

Putting the Education Bill rebellion into perspective

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If you go big at Second Reading, then you've fired your gun. And if you can't beat it with your best shot, then the game's over – *Labour whip, mixing her metaphors, 2004*.

Sizeable rebellions at a Bill's second reading – like that expected over the Education and Inspections Bill on 15 March – are not especially common. To vote against a bill at second reading is to reject it in its entirety, to consider it so lacking in merit that outright defeat is the only desired course of action. The standard tactic of backbench malcontents has therefore usually been to use a bill's second reading debate as a chance to raise issues of concern, but only very rarely to try to vote against or to defeat the entire bill. The aim is usually to demonstrate unhappiness, in the hope that the Government will alter the bill before any later votes.

For the most part, this is sensible politics. Few pieces of legislation are entirely without merit (even the Murder of the First Born Bill would have something in it for any second siblings) and attempting to defeat an entire bill is therefore difficult; would-be rebels are always susceptible to arguments not to throw out the positive policy contained in some obscure sub-clause of the bill. The tactic therefore at second reading has tended to be to mutter, moan and gripe (Labour MPs being especially good at all three), and then to focus a rebellion on the Bill's later stages, targeting particular pieces of a bill. Eschewing the nuclear strike in favour of the scalpel is also sensible because rebellions can lose momentum once they have been unsuccessful; rebels therefore hold back from striking until the most advantageous moment.

This is one – although only one – of the reasons why so few Bills have been defeated at second reading. The twentieth century saw just three Government bills fall at second reading. Of these, just one, the 1986 Shops Bill, was defeated whilst the Government had a secure majority.¹

But sometimes MPs do rebel at a Bill's second reading – and this paper provides data on Labour's previous rebellions, dating back to the first Labour government of 1924.

Previous rebellions

Up to the point of writing (8 March 2006), there have been 68 separate rebellions by Labour MPs against the second reading of their own Government's legislation, since Labour first entered Government in 1924. This figure includes reasoned amendments moved to a Bill's second reading. Of these 68, eight Bills saw rebellions over both a reasoned amendment and the second reading itself. The number of bills to see a rebellion by Labour MPs therefore stands at 60 (see Table 1).

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¹ The other two - the Rent Restrictions Bill in 1924, and the Reduction of Redundancy Rebates Bill in 1977 – both occurred whilst the Government was in minority status.

1. Second Reading Rebellions by Labour MPs, 1924-2005

<i>Date</i>	<i>Number of 2R revolts</i>	<i>Number of Bills affected</i>	<i>Largest 2R revolt</i>	<i>Average 2R revolt</i>
1924	2	2	39	24
1929-1931	1	1	14	14
1945-1951	8	8	72	21
1964-1970	5	5	35	13
1974-1979	23	21	39	15
1997-2001	6	5	29	10
2001-2005	19	15	72	19

Note: In addition, up to the point of writing, there have so far been four revolts at second reading during the third Blair term, affecting three bills.

The first of these revolts came on 5 March 1924 when 39 Labour MPs voted against the MacDonald government's Trade Facilities Bill; MacDonald's second government then saw just one revolt at second reading, over the Unemployment Insurance (No 3) Bill in July 1931, with 14 MPs rebelling.² Attlee saw his backbenchers vote against eight of his Bills at second reading (all but one of the revolts taking place during the 1945-50 Parliament), including sizeable revolts over the National Service (Amendment) Bill (40 MPs) and the Palestine Bill (30 MPs). The largest rebellion, however, saw 72 Labour MPs vote against their whip over the National Service Bill in April 1947.

The Wilson governments of 1964-1970 saw five rebellions at second reading (all taking place between 1968 and 1970), with the largest (35 MPs) coming in February 1968 over the Commonwealth Immigrants Bill, with 27 Labour MPs voting against the Parliament (No 2) Bill in February 1969. The two Parliaments from 1974 to 1979 then saw – in a five year period – more second reading revolts than all the preceding periods of Labour Government put together. Many of these rebellions were not huge, but they included sizeable revolts over the Lotteries Bill (39 MPs), the House of Commons (Redistribution of Seats) Bill (38), and the Channel Tunnel Bill (33) (the last being the only one of the rebellions to have occurred in the short Parliament between February and October 1974).

The very first Labour rebellion of the 1997 Parliament was against the Second Reading of a Bill. Back in November 1997, the late Jamie Cann, then Labour MP for Ipswich, voted against the second reading of the European Parliamentary Elections Bill. No other Labour MP joined Cann in the division lobbies. Such votes were typical during the 1997 Parliament. There were just six Labour rebellions against the second reading of Government bills during Labour's first term – indeed, two whole sessions (see table 2) went by without a single bill seeing a backbench rebellion at its second reading – and only two of these consisted of more than a handful of MPs: in September 1998, 19 Labour backbenchers supported a reasoned amendment to the Criminal Justice (Terrorism and Conspiracy) Bill; and then, in March 2000, in the largest second reading rebellion of the 1997 Parliament, 29 Labour MPs supported a backbench amendment to the Criminal Justice (Mode of Trial) (No. 2) Bill, reducing the use of trial by jury.

² That, though, was to be the calm before the storm, as the Bill, more commonly referred to the Anomalies Bill, was opposed by a determined group of Labour MPs, seeing 39 separate rebellions.

Things changed during the 2001 Parliament, when there were 19 separate second reading rebellions, averaging just over 19 MPs per rebellion. The largest, in January 2004, saw 72 Labour MPs vote against the second reading of the Higher Education Bill, which equalled the post-war record for opposition to a Bill's second reading.³ But there were also large rebellions over the Health and Social Care Bill, which introduced foundation hospitals, along with other sizeable rebellions during the second half of the Parliament over legislative attempts to settle the fire services dispute, measures to tighten the rules over asylum and immigration, the proposed deregulation of Britain's gambling laws, the introduction of identity cards, and attempts to tighten further Britain's anti-terrorist legislation.

2. Sessional breakdown of second reading rebellions, 1997-2005

<i>Session</i>	<i>Number of 2R revolts</i>	<i>Largest 2R revolt</i>	<i>Average 2R revolt</i>
97-98	2	19	10.0
98-99	0	0	0.0
99-00	4	29	10.0
00-01	0	0	0.0
1997-2001	6	29	10.0
01-02	4	4	2.3
02-03	5	65	25.2
03-04	6	72	24.8
04-05	4	32	20.5
2001-2005	19	72	19.3

In part, this was simply caused by the rising level of rebellion on the Government backbenches; as Labour MPs became more likely to rebel in general, so they became more likely to vote against the Government at second reading.

But there were also two more specific causes. By 2003 the nuclear option was looking increasingly attractive to many of Labour's backbenchers. This was partly just frustration; having seen so many pieces of legislation reach the statute book as a result of carefully calibrated concessions that placated just enough backbench opinion to get through the Commons, plenty of Labour MPs began to think that it was better to stop legislation as early as possible. There was also a feeling that the changes to the Commons procedures introduced as part of the Government's package of 'modernisation' – especially the automatic programming of government legislation – squeezed out backbenchers from the later stages of bills. Programming, many backbenchers began to complain, divided the time up between the frontbenches, but meant there was no guarantee backbench amendments would be chosen for debate (or, if they were chosen, there was no guarantee that they would be the right amendments, the ones with most chance of maximizing backbench support). Therefore, increasingly, the view on the backbenches was that when faced with objectionable legislation, the thing to do was to kill it outright. 'All the Committee meetings in the world won't alter anything', said one, 'so I take the view, let's get in there and kill it'.

³ In addition to the 72 Labour MPs who rebelled in 1947, this rebellion also tied with the 72 Conservative MPs who voted against (and helped defeat) the 1986 Shops Bill at its second reading.

How to judge the Education Bill rebellion

Estimates currently put the possible rebellion at the Education Bill's Second Reading at somewhere between 40 and 60 Labour MPs cross-voting (with others abstaining). This would, as Table 3 shows, make it one of the largest second reading rebellions by Labour MPs against their own Government since the party first entered government in 1924.

The size of the rebellion will be helped by the fact that – barring last minute changes in policy – the Conservatives will not be voting against the Government, thus making it easier for Labour MPs to vote against the bill.

- Any rebellion of over 139 is the largest against the Blair Government – as well as the largest against the whip since the Corn Laws.
- Any rebellion of over 72 is the largest domestic rebellion against the Blair Government since 1997 – as well as the largest against the second reading of a government bill in the post-war era.
- Any rebellion of over 65 is the second largest rebellion against the second reading of a government Bill since 1997.
- Any rebellion of over 51 is the largest rebellion during the third Blair term
- Any rebellion of over 20 is the largest rebellion at second reading during the third Blair term (see Table 4).

3. Largest Labour rebellions at Second Reading, 1924-2006

<i>Issue</i>	<i>Date</i>	<i>Number of MPs voting against their whip</i>	<i>Notes</i>
National Service Bill	01-Apr-47	72	
Higher Education Bill	27-Jan-04	72	
Health and Social Care Bill	07-May-03	65	RA
National Service (Amendment) Bill	01-Dec-48	40	
Trade Facilities Bill	05-Mar-24	39	
Lotteries Bill	26-Feb-75	39	
House of Commons (Redistribution of Seats) Bill	28-Nov-78	38	
Commonwealth Immigrants Bill	27-Feb-68	35	
Channel Tunnel Bill	30-Apr-74	33	
Prevention of Terrorism Bill	23-Feb-05	32	
Health and Social Care Bill	07-May-03	31	
Palestine Bill	10-Mar-48	30	
Social Security (Misc. Prov) Bill	02-Dec-76	30	
Gambling Bill	01-Nov-04	30	
Criminal Justice (Mode of Trial) (No. 2) Bill	07-Mar-00	29	RA
Parliament (No. 2) Bill	03-Feb-69	27	
Fire Services Bill	08-May-03	27	
Independent Broadcasting Authority Bill	06-Mar-79	26	
Asylum and Immigration (Treatment of Claimants etc) Bill	17-Dec-03	25	RA
Weights and Measures Bill	22-Jan-79	23	
Administration of Justice (Emergency Provisions) (Scotland) Bill	20-Mar-79	22	
Identity Cards Bill	28-Jun-05	20	

Note: RA indicates a reasoned amendment (in all three cases, moved by backbench Labour MPs).

4. All Second Reading rebellions, 1997-2006

Issue	Date	Number of MPs voting against their whip	Notes
Higher Education Bill	27-Jan-04	72	
Health and Social Care Bill	07-May-03	65	Lab b/b RA
Prevention of Terrorism Bill	23-Feb-05	32	
Health and Social Care Bill	07-May-03	31	
Gambling Bill	01-Nov-04	30	
Criminal Justice (Mode of Trial) (No. 2) Bill	07-Mar-00	29	Lab b/b RA
Fire Services Bill	08-May-03	27	
Asylum and Immigration (Treatment of Claimants etc) Bill	17-Dec-03	25	Lab b/b RA
Identity Cards Bill	28-Jun-05	20	
Criminal Justice (Terrorism & Conspiracy) Bill	02-Sep-98	19	Lab b/b RA
Asylum and Immigration (Treatment of Claimants etc) Bill	17-Dec-03	19	
Identity Cards Bill	20-Dec-04	19	
Identity Cards Bill	20-Dec-04	18	Con b/b RA
Terrorism Bill	26-Oct-05	16	
Prevention of Terrorism Bill	23-Feb-05	13	Con/LD RA
Northern Ireland Bill	08-Feb-00	9	
Anti-Terrorism, Crime and Security Bill	19-Nov-01	4	
Racial & Religious Hatred Bill	21-Jun-05	4	Con RA
Human Reproductive Cloning Bill	29-Nov-01	3	Con b/b RA
Northern Ireland (Elections) Bill	12-May-03	2	
Civil Partnership Bill	12-Oct-04	2	
Racial & Religious Hatred Bill	21-Jun-05	2	
European Parliamentary Elections Bill	25-Nov-97	1	
Criminal Justice (Mode of Trial) (No. 2) Bill	07-Mar-00	1	
Football (Disorder) Bill	13-Jul-00	1	
European Communities (Amendment) Bill	04-Jul-00	1	Con Opp RA
State Pension Credit Bill	25-Mar-02	1	Con Opp RA
Criminal Justice Bill	04-Dec-02	1	
Mental Capacity Bill	11-Oct-04	1	

Note: RA indicates a reasoned amendment, either moved by Labour backbenchers (Lab b/b), by Conservative backbenchers (Con b/b) or by one or more of the opposition frontbenches (Con or LD).