

Where's it all coming from? The Government's difficulties in the House of Commons

PHILIP COWLEY and MARK STUART*

Let us reflect upon what life was like exactly 10 years ago, when I last had the honour to write a political column for this newspaper.... Hereditary peers still sat as of right in a House of Lords that was a proper revising chamber, held the Government routinely to account and defeated it with alarming regularity. The Upper House was not yet full of personal friends of the Prime Minister, or of donors to his party. The House of Commons, too, had yet to adopt that posture of slavishness and ineffectuality that now characterises it - Simon Heffer (2005).¹

Labour backbenchers — the most supine Members of Parliament in British history — must decide where their loyalty lies - Roy Hattersley (2005).²

The Executive in Britain is now more powerful in relation to Parliament than it has been probably since the time of Walpole... The whips have enforced party discipline more forcefully and fully than they did in the past - *The Power Inquiry* (2006).³

Here's a poser. Which other post-war government with a majority of over 60 in the House of Commons managed to suffer four defeats within its first year in office?

The answer is none. What has happened since May 2005 has been unique in modern British political history. Not only have the government been defeated on four occasions, but they won another vote with a majority of just one - being saved by a handful of inattentive opposition MPs - and managed to pass the Second Reading of the Education and Inspections Bill, a key plank of their legislative programme, only as a result of opposition support. The Commons has also forced concessions from the government on a range of other legislation, including on the issue of smoking, where the government abandoned one of its manifesto commitments. Can you name any other post-war government which allowed a free vote on an explicit manifesto commitment within a year of winning an election? We bet you can't.

Labour backbench rebellion so far in the 2005 parliament is running at the rate of a rebellion in 27 per cent of divisions. If Labour MPs keep that up, this session is on target to be the most rebellious first session of any post-war parliament, and the parliament will be on target to be the most rebellious parliament of the post-war era.

This paper examines the current behaviour of Labour MPs, from the 2005 election to the Summer recess in 2006. It explains where this rebellion has come from (not where all commentators think) and the consequences for the rest of the parliament (not - yet - as serious as it could be). It begins with an outline of the rebellions to have occurred to date, before discussing the government's current difficulties.

1. The rebellions so far

Between the May 2005 election and 25 July 2006 there were 295 divisions (votes) in the House of Commons. A full 80 of these saw one or more Labour MPs vote against their whip. These rebellions covered a wide range of issues and bills (table 1), although the majority (both of rebellions and rebellious votes)

occurred on three measures: the Terrorism Bill (which saw 17 rebellions, and a total of 259 rebellious votes), the Identity Cards Bill (18 rebellions, 209 rebellious votes) and the Education and Inspections Bill (7 rebellions, 317 rebellious votes).

1. Bills and issues to see Labour rebellions, 2005-06 session (up to Summer recess)

<i>Bill/Issue</i>	<i>Number of rebellions</i>	<i>Total number of dissenting votes cast by Labour MPs</i>	<i>Average size of rebellion by Labour MPs</i>
Education and Inspections Bill	7	317	45
Terrorism Bill	17	259	15
Identity Cards Bill	18	209	12
Racial & Religious Hatred Bill	6	71	12
Immigration, Asylum and Nationality Bill	6	30	5
Legislative and Regulatory Reform Bill	7	30	4
Armed Forces Bill	1	17	17
Marketing of Foods Derived from Genetically Modified Maze	2	10	5
Criminal Justice Act 2003 (Commencement) Order 2005	1	4	4
Civil Aviation Bill	2	8	4
US-UK Extradition Treaty	1	7	7
Finance (No. 2) Bill	1	6	6
EU Budget Motion	1	3	3
Animal Health Bill	1	2	2
Crossrail Bill	1	2	2
Licensing Act 2003 Order 2005	1	2	2
Government of Wales Bill	2	2	1
Northern Ireland (Offences) Bill	2	2	1
Northern Ireland (Misc Prov.) Bill	1	1	1
Police and Justice Bill	1	1	1
Health Bill	1	1	1

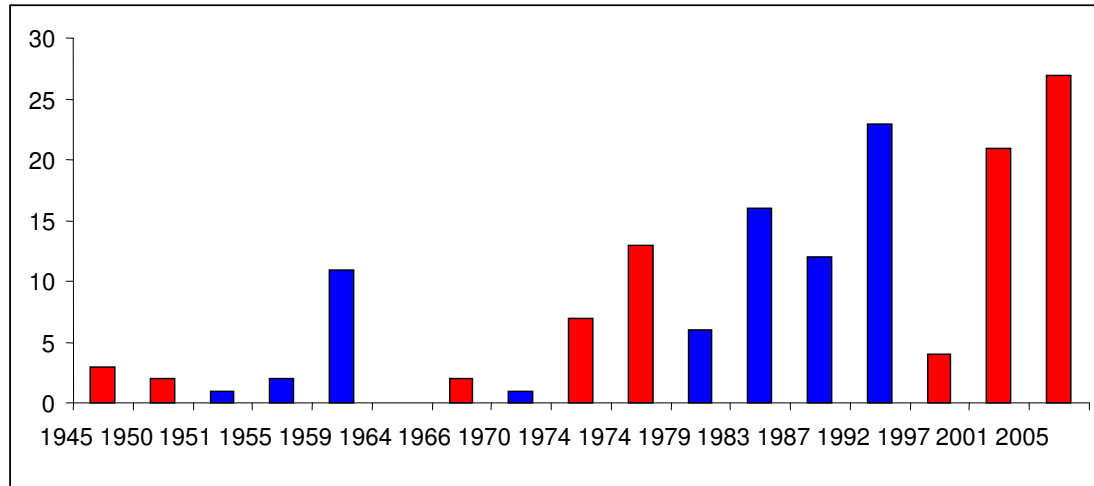
As is clear from Figure 1, which shows the percentage rate of rebellion by government MPs in the first session of every post-war parliament, a rebellion in 27% of votes would, if continued for the rest of the session, make 2005-06 the most rebellious first session since 1945. It would easily eclipse the 2001-2 session in the previous parliament (21%) as well as what had until recently been the most rebellious first session of the post-war era, the 1992-3 session (a rebellion in 23% of divisions) when John Major struggled so terribly with the Maastricht legislation.⁴

Moreover, should Labour MPs keep up a similar rate of rebellion for the rest of the parliament, it is currently on target to be the most rebellious parliament of the post-war era. Of course, much can change in the rest of the parliament (including a new leadership), but this still remains a realistic possibility. In 2001-2, Labour MPs rebelled at a rate of 21%, and whilst the rate of rebellion waxed and waned at times throughout the parliament the overall figure for the parliament was also 21%, the highest in post-war history.

As is usual in the Commons, however, the majority of these rebellions were not large. The average (mean) size comprised 12 MPs (marginally down on 14 during the previous parliament), and a majority (49) consisted of fewer than ten MPs.

These will not have caused the whips too many sleepless nights. Table 2 lists the 18 votes to see a rebellion of 20 or more Labour MPs. The table encompasses just four bills: the Education and Inspections Bill (the largest rebellion of all, at 69 MPs), the Terrorism Bill (the largest rebellion seeing 51 MPs), the Racial and Religious Hatred Bill (26 MPs) and the Identity Cards Bill (25). One other bill – the Immigration, Asylum and Nationality Bill – saw a sizeable rebellion, when 19 MPs voted against their whip during a Lords Amendment stage vote, but which falls just outside this table.

Fig 1. Percentage of divisions to see rebellions by government party MPs, first sessions, 1945-2006



Note: as indicated in the text, the figure for 2005-6 is for an incomplete session, correct as of 25 July 2006

At the beginning of the Parliament, the Government’s nominal majority was 66; its effective majority – as a result of the five non-voting Sinn Fein MPs - was 71, thus requiring 36 Labour MPs to cross-vote to bring about a defeat. Just three of the 61 revolts comprised 36 or more Labour MPs voting against their whip. So, although Labour MPs are rebelling frequently, and more frequently than in all other recent parliaments, they are not yet regularly rebelling in large enough numbers to bring about routine defeats.

Despite this the government has still gone down to four defeats in the Commons since May 2005. In mid-November 2005, just six months into the Parliament, they were defeated twice during the Report Stage of the Terrorism Bill. These were their first defeats on whipped votes since Labour came to power in 1997; and, with the government losing by 31 and 33 votes, the largest substantive defeats in the Commons since July 1978, when the Callaghan government failed to overturn a Lords amendment on the Wales Bill.⁵ Two more defeats came on 31 January 2006 during the Lords Amendment Stage of the Racial and Religious Hatred Bill. Neither of these rebellions – one consisting of 26 MPs, another of 21 – should have been large enough to defeat the Government, but the whips had miscalculated, allowing too many Labour MPs to be absent for campaigning in the Dunfermline and West Fife by-election. The embarrassment was made all the worse by the fact that the Prime Minister was present for the first vote but was then allowed to leave the Commons before the second – which was then lost by a majority of just one. For reasons explained later, the defeats in November 2005 can be fairly described as a failure of political leadership; those in January 2006 were simply a failure of whipping.

2. Larger Labour rebellions, May 2005-19 July 2006

<i>Bill</i>	<i>Stage/Issue</i>	<i>Number of Labour MPs to vote against whip</i>
Education and Inspections Bill	Report (ballot of parents)	69
Education and Inspections Bill	Report (selection by aptitude)	61
Education and Inspections Bill	Second Reading	52
Terrorism Bill	Report (28 days)	51*
Terrorism Bill	Report (90 days)	49*
Education and Inspections Bill	Third Reading	46
Terrorism Bill	CWH (intent)	34
Education and Inspections Bill	Report (admissions administrator)	34
Education and Inspections Bill	Programme	30
Terrorism Bill	CWH (glorification of terrorism)	27
Racial and Religious Hatred Bill	LA (threatening words or behaviour)	26*
Identity Cards Bill	Third Reading	25
Education and Inspections Bill	Report (governing bodies)	25
Identity Cards Bill	Report (passport applications)	23
Identity Cards Bill	Programme	22
Racial and Religious Hatred Bill	LA (intention only)	21*
Identity Cards Bill	Second Reading	20
Identity Cards Bill	LA (passport applications)	20

Note: * indicates a government defeat. CWH means Committee of the Whole House; LA means Lords Amendments Stage.

No other post-war government with a majority of over 60 in the Commons has gone down to as many defeats in an entire parliament, let alone merely in its first session. Indeed, John Major's Conservatives – much derided for their divisions – suffered just four defeats as a result of backbench dissent on whipped votes in the five years between 1992 and 1997. The third Blair term, therefore, managed to achieve in nine months what it took Major five years – despite having a majority three times the size.

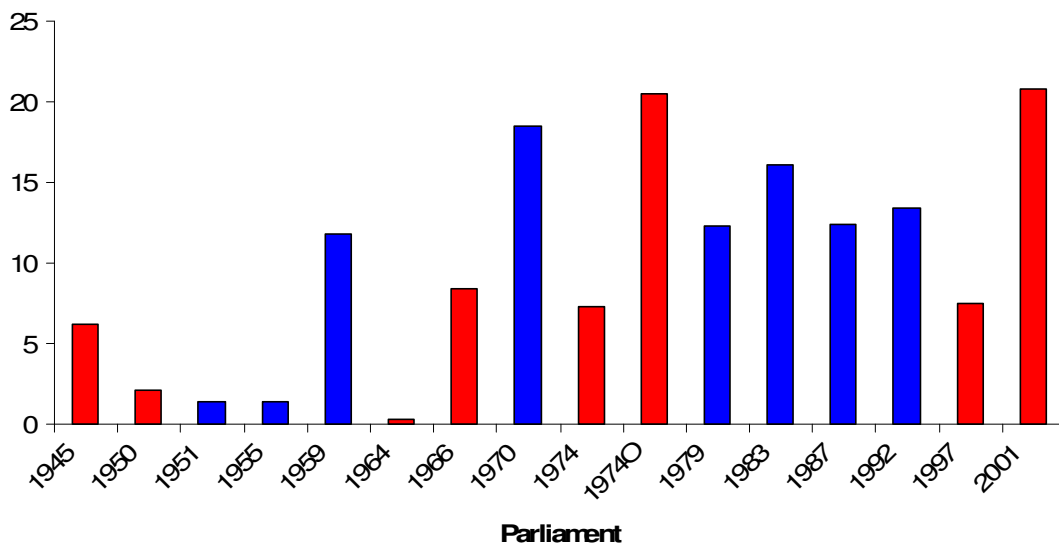
2. Minds were not concentrated

Such rebellious behaviour has not come out of the blue. As we have comprehensively demonstrated elsewhere, the Parliament between 2001 and 2005 was (depending on how you measure it) either one of the most rebellious parliaments of the post-war era or *the* most rebellious.⁶ The Parliamentary Labour Party (PLP) set a series of records which the whips would much rather they had left well alone:

- a higher rate of rebellion than in any other post-war Parliament (see Figure 2), and more rebellions than in all but the (longer) 1974-79 Parliament
- more rebellions in the first session than in the first session of any Labour Government

- more rebellions in the final session than in the final session of any post-war Parliament
- over Foundation Hospitals, the largest rebellion by Labour MPs over a Labour Government's health policy
- over top-up fees, the largest rebellion by Labour MPs over a Labour Government's education policy
- also over top-up fees, the (joint) largest rebellion at Second Reading since 1945, and
- over Iraq, the two largest rebellions against the whip by MPs of any party for over 150 years.

Fig 2. Percentage of divisions to see rebellions by government party MPs, 1945-2005



Despite this record-breaking behaviour, the MP-as-sheep cliché was so deeply ingrained that even many of the more experienced political commentators were simply unable to get it out of their head. Those of us who would try to point out the extent to which rebellion had become commonplace within the PLP soon grew used to being looked at as if we were slightly slow eight-year olds who had ingested too much lead somewhere along the line. We also grew used to being told that things would be different with a smaller majority. We shan't list all of those who told us with absolute certainty that Labour MPs would behave differently once there was a smaller majority (although like the U-Boat Officer in Dad's Army we have taken down their names). The line from Labour HQ on election night, and afterwards, was that their smaller Commons majority of 66 would 'concentrate the mind' of Labour MPs. The bloated majorities enjoyed since 1997 had allowed Labour backbenchers to rebel without giving much thought to the consequences. With a smaller majority, so the argument went, Labour MPs would have to exercise more self-discipline. This view was also accepted by many outside observers, who would point out that the government's majority was larger than in most post-war parliaments, and – a comparison the Prime Minister himself would use – was larger than that with which Mrs Thatcher had managed between 1979 and 1983.

Such commentators (and the Prime Minister) had forgotten the last time a government found itself re-elected with a much smaller majority. In the days

after the 1992 election, most commentators declared that John Major's 21 seat majority was a perfectly workable state of affairs. But they had reckoned without the extent to which the habit of revolt had been widespread within the Conservative Parliamentary party during the Thatcher years, when (just like between 1997 and 2005) MPs had been able to rebel relatively freely given the size of the majority. When the majority came down, it did not force Bill Cash, Teddy Taylor et al to behave better. They had also forgotten how the Labour Government of 1974-79 managed (or rather, didn't) with a small, and sometimes non-existent, majority, with self-immolation rather than self-control being the order of the day.

There were 60 Labour MPs who had rebelled on 10 or more occasions between 2001 and 2005; whilst the smaller majority had the potential to make some of the other, more infrequent, rebels change their behaviour, it was unlikely to stop rebellions by many of these 60. In one of its more prescient passages, a book published in late-2005 noted:

Still there, for example, are 56 of those who voted against the Government's last Prevention of Terrorism Bill, introduced just before the 2005 election, and easily enough to defeat the Government should they mishandle similar legislation now, even after the recent terrorist attacks.⁷

3. It's the majority, stupid

It is frequently claimed that the Government's current difficulties have been caused by the Prime Minister's announcement prior to the election that he would serve a third term, but not then seek re-election. As a result, so the argument goes, his authority has slipped away. This may well be true, but it is not a reason for his present difficulties with his backbenchers.

As has just been shown, Labour MPs had been rebelling in historically high numbers *before* the 2005 election – and *before* Blair's announcement. They have merely continued with that behaviour after the election. What changed – and what has made things more dangerous for the government – was the size of the government's majority.

One obvious test of this is to look at *who* is rebelling – and how often. A total of 112 Labour MPs have voted against their whips thus far in the Parliament. Of these, eight are from the new intake, elected in 2005: Katy Clark and Linda Riordan (both of whom have both already got into the habit of rebelling, having done so on 18 and 21 occasions respectively, to date), along with Sir Peter Soulsby, who has so far rebelled on seven occasions. In the cases of another three newcomers (Sian James, Sadiq Khan and Emily Thornberry), their two votes against the party whip are not yet part of a discernible pattern, while two Scottish newcomers - Jim Devine and Jim McGovern – have only cast one dissenting vote each. There are then five MPs who had not rebelled between 2001 and 2005, but who began to rebel after May 2005: Brian Jenkins, Andy Love, Nick Raynsford, John Smith and Ian Stewart. The remaining 99 (that is, 88 per cent of the rebels) were all known to the whips' office from the previous parliament.

Indeed, they include the top 48 rebels from the previous parliament (and who remain on the backbenches), *all* of whom have voted against their whip already. Table 3 lists the most rebellious 25 backbench rebels, and all the names will be astonishingly familiar to anyone with even a passing knowledge of the PLP. With the exception of the two new MPs, elected for the first time in 2005 (and marked

with an asterisk), all had rebelled before in the 2001-5 Parliament. In other words, with a handful of exceptions, the current difficulties are being caused by the very same people who have been rebelling against the government for years. We have seen no uprising of virgins.

3. Most rebellious 25 Labour MPs, by 19 July 2006

<i>Name of MP</i>	<i>No. of times voted against the whip</i>
McDonnell, John	54
Corbyn, Jeremy	51
Jones, Lynne	38
Wareing, Bob	37
Simpson, Alan	36
Short, Clare	34
Fisher, Mark	33
Hopkins, Kelvin	33
Marshall-Andrews, Bob	31
Jackson, Glenda	30
Hoey, Kate	29
Gibson, Ian	23
Flynn, Paul	21
Riordan, Linda*	21
Abbott, Diane	19
Taylor, David	19
Clark, Katy*	18
Wood, Mike	18
Prentice, Gordon	17
Dunwoody, Gwyneth	15
Clapham, Michael	15
Skinner, Dennis	15
Grogan, John	14
Gerrard, Neil	12
Mudie, George	12

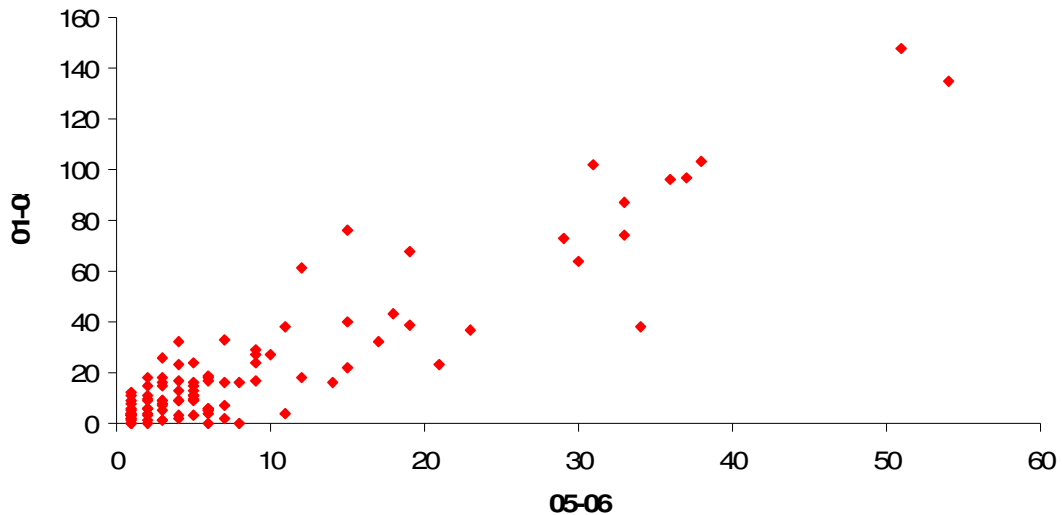
Note: * indicates a member of the 2005 intake

Moreover, as Figure 3 shows, the relationship between the number of votes cast against the whip between 2005 and 2006 and before is a fairly obvious one. The correlation between the number of votes cast by rebels against the government during this parliament and 2001-5 is, at 0.92, extremely high. It is not in any way to diminish behaviour of the rebels to note that it is entirely predictable.⁸

Writing in the *Guardian* in November 2005, Roy Hattersley claimed that the Terrorism Bill had 'at last, awakened a slumbering Parliamentary Labour Party'.⁹ It would be difficult to get it more badly wrong. The PLP have been wide awake –

with significant parts of it screaming their opposition to key planks of the Government's programme – for years now. It is not that any particular piece of legislation introduced since the election has somehow awoken them. Nor that they have suddenly been encouraged to rebel because they know the Prime Minister is to stand down soon. All that has changed is the size of the government's majority.

Fig 3. Relationship between votes cast against the whip 2005/6 and 2001/5



Indeed, far from Blair's difficulties with his backbenchers being caused by the fact that they know he is going, it is easy to construct a plausible counter argument: that he is in fact facing fewer difficulties than he otherwise might be, because he has pre-announced his resignation. There is very little evidence of Brownites (however defined) being involved in the current rebellions. One or two of the rebels – like George Mudie – are Brown supporters, but there is no evidence of any systematic Brownite plot in the rebellions, as part of an effort to remove the Prime Minister sooner rather than later, and install their man instead. That is not to argue that many of those currently rebelling would not prefer the Prime Minister to go sooner rather than later (they would), merely that there is no evidence that supporters of Gordon Brown are so organising. Had the Prime Minister not already announced his intention to go, it is unlikely this would be the case.

4. Compromise, compromise, compromise

Despite 112 rebels and 80 rebellions, there have been just four defeats. Relative to other post-war parliaments this may be a very high number, but in absolute terms it only represents one defeat in every 74 votes.

One reason why some of the revolts have not been larger than they were, and thus more damaging, is that this government, like all other recent governments, have been prepared to compromise with backbench critics in order to smooth the passage of legislation through the Commons. This was most obvious with the Education White Paper, and the subsequent Education and Inspections Bill. Several leading government backbenchers, including all six members of the PLP's

Parliamentary Committee, produced what they termed an 'Alternative White Paper' (AWP), demanding a series of concessions on issues such as strengthening the admissions code and banning interviews. The Government met many (although not all) of the rebels' demands, and the Education and Inspections Bill that followed was significantly changed from the White Paper. It was then further amended prior to Second Reading, with an expectation amongst Labour MPs that it would be further changed in committee. As a result, just under half of the 91 signatories to the AWP voted against the Bill at its Second Reading.¹⁰ As one would-be rebel, but eventual supporter, David Chaytor, put it:

The Government listened carefully, took on board many of the proposals and made assurances and promises that other issues would be considered in Committee. Once one has made one's contribution to the debate and the Government have listened and taken on board much of what one has said, one cannot then suddenly shift ground and say that there are other reasons for not voting for the Bill.¹¹

In the run-up to the publication of the Government's Green Paper on Welfare Reform, *A new deal for welfare: Empowering people to work*, John Hutton, the Secretary of State for Work and Pensions, similarly responded to opposition from Labour MPs by abandoning plans to extend means-testing for the long-term sick, instead focussing on extra occupational help for claimants. As a result, the White Paper's reception was far more positive than it would otherwise have been, and the very little trouble is expected with the Welfare Reform Bill. The Government also responded to widespread criticism of its Legislative and Regulatory Reform Bill, such that when the Bill reached Report stage, there were seven very minor rebellions, the largest of which saw only seven MPs vote against the party whip.¹²

Perhaps the most striking example of backbench pressure, however, came when the government effectively abandoned its manifesto commitment on smoking in public places. Labour's 2005 manifesto had contained an explicit pledge to allow smoking to continue in pubs that were not serving food – the so-called 'partial ban'.¹³ Faced with both cabinet splits and overwhelming evidence of backbench hostility, the government then allowed MPs a free vote on two more restrictive options. Some within government attempted to justify this on the grounds that they would implement the manifesto, but then allow MPs a free vote on whether to take the issue 'further'. Therefore this was not, so they argued, the abandonment of a manifesto commitment. Such an argument might have validity in some cases, but in this case MPs were being allowed a free vote to remove rights – the rights of non-food serving pubs and clubs to decide whether to be smoke free or not – explicitly promised in Labour's manifesto, less than a year before. To 'go beyond' the manifesto was in this case to reject the manifesto. The concept of the 'free vote' – with the MPs unshackled from the constraints of their domineering whips – appeals to lots of people,¹⁴ but in this case, it resulted in the abandonment of a pledge that the government had made to the electorate less than a year before.

In itself, this was remarkable; we cannot think of a comparable event in the last 50 years. Even more remarkable were the divisions the votes revealed within the PLP, and detailed in Table 4.¹⁵ Given the chance to stick with the initial 'partial' ban, just 29 Labour MPs (including John Reid, the Cabinet Minister most closely associated with it) did so. A staggering 91% of Labour MPs to vote walked into the opposite lobby to the position on which they had fought the election under a year before. The vote on private clubs saw 84% vote against what had been in their manifesto. If nothing else, the rebellion showed the wisdom of the Government having allowed a free vote on the issue. Had they whipped, the rebellions could have been enormous. John Reid would presumably contend that

he was more in touch with some of Labour's core voters – but the vote showed the extent to which he was out of touch with mainstream opinion in the PLP on this issue.

4. The two key smoking votes, 14 February 2006

	<i>Ban on public licensed premises</i>				<i>Ban to include private clubs</i>			
	<i>Aye</i>		<i>No</i>		<i>Aye</i>		<i>No</i>	
	N	%	N	%	N	%	N	%
Labour	304*	91	29*	9	278*	84	52*	16
Conservative	81	46	94	54	47	27	125	73
LD	55	95	3	5	47	85	8	15
PC	2	67	1	33	2	67	1	33
DUP	8	100	0	0	8	100	0	0
SDLP	2	100	0	0	2	100	0	0
UUP	1	100	0	0	1	100	0	0
Others	1	100	0	0	1	100	0	0
Total	454[‡]		127		386		186	

Notes:

* Including tellers. In each case, the tellers were whips, facilitating the vote taking place. However, where possible whips were chosen based upon their broad views on the policy. Removing the whips from the votes would make no difference to the overall calculation of party divisions.

‡ The figure for ayes does not tally with the names listed in *Hansard*, which lists 454 names (including tellers), whilst reporting the aye lobby as 455 strong (including tellers).

The need to compromise was shown most clearly on the one high profile occasion when the government did not do so – over the Terrorism Bill. Given the support of the Conservative frontbench, the Bill's Second Reading was straightforward, but the government knew that they had problems ahead when the Bill had its Committee (which was to be held on the floor of the House) and Report Stages, where Conservative support would not always be forthcoming. During Committee on 2 November, the government survived a division on the extent to which someone had to 'intend' to encourage terrorism; despite a rebellion by 34 Labour MPs voting against their whip (and others abstaining), the government were saved from defeat by Opposition absentees.¹⁶ The whips knew that they were in even more trouble over an amendment proposed by David Winnick, the Labour MP for Walsall North, which proposed reducing the length of time for which a suspect terrorist suspect could be held from the 90 days preferred by the government to 28. With the Opposition parties all opposed to any extension of the time limit beyond 28 days (from the 14 which was the *status quo ante*), given the deep unease on the Labour backbenches, the Government were facing certain defeat. After much consultation behind the scenes, and after a promise from the Home Secretary that he would meet with Winnick and others to agree a compromise deal, Winnick withdrew his amendment, although he made it clear that he was expecting a compromise nearer to 28 than 90 days.

Privately, all the signs were that the Government was willing to negotiate, and they had even begun the process of publicly shifting position away from the 90 day limit, despite continuing to insist that 90 days – which was the preferred option of the police – was necessary. But then, on the evening of the following

Monday, 7 November, the Home Secretary announced that the Government were instead pushing ahead with the original 90 day option, although a loyalist backbench MP, Janet Anderson, tabled an amendment for 60 days as a fall back position. The Government did offer a sunset clause – something which they had refused during the Prevention of Terrorism Bill immediately before the election – and argued that this represented the promised compromise.

It was not a position that satisfied many of those previously opposed, but the Prime Minister appeared to have been persuaded that it would be possible to get 90 days through the Commons by his positive reception before the Parliamentary Labour Party earlier on 7 November – when he had, by all accounts, spoken exceptionally well, and received a very warm reception. His whips were much less certain, and were pinning their hopes on there being enough defections from the Opposition parties in order to get the measure through.

It didn't happen. Despite heavy whipping, and a virulent campaign by the *Sun*, which was to describe those Labour MPs who voted against the Government as 'traitors', the Commons defeated the Government's proposed 90 day limit, by 322 to 291, and supported David Winnick's 28 day option by 323 to 290. The former saw 49 Labour MPs vote with the Opposition parties; the latter saw 51 (including tellers) do so. In advance of the vote, there had been lots of talk of the possibility of the government being saved by the votes of the DUP but in the event the DUP voted *en masse* against the government and Conservative cross-voters were limited to a handful. Moreover, the scale of the defeats was such that even if the DUP had voted with the Government, the Government would still have been at least 13 short of victory. It would therefore have required both the DUP and increased Tory support to ensure victory. Neither was forthcoming.

The defeats had both policy and political consequences. The policy consequence was that the police were allowed to detain someone for up to 28 days without charge (although subject to review every seven days). Yet the irony was that most Labour backbenchers were willing to compromise. It is almost certain that had a compromise been offered to backbenchers a longer period than 28 days might have been possible (of which 42 seems the most likely, with 60 the outer limit). As a result of the Prime Minister's tactics, therefore, the police ended up with a more limited time to detain people than they might otherwise have gained.

The political consequences went further than the fact that the rebels had – in a phrase used repeatedly after the defeat – 'tasted blood'. The fact that the government appeared to offer a compromise on the detention period only then to renege has the potential to cause problems in the future. The next time a Labour backbencher like David Winnick has got a Minister on the ropes, and is asked to withdraw an amendment so that a compromise can be hammered out behind-the-scenes, the temptation will be to eschew consensus and go in for the kill. But most significantly, the defeat also removed a weapon that the whips employed at various moments in the last parliament: the threat of victory. Previously, whenever a vote looked close, the consequences of a Government defeat began to be discussed in an over-the-top, exaggerated way.¹⁷ But after the Terrorism Bill it became clear that when a government is defeated the sky does not fall in, that votes of confidence are not called, and that the government does not collapse as a result. As a result, future defeats become even more likely.

5. Labour bills with Tory votes

The bill to provoke the largest rebellions of the third term to date has been the Education and Inspections Bill. The bill soon attracted controversy within the

government's ranks, with over 90 Labour MPs signing the AWP. Despite the various compromises, which persuaded many of those who signed the AWP to come on board, the eventual rebellion of 52 Labour cross votes (along with at least ten abstentions) was the largest since the 2005 Parliament began. It was the fourth largest Second Reading rebellion against a Labour government since the party first entered government in 1924, and the third largest since Blair became Prime Minister in 1997. There was then also a series of sizeable rebellions at Report Stage, followed by a record-breaking rebellion at Third Reading, when 46 Labour MPs voted against the Bill, the largest Third Reading rebellion ever against a Labour Government. Yet the Government won the Bill's Second Reading easily, by 458 to 115, a majority of 343, and the Third Reading by 422 votes to 98, a Government majority of 324. They were helped (as Table 5 shows) by the support of the Conservatives.¹⁸

5. Voting on the Second Reading of the Education and Inspections Bill

	<i>Aye</i>	<i>No</i>
Lab	275	52
Con	176	0
LD	0	63
DUP	8	0
SDLP	1	0
Others	0	2
	460	117

Note: Figures include tellers.

More accurately, the Government relied on the Conservatives not voting against them. Had the Conservatives abstained (and assuming all other votes remained constant), the Government would have still won the vote, albeit by a reduced majority of 167. But had the Conservatives voted against the Bill (and assuming all other votes remained constant) the Government would have lost by 293 to 284, a majority against the government of nine.

The phrase 'assuming all other votes remained constant' is an important one; and it is near to a certainty that if the Conservatives had been voting against the bill not all MPs would have voted in the same way. The dynamics of the vote would have been different, and some Labour MPs would probably have been persuaded to abstain or support the government. That said, it seems to us unlikely that enough would have been so persuaded, not least because if the Conservatives had been voting against the Bill, it is likely that the DUP would have been as well, which would have made the defeat even worse (a majority against of 25), requiring at least 13 Labour MPs to change their votes.¹⁹

If the bill had been defeated at Second Reading, it would have been the first time for two decades that a government had lost a bill at Second Reading – the last being the 1986 Shops Bill – and it would have been just the second time in over 100 years that a government with a majority in the Commons had lost a bill at that stage of its parliamentary passage. That the Conservatives might help the Government to avoid defeat caused some unease amongst their ranks (hence some Conservative abstentions during the vote), but even greater disquiet amongst Labour ranks, leading 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.²⁰ 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.

Moreover, the comparison with Ramsay MacDonald overlooks the fact that all other Labour Prime Ministers have relied on Conservative support occasionally. For obvious reasons, relying on the votes of the opposition has been particularly common in those periods of Labour Government when Labour did not enjoy a large majority (or any majority). Table 6 provides details of five key votes between 1974 and 1979, when James Callaghan or Harold Wilson’s governments won Second Reading votes for their legislation thanks to the support of the Conservatives.²¹ In each case, the rebellion was large enough to defeat the Government had there been a sizeable Conservative turnout in opposition.

6. Key Second Reading Votes, 1974-79, won thanks to support of Conservatives

<i>Prime Minister</i>	<i>Bill</i>	<i>Date of Second Reading</i>	<i>Details</i>
Wilson	The National Lotteries Bill	26 February 1975	39 Labour MPs voted against the Bill (as did 19 Conservatives), but it was given a Second Reading thanks to the support of 103 Conservative MPs, and five Liberals
	The Channel Tunnel Bill	30 April 1974	33 Labour MPs voted against the Bill (as did 13 Conservatives), but it was given a Second Reading thanks to the support of the Opposition.
Callaghan	The House of Commons (Redistribution of Seats) Bill	28 November 1978	38 Labour MPs voted against the measure. The Bill received its Second Reading thanks to the support of 186 Conservative (more indeed than the 153 Labour MPs voting for the measure). Those abstaining included one government whip abstained - was later reprimanded by the Chief Whip.
	The Independent Broadcasting Authority Bill	6 March 1979	26 Labour MPs voted against the Bill, but it was carried thanks to the support of 48 Conservatives, and assorted others. Willie Whitelaw, then Deputy Leader of the Opposition, voted in both lobbies.
	The Administration of Justice (Emergency Provisions) (Scotland) Bill	20 March 1979	22 Labour MPs (including tellers) voted against the Bill, but it was passed thanks to the support of 35 Conservatives and assorted others.

Source: Drawn from Philip Norton, *Dissension in the House of Commons, 1974-1979* (Oxford, Clarendon Press, 1980). Note that in each case the rebellion was large enough to defeat the Government had there been a sizeable Conservative turnout in opposition.

There were also two examples of Labour Prime Ministers enacting legislation on the back of Conservative votes when they enjoyed a workable majority in the Commons:

[1] On 27 February 1968, the Commonwealth Immigrants Bill was given its Second Reading by 372 votes to 62. The Government whips were on, although the Opposition allowed a free vote. The 374 Members (including tellers) to support Second Reading comprised 211 Labour Members, 162 Conservatives and one Independent Conservative. The 64 Members (including tellers) to oppose Second Reading comprised 35 Labour Members, 12 Liberals, 15 Conservatives, one Welsh Nationalist and one Scottish Nationalist. Between 31 and 40 Labour MPs are said to have abstained. Had the Conservative MPs voted in the other lobby, the Government would have lost.

[2] On 1 April 1947, the National Service Bill was given a Second Reading by 386 votes to 85, with 131 Conservatives voting with the Government. The 87 Members (including tellers) to oppose the Bill comprised 72 Labour Members, 10 Liberals, 2 ILP Members, one Conservative, one Independent and one Communist. Between 30 and 40 Labour Members are also believed to have abstained from voting. In this case, because of a relatively low turnout, the Government would still have won had the 131 Conservatives been in the opposition lobby. But had there been a full Conservative turnout, a rebellion of 72 cross-votes along with 30-40 abstentions would have been enough to defeat Attlee's government.²²

Neither the 1968 or 1947 example was exactly comparable to the Education and Inspections Bill. In 1968, the Conservatives were given a free vote (and so it was the support of individual Conservative MPs that helped them deliver the Bill, rather than the support of the frontbench), whilst in 1947, although the rebellion should have been large enough to defeat the Government without Conservative support, the low Conservative turnout meant that the Government would have survived even without Conservative support (not the case with the Education and Inspections Bill). But confronted with accusations that he is the 21st Century's Ramsay MacDonald, Tony Blair is still able to respond that he is following in a tradition for Labour premiers – and that if it was good enough for Clement Attlee, it is good enough for him.

There are, however, other reasons apart from the symbolic why it is not a good idea to have to rely on Conservative votes. The first is that such support will be extremely rare. 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.²³ More importantly, relying on opposition votes in this way effectively cedes veto power over the legislation to the Conservatives, who are then in a position – should they wish to – to bring down the piece of legislation, with the result that the Government are no longer fully in control of their legislative programme.

6. There's no binary divide

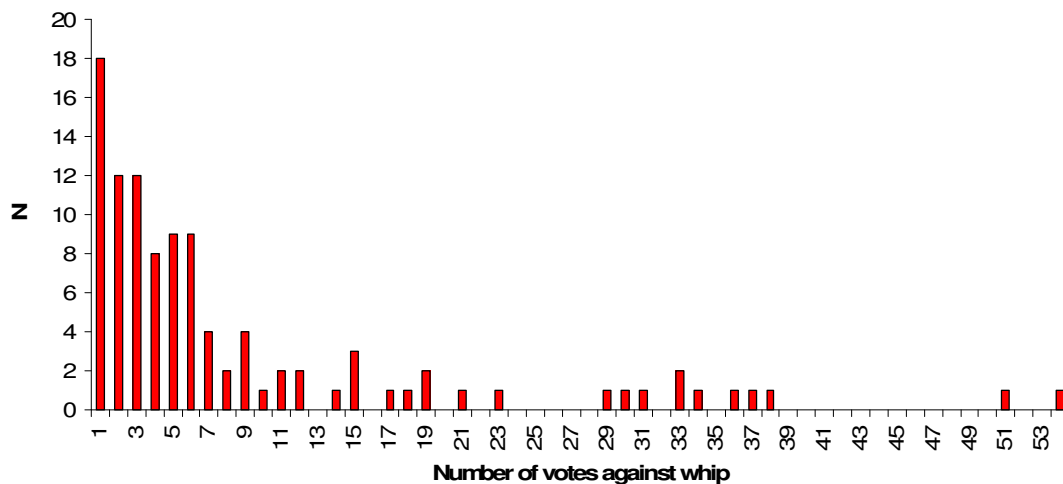
It is common to hear people talk of backbench 'rebels' and 'loyalists', as if these two groups were both distinct and homogenous. They are neither.

By the end of the 2001 Parliament, for example, 218 Labour MPs had voted against their whips at least once. Totally loyal backbenchers were relatively rare; there were just 36 Labour MPs who sat on the backbenches for the entire 2001 Parliament and who hadn't rebelled by the time of the 2005 election. But few of the 218 Labour rebels had voting patterns that resembled those of Jeremy Corbyn. Just four had voted against the party whip more than 100 times. By the time you'd reached the twentieth most rebellious Labour MP – the then Father of the House, Tam Dalyell – you were down to 53 dissenting votes, less than half the number cast by Jeremy Corbyn. By the time you'd reached the thirtieth most rebellious MP – the less well-known Jim Cousins – the figure had dropped to 33 rebellions.

Below them, the number of rebellions cast by Labour MPs dropped yet further. Some 60% of the 218 Labour MPs to vote against the whip between 2001 and 2005 did so on fewer than ten occasions; over a third did so on fewer than five occasions. Just one in five of the rebels rebelled on 20 or more occasions, and the median number of votes cast against the whip by a Labour rebel MP was seven – or 0.56% of the total number of votes. In other words, the average rebel rebelled once every two hundred parliamentary votes.

The same pattern is already evident in the 2005 Parliament. As figure 4 shows, most of the 112 Labour MPs to have defied the whips so far have not done so frequently. Just ten have done so on more than 30 occasions, and by the time we reach the joint 25th most rebellious MPs (Neil Gerrard and George Mudie), we are down to just 12 votes against the whip. Those to have rebelled on under five occasions (55) constitute a majority of those to have rebelled at all.

Fig 4. Number of votes against the whip by Labour rebels, 2005-2006



The number of MPs who will – to use a frequently quoted phrase – ‘vote against anything’ the government puts forward is therefore remarkably small. In short, the ‘rebels’ are both a larger group than many commentators assume – how many people thought they numbered 112 already? – but also a more flexible group than is widely thought.

Evidence of this came with the Education and Inspections Bill. Table 7 details the behaviour at the Bill’s Second Reading of the 91 signatories of the AWP. The difference in behaviour between those who have rebelled frequently and those who have rebelled less often is stark. Of the most rebellious 30 MPs who signed

the AWP, 28 (93%) went on to rebel, either by abstaining or by voting against.²⁴ Of the next 31 MPs, 15 (48%) rebelled, and of the least rebellious 30 just six (20%) broke ranks. In other words, the most rebellious 30 MPs were more than four times more likely to rebel against the party line than the least rebellious 30. All Labour MPs are open to persuasion in the form of compromises and concessions – but some are more persuadable than others.

7. Behaviour of AWP signatories at Second Reading of Education and Inspections Bill

	For Second Reading	Abstain	Absent	Against Second Reading	Total number of rebels (inc. abstainers)		N
	N	N	N	N	N	%	
Most rebellious	0	3	2	25	28	93	30
Middle-ranking	12	2	4	13	15	48	31
Least rebellious	22	0	2	6	6	20	30
Total	34	5	8	44			

7. John Major Mark II?

When the newly elected Prime Minister first addressed the PLP in 1997, he warned them of the need for party discipline. Look at the Tories, he said, and see what happened to them. ‘They were all swept away, rebels and loyalists alike. Of course, speak your minds. But realise why you are here: you are here because of the Labour Party under which you fought’. It was a lesson many of the newly elected Labour MPs took to heart, having already come to a similar conclusion themselves.²⁵

The irony is that this government is now routinely compared to the Major administration.²⁶ In fact, in some ways, as detailed above, things are worse now than under Major. Labour MPs are rebelling at a faster rate than they did against Major (27% compared to 23%), and in almost the same size (an average of 12 MPs now, 13 then). The largest rebellion against the Major government in the 1992-93 session comprised 41 MPs; Blair has seen six larger rebellions to date. Major suffered two defeats in his first term of the 1992 Parliament; Blair has suffered four in this session already.

Yet there is another way in which things are not quite so bad – apart from the fact that Blair has a majority three times the size that Major began with. Whilst John Major’s whips did not suffer any defeats on procedural votes – closure and so on – the threat of such defeats was ever-present during the 1992-3 session, which is why the Maastricht Bill proved so problematic – and why it took a year to enact. Labour MPs had a clear opportunity to inflict a procedural defeat over the programme motion for the Education and Inspections Bill. Had the government lost, they would have lost control of the legislation’s timetable. The vote was sometimes seen as being largely ‘symbolic’, but any such notion was belied by the effort put by the whips into ensuring that the government won. The whips’ office were well aware of the consequences of losing control of the legislative timetable.

8. Voting on the Programme Motion of the Education and Inspections Bill

	<i>Aye</i>	<i>No</i>
Lab	301	30
Con	0	183
LD	0	63
DUP	0	8
SNP		6
SDLP	1	0
Others	0	2
	302	292

Note: Figures include tellers.

Table 8 reports the voting on the programme motion, won by the Government with a majority of ten, 300 to 290. Both the Tories and the DUP switched sides from the earlier Second Reading vote (see table 5 above), and the SNP, who had not voted on Second Reading, also voted against. The rebellion of 30 Labour MPs was the largest against a programme motion since the procedure was introduced,²⁷ but the rebellion subsided dramatically from the Second Reading, involving 22 fewer MPs. Five MPs voted against Second Reading but were then absent from the programme motion vote (Katy Clark, Harry Cohen, David Drew, Alan Keen and Michael Meacher), whilst a further 20 who had voted against Second Reading voted for the programme motion.²⁸ A further three (Paul Farrelly, Mark Fisher, Bob Marshall-Andrews) then voted against the programme motion, having abstained over the Second Reading.

This is a rare glimmer of good news for the government. Had a larger number of rebels been prepared to defeat the government over the programme motion, it would have constituted a clear ramping up of backbench opposition to the government. Instead, the votes showed that many of those prepared to vote against the Government over policy – indeed, to defeat the government over policy – are not prepared to vote against it on procedural votes. Whatever battles it may face over policy, there is at yet not much appetite on the backbenches for an all-out war.

Conclusion

It is common to begin papers with epigraphs carefully chosen to support an author's argument. This paper, by contrast, began with three quotations which the paper aimed to show are about as muddle-headed as it is possible to be. They encompass both the political left (Hattersley, the Power Inquiry) and right (Heffer) and the aim of the paper was to disabuse anyone who still clings to the ludicrous beliefs encapsulated in these quotations.

There is – as has been made clear throughout this paper – no evidence at all for the belief of the Power Inquiry that whips have 'enforced party discipline more forcefully and fully than they did in the past'.²⁹ Indeed, the exact opposite is true. Roy Hattersley's claims that Labour MPs were the 'most supine Members of Parliament in British history' simply does not stand up to any serious historical examination, nor does Simon Heffer's belief in the current slavishness and ineffectuality of the Commons.³⁰

None of this is to argue that things are perfect. Perhaps MPs should rebel even more. Perhaps they should defeat the government more often. But in relative terms, compared to previous governments, no one can argue that MPs today are less rebellious or more cohesive than they used to be.

The recent *Audit of Political Engagement* carried out by the Electoral Commission and the Hansard Society found that the one characteristic most voters wanted to see exhibited by their MPs was to be independent-minded. Some 58% wanted their MP to be independent-minded, compared to 39% who wanted them to be loyal to the party he or she represents. And whereas the former had increased significantly (up by 21 percentage points) since 1983, the latter is now seen as less important (minus three percentage points).³¹ Such surveys need to be taken with a pinch of salt – since we know from other evidence that the public also dislike split and divided parties, which are an almost inevitable consequence of anyone demonstrating their independent-mindedness – but they do at least say that they want independence from their legislators. All the evidence from the House of Commons is that that is exactly what they are getting.

* University of Nottingham. This paper, for presentation at the EPOP (Elections, Public Opinion and Parties) Conference, University of Nottingham, September 2006, draws on research funded by the Economic and Social Research Council. Further details are available from www.revolts.co.uk.

¹ 'Labour has left a scar on the soul of Britain', *Daily Telegraph*, 26 October 2005.

² Roy Hattersley, 'Forget David Blunkett. The resignation we're all waiting for is Tony Blair's', *The Times*, 3 November 2005.

³ *The Power Inquiry* (2006), pp. 128, 136

⁴ Indeed, if continued till the end of the session, a rate of 27% would make it the fifth most rebellious post-war session, beaten only by 1977-78 (30%), 1978-9 (36%), 1971-2 (37%), and 2004-5 (39%).

⁵ We say 'substantive' because technically the last time any Government was defeated by that much was on 28 March 1979 when a Conservative MP moved a prayer annulling an increase in the price of firearms certificates. Then, only one Labour MP - Max Madden - rebelled, but the Government did not have its troops in place, and the prayer was carried by 115 votes to 26, a majority against the Government of 89.

⁶ This section draws on Philip Cowley, *The Rebels: How Blair Mislaid His Majority*, London, Politico's, 2005.

⁷ Cowley, *The Rebels*, p. 246.

⁸ This is nothing new. The relationship between the number of revolts cast against the whip by MPs in the 1997-98 session and in the 2001-05 Parliament was 0.91 (Cowley, *The Rebels*, p. 172).

⁹ Roy Hattersley, 'Happy where his heart is', *Guardian*, 7 November 2005.

¹⁰ A total of 44 (48% of the signatories) voted against the Bill's Second Reading; 34 (37%) voted for the Government; whilst another 13 did not vote (with at least five of the 13 being deliberate abstentions).

¹¹ HC Debs, 15 March 2006, cc. 1535-36.

¹² Also, despite issuing a Green Paper, a White Paper, and two draft mental health bills the government recently abandoned their Mental Health Bill, accepting that it would not be able to get the legislation through parliament in its present form (although in this case it was more concerned about the Bill's fate in the Lords than in the Commons).

¹³ *Britain Forward Not Back*, London, Labour Party, p. 66.

¹⁴ See, for example, 'In Praise Of... Free Votes', *Guardian*, 12 January 2006, or Greg Power, 'Keep on whipping', *Prospect*, April 2006.

¹⁵ The votes also caused divisions within the Conservatives. See Philip Cowley, 'The St Valentine's Day Manifesto Massacre', *Parliamentary Brief*, March 2006, p. 12.

¹⁶ The most high-profile of the absentees was George Galloway, the Respect MP, who was away on a speaking tour; the others included a Liberal Democrat who got stuck outside the Commons, and a Conservative who'd forgotten there were votes.

¹⁷ Cowley, *The Rebels*, pp. 195-198.

¹⁸ Not all Conservatives. At least seven abstained, in protest at the idea of allowing the Government off the hook. See Philip Cowley and Mark Stuart, 'Could Do Better: The Second Reading of the Education and Inspections Bill', available from www.revolts.co.uk.

¹⁹ The situation at Third Reading was slightly more complicated. All other votes remaining equal, the Government would have won even without the support of the Conservatives. However, it would have lost had both the Conservatives and the DUP changed sides. The Government did not therefore require Conservative support to enact its legislation, but it did require Opposition support. And of

course, without Conservative support at second reading the bill wouldn't even have reached its third reading anyway

²⁰ 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, as we show further below, Blair does not (yet?) face such an organised group from within his own party.

²¹ There are also examples of the Government winning only because the Opposition abstained, such as the Second Reading of the Social Security (Misc Prov) Bill on 2 December 1976, when 30 Labour MPs voted against the Bill, but the Conservative frontbench abstained.

²² Both examples are taken from Philip Norton's, *Dissension in the House of Commons, 1945-1974*, London, Macmillan, 1975.

²³ We discuss these figures in more detail in 'Voting with the Enemy? How the Conservatives could help (divide) the Government – but might also divide themselves', available from www.revolts.co.uk.

²⁴ Not a single one of these MPs voted for the government – the others being absent.

²⁵ Philip Cowley, *Revolts and rebellions: Parliamentary Voting Under Blair*, London, Politico's, 2002.

²⁶ See 'A Major mistake', *Progress*, January/February 2006.

²⁷ Although not as large as the 40 Labour MPs who voted against a business of the house motion in 2001.

²⁸ Ronnie Campbell, Martin Caton, Michael Clapham, David Clelland, Jon Cruddas, Jim Dobbin, Neil Gerrard, Ian Gibson, Fabian Hamilton, Dai Havard, David Heyes, Joan Humble, Tony Lloyd, Austin Mitchell, Ken Purchase, Dennis Skinner, John Smith, Paul Truswell, Desmond Turner and Joan Walley.

²⁹ Not only is there no sign that the whips are able to enforce cohesion, but they now have fewer resources at their disposal. Moreover, the days of aggressive in-yer-face whipping are long gone. Today's whips are pussycats compared to those of the past. See Cowley, *The Rebels*, pp. 36-40, 217-219.

³⁰ Heffer's views of the Lords – also cited in the epigraph with which this paper began – are also ludicrous, as Meg Russell and Maria Sciara, 'Why does the Government get defeated in the House of Lords?', paper to the PSA Annual Conference, April 2006, available from www.ucl.ac.uk/constitution-unit/research/parliament/house-of-lords.html.

³¹ *An Audit of Political Engagement 3*, London, Electoral Commission and Hansard Society, 2006, p. 26.