

Voting with the Enemy? How the Conservatives could help (divide) the Government - but might also divide themselves

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The Prime Minister: Yes. It is important that we give schools the freedoms that they need. I am delighted to hear that the hon. Gentleman supports these reforms. I assume, therefore, that the Conservative party will be voting for them.

Mr. Cameron: Absolutely. *[Interruption.]* With our support—*[Interruption.]* With our support, the Prime Minister knows that there is no danger of losing these education reforms in a parliamentary vote. So he can afford to be as bold as he wants to be.

– HC Debs, 7 December 2005, c. 861

The combination of David Cameron's ascendancy to the Conservative leadership (and his pledge to end 'Punch and Judy Politics'), together with the reduction in Labour's majority (and the Government's concomitant vulnerability to backbench revolts) has raised the intriguing possibility of the Government getting its legislation through the House of Commons only as a result of the support of the Official Opposition.

This had led to much talk of the Prime Minister as a potential Ramsay MacDonald figure ('Ramsay MacBlair'). It is not a historical comparison that stands up to much serious examination. In the summer of 1931, MacDonald faced an economic crisis brought on by the failure of Germany to meet its reparations payments. No such economic crisis exists today. Unemployment in 1931 was over 3 million, more than double what it is today. And Labour, although the largest party since 1929, had no working majority at all, unlike today when it has what is by historic standards a relatively large majority, albeit one that is vulnerable because of the historically high level of backbench rebellion.* More importantly still, the likelihood of the Conservatives (indeed, *any* Conservatives) agreeing to serve in a government led by Tony Blair – as they did with MacDonald – has to be almost microscopic.

But still, the possibility of the Government gaining some of its key legislation as a result of Conservative support is a very real one. This short paper looks at the recent voting patterns of the Conservatives. It identifies two different measures of consensus – the 68 per cent consensus that exists between the two major parties on the principle of legislation, and the five per cent consensus that exists between them on all votes. It shows the difficulties that a Conservative leader might have in asking Conservative MPs to start trooping through the lobbies in support of the Government.

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* There is also a difference in the voting patterns of the Labour rebels. In 1929-31 the Labour Government suffered from highly disciplined factional behaviour from a group of Independent Labour Party members, who voted against the Government (most notably on the issue of unemployment benefit). For all his problems with backbench rebels, Blair does not (yet?) face such an organised group from within his own party.

The 68 per cent consensus

The allegation of 'Punch and Judy' politics is one of the standard complaints about British politics: that political parties routinely, and unthinkingly, oppose what the other is doing, whatever its merits. In general, however, British politics is more consensual than many people realise. The principle of most pieces of government legislation, for example, is not opposed by the Official Opposition. Between 2001 and 2005 the Conservative frontbench opposed the principle of less than one-third of the legislation brought forward by the Government. Between 2001 and 2005, the Government introduced 144 Bills into the Commons; of these, the Conservative frontbench voted against the principle of the legislation, at either Second and/or Third Reading, in just 46 bills (32 per cent of the total). As Table 1 (which gives the session-by-session figures back to 1997) shows, this was a slightly lower rate of opposition than in Blair's first term between 1997 and 2001.

It is important to note that the Table excludes those occasions when the Conservative frontbench gave its MPs a free vote. This happened on several high profile pieces of legislation: over human reproductive cloning in the 2001-2 session; hunting in both the 2002-3 and 2003-4 sessions; gender recognition, civil partnerships and mental capacity in the 2003-4 session and mental capacity (when it was reintroduced) in the 2004-5 session. If we include those occasions in which the majority of Conservative MPs to vote opposed the Government – even if their frontbench was not doing so officially – then the overall figure for opposition rises slightly, to 35 per cent, although even this is still lower than in the previous Parliament.[†]

1. Conservative frontbench opposition to the government, 1997-2005

<i>Session</i>	<i>Government Bills</i>	<i>Bills contested by Conservative frontbench</i>	<i>As % of Government Bills</i>
97-98	53	19	36
98-99	31	15	48
99-00	42	19	45
00-01	28	10	36
Total (97-01)	154	63	41
01-02	39	12	31
02-03	36	15	42
03-04	35	12	34
04-05	34	7	21
Total (01-05)	144	46	32

Note: The figures show the bills on which the Conservative frontbench chose to divide the House at Second and/or Third Reading. They exclude government bills where the Conservative parliamentary Party had free votes, but include Reasoned Amendments on Second or Third Reading.

[†] There is one other caveat. As always, the final session was truncated by the forthcoming election. As a result, the Government announced lots of bills, but many of them never got voted on. If we only include those bills to have a Second or Third Reading, rather than all Bills, then the number of bills drops from 34 to 25, and the percentage contested rises to 28 per cent in the final session.

On occasions the Conservative frontbench line would alter during the passage of a bill. For example, in the 2001-2 session, they voted with the Government on the Second Reading of the Anti-Terrorism, Crime and Security Bill, but abstained on Third Reading. In the 2002-3 session, they abstained on the Second Reading of the Criminal Justice Bill, but voted against on Third Reading; they abstained on the Labour backbench reasoned amendment to the Health and Social Care (Community Health and Standards) Bill, voted against on Second Reading, and abstained on Third Reading; in the 2003-4 session, they abstained on the Labour backbench reasoned amendment to Second Reading of the Asylum and Immigration (Treatment of Claimants etc) Bill, voted for Second Reading, and abstained on Third Reading; they abstained on the Second Reading of the Child Trust Funds Bill, but voted for the bill on Third Reading. And in the 2004-5 session, they abstained on the reasoned amendment to the Second Reading of the Identity Cards Bill, voted in favour of Second Reading, but then abstained on Third Reading. What rarely happens, however, is that the party switches positions completely. This did happen once, although it was when the party had been given a free vote: a majority of Conservative MPs to vote voted for the Second Reading of the Gender Recognition Bill, but by Third Reading (and on a slightly higher turnout), a majority voted against.

The five per cent consensus

So, the idea that *all* legislation sees adversarial politics is simply not true. However, when there are divisions in the Commons, it has in recent years been very rare to see the Conservatives vote with Labour.

Excluding those occasions when Conservative MPs were given free votes, between 1997 and 2001, the Conservative frontbench voted with Labour in just 4.1 per cent of all divisions; that figure barely changed between 2001 and 2005, increasing only marginally to 4.6 per cent, around one in every twenty divisions. These fall into two broad groups:

First, those occasions when all three main parties vote together in support of relatively uncontroversial pieces of legislation. (More often than not, such near total agreement results in no division taking place, but occasionally there are rebels willing to vote against the cross-party consensus on the Conservative and/or Labour side). In the 1997-2001 Parliament, the main votes which saw all three main parties in agreement concerned legislation relating to the Northern Ireland peace process, and a whole host of uncontroversial votes in the 2000-2001 session in the immediate aftermath of the introduction of deferred divisions (which a small group of renegade Conservatives opposed vigorously). Now that deferred divisions have become a permanent part of the procedures in the Commons, that latter opposition has stopped, whilst the three main parties also agree less and less about the course of the Northern Ireland peace process, which has also had the effect of reducing the number of occasions when all three parties vote together, with the result that such occasions almost halved between 1997-2001 (32 votes) and 2001-2005 (17).

By contrast, the second set of circumstances where the Conservative frontbench votes with the Government – doing so when the Liberal Democrats either vote against Labour or abstain – has more than doubled between 1997-2001 and 2001-2005. In the first Blair Parliament, the Conservatives backed the Government on only 17 occasions when the Liberal Democrats were in the opposite lobby or abstaining. Most notably, the Conservatives supported the cut in lone parent benefit in December 1997 (which saw a rebellion by 47 Labour backbenchers), they supported the Second Reading (but not all aspects of) of the

Criminal Justice (Terrorism and Conspiracy) Bill in September 1998 at the end of the 1997-8 session, and in the 1999-2000 session, they supported most aspects of the Terrorism Bill, and the non-repeal of Section 28.

In the 2001-2005 Parliament, the number of occasions in which the Conservatives supported the Government against Liberal Democrat opposition increased to 40, still a tiny figure when set against the vast majority of occasions when the Conservatives voted against the Government, but including some very important policy areas:

- In the 2001-2 session, the Conservatives supported the introduction of faith schools and selection by aptitude in the Government's Education Bill, as well as large parts of the Nationality, Immigration and Asylum Bill (including Third Reading) and the Anti-Terrorism, Crime and Security Bill (Second Reading, though not Third Reading).
- In the 2002-3 session, the Conservative frontbench gave its wholehearted support to the Government's policy over Iraq, in November 2002, as well as the key votes over whether or not to go to war without a new UN resolution in February and March 2003. In June 2003, the Conservatives also supported the introduction of ASBOs.
- The advent of Michael Howard in November 2003 saw a marked reduction in Conservative voting with the Government (on occasions when the Liberal Democrats voted against or abstained), from 27 occasions in the first two sessions under IDS to only 13 occasions in the next two sessions under Howard. Most of these 13 votes involved the Conservatives voting with the Government on large chunks of the Asylum and Immigration Bill in the 2003-4 session, but also in favour of the Second Reading of the Identity Cards Bill in the 2004-5 session (December 2004).

The new consensus – and its limitations

The contrast between the high levels of adversarial politics in divisions (the five per cent consensus) and the high levels of overall consensus on legislation (the 68 per cent consensus) can, of course, be relatively easily explained. If there is cross-party agreement on a piece of legislation, then no division takes place, since parties won't divide the House when they agree. Where they don't agree, however, divisions will take place, and those divisions are likely to be Labour-Conservative divisions, since it is more likely to be the Official Opposition who decide to divide the House.

But still, the data are a good base line for the coming years. If the Conservatives are genuine in their desire for cross-party consensus, we might expect to see one or both of these figures to start to rise over time, as either the Conservatives ceases to divide on bills, or once a division has been called, they start to support the Government in the lobbies.

The data are also a good indication of the difficulties that a Conservative leader will have in asking Conservative MPs to start trooping through the division lobbies regularly in support of the Government. As the examples above demonstrate, they have done it before – and on some fairly important pieces of legislation – but rarely; and to expect MPs used to voting against their opponents in 19 out of every 20 votes to start supporting them regularly is to ask them to go against the experience of their entire parliamentary life. It is surely best to be sceptical about how high the figure for the percentage of occasions on which the Conservatives vote with the Government can rise, without serious opposition from within David Cameron's own backbenches. We suspect that the reality of any new consensual approach will apply to carefully selected votes – votes carefully

selected to cause embarrassment to the government – rather than to the run-of-the-mill business of the Commons.

The scope for the Conservatives not to oppose a measure, and to abstain (or just not divide the House at all), is however far wider. As the data demonstrate, this is far more common than voting in support of the Government. And, although much of the talk so far has been of the Conservatives supporting the Government on pieces of legislation, an official Conservative abstention would in practice be just as helpful to the Government, enabling them to get their legislation through almost whatever the size of any backbench Labour rebellion.

One consequence of Conservative support for controversial Government measures in the division lobbies is that it should have the effect of maximising the numbers of Labour backbenchers who rebel. Indeed, many of those who are more cynical about David Cameron's supposed approach see this as both its consequence *and* its motivation. Most Labour MPs loathe voting with the Conservatives. Conservative support thus increases the number of Labour rebels, both because the rebels do not have to vote in the same lobby as the Conservatives, and because 'loyal' Labour MPs do. A Conservative abstention on key votes would achieve the first if not the second of these effects, and would still help generate a fairly large Labour rebellion, although it might not help generate the same stories about the Government getting its legislation through as a result of the support of the Conservatives.

Yet such cross-party consensus will also cause difficulties for the Conservatives within their own ranks. On 15 December 2005, the Conservative backbencher (and former Minister) Eric Forth decided that he had already had enough of the cosy consensus between the two frontbenches, bringing forward a series of amendments to the Report stage of the National Insurance Contributions Bill, a bill which until then had been uncontroversial, seeing no divisions. Forth was having none of it:

This is one of those Bills that sadly seems to have all-party support to date, and that usually means very bad legislation indeed. Time and time again in the House, we are confronted with that revolting political concept consensus, which usually involves a lack of proper debate and scrutiny of the legislation. A few of us hope to put that right and give the Bill something of a proper examination in the limited time that is available to us this afternoon.

He later commented:

I must chide our Front-Bench spokesmen a little – I do that from time to time – because we are being sucked into this modern idea of consensus. We are being asked to sign up to the idea that the more Bills and Government measures to which we agree, the more popular we will somehow be outside the House. I plead guilty to the fact that I regard the proper work of the Chamber as that which is being exemplified today. Our proper job is to assume the worst of the Government until they prove otherwise, not the reverse.

Along with his Conservative backbench colleague Christopher Chope, Forth eventually managed to divide the House over whether the Treasury should be obliged to consult the Commissioners for Revenue and Customs in matters relating to retrospective taxation. Much of the debate centred on a rather pedantic point: whether the Treasury should consult when it was 'expedient' (the Government's view) to do so, or when it was 'reasonable' (Forth's view).

Fourteen Conservatives joined the Liberal Democrats and the minor parties in favour of Forth's unsuccessful amendment.

Forth, of course, has form on this. In the 1997 Parliament, he was one of a group of Conservative MPs who took the fight to the first Blair Government, dividing the House whenever possible in order to keep Labour backbenchers up all night.[†] The so-called 'awkward squad' saw themselves as akin to the *Maquis*, putting up a single-handed fight against the government, whilst their leadership collaborated.

The Government's response was to introduce the automatic programming for all Government bills as part of its 'modernisation' of the Commons, meaning that Forth's opportunities for deploying such tactics have been severely curbed, and the opportunities for The Return of the Awkward Squad are more limited. But there are still loopholes. Because so many bills are increasingly uncontested by the two frontbenches, if assiduous backbenchers wish to put down amendments, they stand a good chance of being accepted by the Speaker, whereas under normal circumstances on contested bills frontbench opposition amendments (either Conservative or Liberal Democrat) will be accepted at Report stage over backbench amendments. So on those occasions when the Conservative frontbench is abstaining, there will be opportunities for Conservative backbenchers to fill the oppositional vacuum.

In practice, we suspect there will be a mixture of approaches. For example, it would be entirely possible for the Conservatives to abstain on a bill's Second Reading, then to vote against aspects of it at Report, and then to support the Government at Third Reading. It should be fairly easy to find a specific clause on which the Conservatives can argue they do not think the Government has gone far enough, but which Labour rebels find objectionable because they think it goes too far. Such an unholy alliance could be enough to defeat the Government at Report Stage, even if the Government gets its way at Second or Third Reading, as a result of the Conservatives not opposing.

Parts of David Cameron's exchange with the Prime Minister at his first PMQs – with which this paper begins - have been widely quoted. But less noticed was that his opening words to the Prime Minister were: 'The first issue that the Prime Minister and I are going to have to work together on is getting *the good bits* of his education reforms through the House of Commons and into law' (emphasis added). This phrase, of course, assumes there are bits which are not so good, and which the Conservatives will oppose, thus allowing them to vote against the Government on selected issues during the Bill's passage, whilst still helping to enact the 'good bits'. Such opposition might be enough to placate those on the Conservative benches who would otherwise find offering the Government support distasteful.

The worst case scenario for the Government would surely be this:

- They win votes at Second Reading on the basis of Conservative support/abstention (which generates a large Labour rebellion, with unhappiness of the Labour benches being increased by the vote being carried only thanks to the Conservatives, leading to increased mutterings about Ramsay MacBlair).

[†] The activities of the 'awkward squad' are discussed in P. Cowley, *Revolts and Rebellions*, London, Politico's, 2002, pp. 197-204. One aspect of this guerrilla campaign was to obstruct private members' bills, something Forth has begun to do again this Parliament.

- They then lose a vote (or votes) at Report, as a result of a Labour rebellion and Conservative opposition (leading to headlines about Labour division and government weakness).
- And they then carry the Third Reading only because of Conservative support/abstention (cue yet more Ramsay MacBlair).

To assume that this is in any way the preferred outcome of the newly elected Conservative leadership is however to be most cynical – presumably as a result of having experienced far too much Punch and Judy politics in the past.