Lord Davidson of Glen Clova	Labour	Neil Davidson	PM	Advocate General for Scotland
05.06.06	Lord Cotter	Lib Dem	Brian Cotter	PH	
05.06.06	Lord Taylor of Holbeach	Conservative	John Taylor	PH	
06.06.06	Lord Burnett	Lib Dem	John Burnett	PH	
06.06.06	Lord Trimble	Crossbench*	David Trimble	PH	
12.06.06					

**Date took
oath**

Lords name

Party

Previous name

**Route
entered
House**

Appendix B: Deaths and retirements in 2006

Death/retired date	Name	Forename/ name	Party	Type†	Year entered House
05.01.06	Lord Merlyn-Rees	Merlyn	Labour	L	1992
08.01.06	Lord Stratford	Tony Banks	Labour	L	2005
21.01.06	Lord Chan	Michael	Crossbench	L	2001
27.01.06	Lord Mishcon	Victor	Labour	L	1978
06.02.06	Lord Brightman	John	Crossbench	LOA	1982
14.03.06	Lord Gray of Contin	James	Conservative	L	1983
21.03.06	Lord Ackner	Desmond	Crossbench	LOA	1986
07.05.06	Lord Simon of Glaisdale	Jocelyn	Crossbench	L	1971
02.06.06*	Bishop of Oxford	Richard Harries	Bishop	B	1993
28.06.06	Baroness Lloyd of Highbury	June	Crossbench	L	1996
28.06.06	Lord Rawlinson of Ewell	Peter	Conservative	L	1978
30.08.06	Lord Monro of Langholm	Hector	Conservative	L	1997
30.08.06	Lord Cooke of Thorndon	Robin	Crossbench	L	1996
19.10.06	Lord Harris of High Cross	Ralph	Crossbench	L	1979
22.11.06	Lord Peyton of Yeovil	John	Conservative	L	1983
12.12.06	Lord Mowbray and Stourton	Charles	Conservative	HP	1965
18.12.06	Lord Carter	Denis	Labour	L	1987
27.12.06	Lord Hussey of North Bradley	Marmaduke	Crossbench	L	1996

† Key: B = Bishop, 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 2006

Bill	Subject	Govt majority
Road Safety Bill [HL]		

Date of Division	Bill	Subject	Govt majority
		combination of a movements limit and a nivoise quota system (not just the latter)	
15.03.06	Identity Cards Bill	To insist for the second time to require that an individual "may" not "must" apply to enter onto the National Register and obtain an ID card when applying/renewing a passport	-35

20.03.06 Identi

Date of Division	Bill	Subject	Govt majority
27.06.06	Government of Wales Bill	To require that the 4 Assembly members to sit on the Assembly Commission do not belong to the same political party	-61
27.06.06	Government of Wales Bill	To rename the Audit Committee, the "Accounts Committee"	-28
27.06.06	Government of Wales Bill	To require that standing orders apportioning members to committees and sub-committees, must have regard to "the balance of political parties represented in the Assembly"	-50
28.06.06	Civil Aviation Bill	To insist on previous amendment to ensure that large aerodrome operators shall (not "may") have a duty to monitor noise and to fix charges in respect of aircraft which exceed noise limits	-28
28.06.06	Civil Aviation Bill	To insist on previous amendment to ensure that night aircraft noise is controlled by a combination of a movements limit and a noise quota system (not just the latter)	-57
11.07.06	Police and Justice Bill	To insert that the 'forum rules' (from the 1957 European Convention on Terrorism) are incorporated: judges shall not order the extradition of a person if an act was partly committed in the UK unless in the interests of justice	-83
11.07.06	Police and Justice Bill	To remove the US from being granted a lower threshold of evidence in order to extradite until the Treaty has been ratified	-102

13.07.06 Government of Wales Bill

Date of Division	Bill	Subject	Govt majority
		[so] the person overseeing the investigation is independent of the body ... under investigation” and to insist that it be “confined to the facts”	
01.11.06	Road Safety Bill [HL]	To insist to remove provision criminalising ‘careless driving’	-15
01.11.06	Road Safety Bill [HL]	To insist to insert a clause requiring the government to ensure that new heavy goods vehicles should be fitted with retro-reflective tape but that the government should make regulations by 31st December 2007	-16
01.11.06	Road Safety Bill [HL]	To insist to insert a clause at the beginning of the bill enabling local authorities to ringfence the spending of money (received from speeding fines) on local road safety measures	-28
01.11.06	Police and Justice Bill	To insist to insert that the ‘forum rules’ (from the 1957 European Convention on Terrorism) are incorporated: judges shall not order the extradition of a person if an act was partly committed in the UK unless in the interests of justice	-33