

The Office of the Convenor of the Crossbench Peers

Email: lordscrossbenchconvenor@parliament.uk

The Salisbury-Addison Convention

Paper One: origins and recent history

Author: Mr Francesco Bruno, Senior Researcher to Lord Kinnoull

Introduction

This series of short papers aims at providing a factual underpinning for considering where the Salisbury-Addison Convention is today in relation to the legislative process. The topic continues to be of interest and importance as the convention concerns the behaviour of the House of Lords in relation to the “manifesto commitments” of the election-winning parties and the House of Commons. This paper examines the history of the convention. The next paper in the series will consider the issue of who is covered by it and how minority/hung parliaments have impacted the behaviour of the House. Further papers will focus on a statistical analysis of voting patterns over time and whether this implies continued adherence to the convention.

1. The Salisbury-Addison Convention

1.1 The “Salisbury-Addison Convention” is a parliamentary convention which has influenced the House of Lords since 1945. The Convention’s origins were both born out of necessity following the 1945 election result and of historical precedent. It has been the subject of much debate, both within Parliament and academically, over time. This has allowed the convention to develop incrementally and is evidence of its role in the British Constitution.¹

1.2 A “convention” is a non-binding agreement that the House, or certain groupings within the House, decide to abide by.² A good statement of the Salisbury-Addison Convention today from two recent Committee Reports of the House of Lords³ is stated as:

1.3 The House of Lords should not reject at second reading any government legislation that has been passed by the House of Commons and that carries out a manifesto commitment.

¹ The Salisbury Doctrine (Updated June 2006), House of the Lords Library p.21-23, Rogers, Robert, and Rhodri Walters. How Parliament Works, Routledge, 2015, pp.211-212 and The Salisbury-Addison Convention (2019) p.2 Appendix 1

² Definition of convention is an unwritten agreement, unenforceable, able to reflect new circumstances and change with times, as they have done through here. Definition given by the Joint Committee on Convention 2006 p.

³ The Salisbury Doctrine available here: <https://www.parliament.uk/globalassets/documents/lords-library/hllsalisburydoctrine.pdf>, the Salisbury Convention 2019 and the Select Committee on the Constitution, The Salisbury-Addison Convention, 5th Report of the Session 2017 – 2019, 20 October 2017, HL Paper 28

Specifically, in the House of Lords, a manifesto bill should:

- *Be accorded a second reading.*
- *Not be subject to “wrecking amendments” which change the Government’s manifesto intentions as proposed in the bill.*
- *be passed and sent (or returned) to the House of Commons, so that they have the opportunity, in reasonable time, to consider the bill or any amendments which the House of Lords may wish to propose.⁴*

To understand how the convention has changed over time a, brief historical analysis is set out below.

2. The history of the Convention

2.1 The Salisbury-Addison Convention, has its origins in the doctrine of the mandate developed by the Third Marquess of Salisbury⁵ as part of his effort to perpetuate the influence of the House in an age of widening suffrage.⁶ Salisbury developed a doctrine which argued that the will of the people and the views expressed by the House of Commons did not necessarily coincide. It is the role of the House of Lords to therefore reject and hence, refer back to the electorate, particularly contentious Bills, usually involving constitutional settlement, which had been passed by the Commons.⁷ The modern Salisbury-Addison Convention came into being following the Labour Party’s overall majority of 146 in the House of Commons in the 1945 Election⁸. At the time the House of Lords contained an overwhelming majority of Conservative hereditary peers. Hence, the Convention became associated with an understanding between Viscount Addison, the Leader of the House of Lords, and Viscount Cranborne (the fifth Marquess of Salisbury from 1947). The convention applied to Bills passed by the Commons and which the Labour Government had foreshadowed in its General Election manifesto.

3. The Evolution of the Salisbury-Addison Convention

3.1 The Salisbury-Addison Convention has remained central to the behaviour of the House of Lords. By the 1970s, four main issues associated with the Convention were being debated. These were, first, that the convention could no longer be wholly sufficient to cover the position of the House of Lords⁹, second, that the House of Lords as a tool to curb and contain the power of the House of Commons could oppose the supremacy of the latter¹⁰, third, the difficulty in distinguishing between a Manifesto and non-manifesto bill¹¹ and fourth, that the Convention was already embedded in the constitution.¹² The debate on the convention continued on these four issues into the 1990s.¹³

4. The Convention post-1999 to Today

⁴ Joint Committee on Conventions, Conventions of the UK Parliament (First Report, Session 2005–06, HL 265-I, HC 1212); / Glenn Dymond and Hugo Deadman, The Salisbury Doctrine, Library Note, (Updated June 2006), 30th June 2006, LLN 2006/006, p.32

⁵ Salisbury was a Conservative who sat in the House of Lords from 1868 to 1903 (time of his death)

⁶ Glenn Dymond and Hugo Deadman, The Salisbury Doctrine, Library Note, (Updated June 2006), 30th June 2006, LLN 2006/006 available here: <https://www.parliament.uk/globalassets/documents/lords-library/hllsalisburydoctrine.pdf> p.5

⁷ The development of the Doctrine is elaborated by Salisbury in a speech to the Hackney Conservative Club in 1880 available in Glenn Dymond and Hugo Deadman, The Salisbury Doctrine, Library Note, (Updated June 2006), 30th June 2006, LLN 2006/006 p.12

⁸ The Salisbury-Addison Convention, Appendix 1: Written Evidence 20017 available at: <https://publications.parliament.uk/pa/ld201719/ldselect/ldconst/28/2804.htm>

⁹ House of Lords Debate, 13 March 1974, col. 48.

¹⁰ Joint Committee on Conventions, Conventions of the UK Parliament (First Report, Session 2005–06, HL 265-I, HC 1212); Q 7 (Jack Straw, Leader of the House of Commons, referenced in the main report in para 108)

¹¹ Lord Hesketh, the Government Chief Whip in the Salisbury-Addison Convention (First Report of the Session 2005-2006) Joint Committee on Conventions, Conventions of the UK Parliament (First Report, Session 2005–06, HL 265-I, HC 1212).

¹² Viscount Cranborne mentioned this in a lecture to the think-tank Politeia in 1996

¹³ Debate initiated by the Crossbench Peer, Lord Simon of Glaisdale on the Convention and other practices which qualify the parliamentary role of the House of Lords.

4.1 The Salisbury-Addison Convention has been further considered by the Joint Committee on Conventions (2006) providing more clarity to the debate. The 2006 Committee stated that, first, the Convention has changed since the House of Lords Act 1999. In 2006 it was noted by the whole House with approval, unlike the original formulation which existed only between two parties. Second, the House of Lords will usually give a second reading to any government bill whether based on the manifesto or not and this applies to bills introduced to either House. Therefore, rejecting bills at second reading on a regular basis would be inconsistent with the Lords' role as the revising chamber. The 2006 Committee did not offer any definition of a situation in which an attempt to reject a bill at second reading might be appropriate. Third, the 2006 Committee voted against the codification of the convention as it would impose rules, remove flexibility, exclude exceptions and inhibit evolution in response to political circumstances and emphasise how conventions are not enforceable rules.¹⁴ Finally, the 2006 Committee noted that the primacy of the House of Commons remained undisputed.¹⁵

5. The Salisbury-Addison Convention and Manifesto Bills

5.1 An historical key issue with the Salisbury-Addison Convention has been the identification of "Manifesto Bills".¹⁶ "A Manifesto Bill" is recognised by the 2006 Committee as having enjoyed a special form of democratic legitimacy as they have been voted for by the electorate.¹⁷ The Joint Committee on Conventions noted that it could not define what constituted a "manifesto bill", acknowledging that manifestos have grown in complexity, length and in number of issues addressed. Therefore, "legislation often cannot be easily identified as a direct transportation from a manifesto".¹⁸ The Wakeham Report reports that "*there are substantial theoretical and practical obstacles to putting a formal weight on manifesto commitments. Only a tiny minority of the electorate ever reads party manifestos; and it is most unlikely that any voter will agree with every sentence of any manifesto, it is rarely possible to interpret a general election result as evidence of clear public support for any specific policy... thinking of any given issue inevitably develops or changes over time and legislation introduced in the third or fourth session of a Parliament may differ significantly from the relevant manifesto commitment. To deny such legislation constitutional protection, while providing additional safeguards for other proposed legislation simply because it happened to be truer to the original commitment, would be unreasonable*".¹⁹ Similarly, the Joint Committee on Conventions also noted that any problems arising from manifesto pledges should be dealt with pragmatically in the future as it has been in the past.²⁰ Prof. Meg Russell pointed out that the Lords typically respect the primacy of the Commons resulting in the Lords considering every bill whether a bill is a manifesto commitment or not. Specifically, she argued that "*the most important political factor is not whether a measure was in the Government's manifesto, but the broader context that applies to all bills of the risks of an unelected House of Lords challenging decisions of the elected House of Commons*".²¹ A number of important questions arise from the difficulty of extrapolating Manifesto pledges: to what extent can parties make commitments to the electorate? How complex can these

¹⁴ The Hunt Report, which recommended the key conventions, in particular the Salisbury-Addison Convention, should be codified, was debated in the House of Lords in January 2005.

¹⁵ Meg Russel, Director of the Constitution Unit at University College London in Salisbury Convention: A Decade in Development p.6, see also Conventions: Joint Committee Report, 688: debated on Tuesday the 16th of January 2007 columns 574, 575 and 576.

¹⁶ Meg Russell identified three policy areas as a way to identify as a manifesto bill: minor policy area which is not mentioned in the King's Speech, medium policy areas which are mentioned not as recommendation and high policy area which are explicitly mentioned in the speech in Assessing the Impact of Parliamentary Oversight Committees: The Select Committees in the British House of Commons p.26

¹⁷ Joint Committee on Conventions, Convention of the UK Parliament, 3 November 2006, HL Paper 265-I of Session 2005-2006, paragraph 74

¹⁸ Nicola Newson, Salisbury Convention: A Decade of Developments p.5, House of Lords Constitution Committee, The Salisbury-Addison Convention 20 October 2017, HL Paper 28 of session 2017-19 pp.32-33

¹⁹ Joint Committee on Conventions, Convention of the UK Parliament, 3 November 2006, HL Paper 265-I of Session 2005-2006, paragraph 73

²⁰ Joint Committee on Conventions, Convention of the UK Parliament, p.35

²¹ Ibid. p.9, 16

promises be? Can promises being made to the electorate on campaign trails be considered “manifesto promises”? It is clear that the wider interpretation of the manifesto commitments has generally been accepted by the House of Lords. Later papers will examine this historical trend statistically.

6. What is a “defeat”?

6.1 The primacy of the House of Commons over the House of Lords has often been referred to and confirmed, not least by the Joint Committee on Conventions in 2006.²² However, similar to the role of manifesto pledges, the meaning of “defeat” remains to be further explored.²³ The question has been as to how the government’s policies should be viewed through the Salisbury-Addison Convention. This has gone wider than simply manifesto commitments. Specifically, how many times should the House of Lords reject amendments proposed by the Commons? To what extent should the political framework for the procedure known as “ping pong” be normally considered legitimate, or crudely how many rounds of ping pong is conventionally appropriate? We will explore the role of ping pong in more details in later papers, but by analysing the trend in three parliamentary sessions, it is possible to observe a gradual increase in the number of bills reaching the stage:

Session	Total Number of Public Bills for the Session	Total Number of Public Bills that reached Ping Pong stage	Number of Rounds of Ping Pong for all Public Bills
2022-23	112	18	33
2017-19	149	13	16
2012-13	71	7	11

²⁴ HL Journal Office and HL Public Bill Office

What’s next?

The next paper in the series continues to investigate and explore the Salisbury-Addison Convention in relation to who is covered by the Convention. The past decade has been extraordinary in the history of the government, the United Kingdom has had a coalition government (2010 – 2015), a minority government (2017-19) and the Brexit campaign trails. All of which have been influenced or directly impacted by the Salisbury-Addison Convention and its application in the Lords’ daily business.

²² Ibid. pp.15-23

²³ A number of bills are famous for having been the subject of fierce debates before being passed, those are: Prevention of Terrorism (2001-2005 Parliament), Trial by jury (2002-2007), Incitement to religious hatred (2005-2006), Identity Cards (2005-2006), Constituency boundaries (2010) and Employment rights (2012-2013) in Rogers, Robert, and Rhodri Walters. *How Parliament Works*, Routledge, 2015 pp.214-216.

²⁴ A big thanks to the HL Journal Office and HL Public Bill Office for collecting and processing the data

Bibliography

Conventions: Joint Committee Report, Volume 688: debated on Tuesday 16th of January 2007

Dymond, Glenn and Hugo Deadman, The Salisbury Doctrine, Library Note, (Updated June 2006), 30th June 2006, LLN 2006/006 available at: <https://www.parliament.uk/globalassets/documents/lords-library/hllsalisburydoctrine.pdf>

House of Lords Act 1999 available at: <https://www.legislation.gov.uk/ukpga/1999/34#:~:text=An%20Act%20to%20restrict%20membership,C ommons%3B%20and%20for%20connected%20purposes>

Joint Committee on Conventions, Conventions of the UK Parliament (First Report, Session 2005–06 Volume II, HL Paper 265 – II, HC 1212-II, Minutes of Evidence and appendices), The Stationery Office Limited published on 6th of November 2006

Joint Committee on Conventions, Conventions of the UK Parliament (First Report, Session 2005–06, HL Paper 265 – I, HC 1212-I), The Stationery Office Limited published on 3rd November 2006

Newson, Nicola, Salisbury Convention: A Decade of Developments published on the 13th of December 2019

Norris, Emma <https://www.instituteforgovernment.org.uk/article/comment/manifestos-still-matter-even-though-their-promises-arent-being-delivered>

Rogers, Robert, and Rhodri Walters. How Parliament Works, Routledge, 2015.

Beamish, Sir David, what is the Salisbury convention, and have the Lords broken it over Brexit? Published on the 12th of June 2018 available at: <https://constitution-unit.com/2018/06/12/what-is-the-salisbury-convention-and-have-the-lords-broken-it-over-brexite/>

The Salisbury-Addison Convention, Appendix I: Written Evidence 20017 available at: <https://publications.parliament.uk/pa/ld201719/ldselect/ldconst/28/2804.htm>

The Office of the Convenor of the Crossbench Peers

Email: lordscrossbenchconvenor@parliament.uk

The Salisbury-Addison Convention

Paper Two: Who is Covered by the Convention?

Author: Mr Francesco Bruno, Senior Researcher to Lord Kinnoull

Introduction

This series of short papers aims at providing a factual underpinning for considering where the Salisbury-Addison Convention is today in relation to the legislative process. The topic continues to be of interest and importance as the convention concerns the behaviour of the House of Lords in relation to the “manifesto commitments” of the election-winning parties and the House of Commons. This paper examines issues of who is covered by it and how minority/hung parliaments have impacted the behaviour of the House. Further papers will focus on the definitions of “manifesto bill”, “wrecking amendment” and ask what is a defeat, as well as a statistical analysis of voting patterns over time and whether this implies continued adherence to the convention.

I. Summary

1.1 *The paper explores the relationship between the parties and the Salisbury-Addison Convention and the parallel presumption that the House of Lords will grant a second reading to a Government bill (the “Government Bill Presumption”). This parallel presumption was referred to in the Report of the Joint Committee on Conventions published in November 2006 and is described in para 2.4 below.*

The paper is structured in two parts: the first explores the more recent evolution of the Salisbury-Addison Convention and the Government Bill Presumption, and, second, it moves to explore the role of the Convention in both Minority Coalition Governments.

The paper notes that the relationship between the parties and the Salisbury Convention is not straightforward, but that there are issues on which there appears to be common agreement: 1) the Salisbury Convention is now seen as a Convention applicable at least across the three largest groupings in the House of Lords and arguably the whole House of Lords; 2) Separately there is a presumption that the House of Lords has a key role in exploring Government policy in detail and thus it should not refuse a Second Reading for any Government Bill irrespective of its link to a manifesto commitment or not, a presumption being regarded as weaker than a convention; 3) The experience of the Coalition Government (2010-2015) highlights the convention’s flexible nature and applicability. Finally, this paper recognises that smaller parties have expressed no public positions on the Salisbury Convention, making it difficult to ascertain whether they believe it to be applicable or not, notwithstanding the view of the House of Lords in 2007¹.

¹ The Joint Committee on Conventions states that the Convention is now recognised by the whole house summary p.3 in the Joint Committee on Conventions, Conventions of the UK Parliament (First Report, Session 2005–06, HL Paper 265 – I, HC 1212-I), The stationery Office Limited published on 3rd November 2006 p.3

2. The Evolution of the Salisbury-Addison Convention since 1945

2.1 The Salisbury-Addison Convention and the related Government Bill Presumption have continuously evolved in recent years. We have the benefit however of two points in time when major Parliamentary Reports considered in some detail the position.

2.2 The first of these Reports, “Conventions of the UK Parliament”, by the Joint Committee on Conventions in November 2006 (the “2006 report”). The 2006 Report at para 98 said:

“The [modern] Convention now differs from the original Salisbury-Addison Convention in two important respects. It applies to a manifesto Bill introduced in the House of Lords as well as one introduced in the House of Commons. It is now recognised by the whole House, unlike the original Salisbury-Addison Convention which existed only between two parties.”

2.3 Comments on the various groupings’ attitudes to the Salisbury-Addison Convention are set out in brief below.

2.4 The 2006 Report also went on to comment on the separate and parallel Government Bill Presumption that the House of Lords will usually give a second reading to any Government Bill. The 2006 Report says at para 100:

“the evidence points to the emergence in recent years of a practice that the House of Lords will usually give a Second Reading to any Government Bill, whether based on the manifesto or not. We offer no definition of situations in which an attempt to reject a Bill at Second Reading might be appropriate, save that they would include free votes. But to reject Bills at Second Reading on a regular basis would be inconsistent with the Lords’ role as the revising chamber.”

The 2006 Report was debated by both Houses in January 2007 and “noted with approval” by both Houses, *nemine dissentiente*.

2.5 The second Report was “The Salisbury-Addison Convention” from the House of Lords Constitution Committee in October 2017 (The “2017 Report”). The 2017 Report invited, among others, the Leader of the House, the Shadow Leader, the Leader of the Liberal Democrats and the Convenor of the Crossbench Peers to give their views on the Convention and the presumption.

The Committee in discussing the Salisbury Convention reaffirmed in para 1.

“bills foreshadowed in a government’s manifesto are given a second reading in the Lords, are not subject to wrecking amendments and are passed in reasonable time”

And also in discussing the Government Bill Presumption in para 2 said:

“a practice has evolved that the House of Lords does not normally block government bills, whether they are in a manifesto or not.”

Furthermore, the Committee reaffirmed the assumptions made in the 2006 Report that definition of situations in which an attempt to defeat a bill at Second Reading might be appropriate, save that they would include free votes.² In a similar manner, there is no definition on the meaning of “reasonable time”.

² Joint Committee on Conventions, Conventions of the UK Parliament (First Report, Session 2005–06, HL Paper 265 – I, HC 1212-I), The stationery Office Limited published on 3rd November 2006

The Salisbury Convention does not amount to an automatic “unamended pass” on every Government Bill with a direct or indirect reference to manifesto commitments, but rather allows for the House of Lords to take an objective view and decide whether to pass it unamended or not. See also paragraph 11 below.

3. House of Lords balance of groups

3.1 The Salisbury-Addison Convention was first framed between the newly elected Labour Government and the Conservative Opposition in 1945, a time when the House of Lords had an overwhelmingly Conservative majority. Since then, the House of Lords has had various minor and major reforms³, and today’s House of Lords is an environment with no overall Government majority. At the date of this paper the four major groups are : c.270 Conservative peers, c.175 Labour peers, c.80 Liberal-Democrat peers, and c.180 Crossbench peers. In addition, there are 26 Church of England Bishops plus a number of smaller parties and non-affiliated members.⁴ This major change in composition has naturally altered the way the House of Lords looks at the Government legislation and has led to evolution of the Salisbury-Addison Convention.

4. The Conservative Party

4.1 The Conservatives have continuously respected the Salisbury-Addison Convention. The origins of today’s Convention were initiated by the Third Marquess of Salisbury who was a Conservative⁵. The post 1945 modern Salisbury-Addison Convention arose out of an understanding between Viscount Addison, the Leader of the House of Lords, and Viscount Cranborne (the fifth Marquess of Salisbury from 1947).⁶ Arguably the Conservative Party is a parent of today’s Convention.

4.2 In considering whether the Salisbury-Addison Convention was applicable to Minority and Coalition Governments (reflected in the 2017 Report), Baroness Evans of Bowes Park, then Leader of the House of Lords, provided the Government’s understanding of the Salisbury-Addison Convention which fully aligned with the statements of the 2006 Report in respect of Minority and Coalition Governments. The 2006 Joint Committee on Conventions did not provide any specific conclusion on the applicability of the Convention to Minority Governments. However, quoting the Royal Commission on the Reform of the House of Lords, it concluded that any coalition or arrangement (as in 1977) ⁷which is able to gain the support of the democratically elected House and

³ Scott, E. (2019) House of Lords Act 1999: Twenty Years on, House of Lords Library. Available at: <https://researchbriefings.files.parliament.uk/documents/LLN-2019-0151/LLN-2019-0151.pdf> (Accessed: 25 January 2024).

⁴ Meg Russell and Sciarra, M. (2007). Why Does the Government get Defeated in the House of Lords?: The Lords, the Party System and British Politics. *Br Polit* 2, 299–322 (2007). <https://doi.org/10.1057/palgrave.bp.4200064> p.303 –Those are Democratic Unionist Party: 6 peers, Ulster Unionist Party: 6 peers, Green Party: 2 peers and Plaid Cymru: 1 peer. Edgington, T. (2023) House of Lords: What is it and what could Labour replace it with?, BBC News. Available at: <https://www.bbc.co.uk/news/uk-politics-63864428> (Accessed: 25 January 2024).

⁵ See the Salisbury Convention pp.7-8 “In 1881, Lord Salisbury became Leader of the Opposition in the House of Lords and leader of the Conservative Party (a post shared until 1885 with Sir Stafford Northcote)”. In opposition, Salisbury elaborated the theory of the mandate

⁶ For more information on this please refer to the previous paper: The Salisbury Convention, Paper One: Origins and recent history

⁷ See: Jack Straw’s reference to the Joint Committee on Convention Report (2006) reporting about the Royal Commission on the Reform of the House of Lords para.4.23 Q.7 quotes the 1977 pact between the Liberal and the Labour parties. The Labour party had no overall majority in the House of Commons leading Prime Minister James Callaghan to strike a pact with the Liberals to survive a vote of no confidence. For More information please visit: Maer, L. and Kelly, R. (2017) Research Briefings Publications - Hung Parliament, House of Commons Library. Available at: <https://commonslibrary.parliament.uk/research-briefings/> (Accessed: 07 February 2024).

is endorsed by a motion of confidence then the programme should be considered as a manifesto and respected by this House (of Lords)⁸. See also Lord Hope in Paragraph 5.3 below.

4.3 The General Elections of 2010 and 2017 both produced a hung Parliament, raising concerns about the application of the Convention. In 2010, the Conservative-Liberal Democrat Coalition Government asserted that the Convention still applied. Although, in 2011, the Government acknowledged that the Convention did not operate in the same way under a Coalition Government.⁹ The Conservative minority Government argued that the Convention applied to its manifesto pledges.¹⁰ In 2017, The Conservative minority Government, supported by a confidence and supply agreement with the Democratic Unionist Party (DUP), again raised the question as to whether the Convention was applicable.¹¹ Baroness Evans of Bowes Park, Leader of the House of Lords, said:

*“it is clear that in most cases from the subject matter of the Bill and the debate in Parliament which legislation stems from manifesto commitments”*¹²

implying a very broad interpretation of “manifesto bills”.

5. Crossbench Group

5.1 The Crossbench have no party affiliation. The growth in the number of Crossbench Member has impacted the relationship between the two largest parties: Labour and Conservative.¹³ Their presence is however very important to the Salisbury-Addison Convention and to the Government Bill Presumption. In 2017 Lord Hope of Craighead, then Convenor of the Crossbench Peers, giving evidence to the Constitution Committee and quoted in the 2017 Report, agreed with the view of the 2006 Report and said:

“bills implementing a manifesto commitment by the Government are not blocked by the House of Lords at second reading, are not subjected to wrecking amendments and are passed and sent or returned to the House of Commons in reasonable time to consider any amendments that the House of Lords may propose”.¹⁴

5.2 In doing so he built on words of an earlier Convenor, Lord Williamson of Horton, who stated:

*“Of course, I, like others, cannot forebear to mention that the Crossbench Peers were not party to the creation of the convention, although, like good soldiers, we have respected it. I recognise without reservation the force of the convention – namely, that the House of Lords should not reject a manifesto Bill of the democratically elected government, nor should it amend it in a way that would destroy or completely alter the measure. But it can, of course, in its normal revising role make working amendments which do not breach that principle. However, if there is to be any further codification, it would be desirable to identify more clearly what constitutes the core programme of the Government and to indicate the manifesto Bills in that programme.”*¹⁵

⁸ Royal Commission on the Reform of the House of Lords, para 4.23 Q.7 states: “if any coalition or arrangement as in 1977 gains the support of the democratically elected House and endorsed by a motion of confidence then the programme for which they gain that endorsement should be respected by this House (of Lords)” para. 108

⁹ Nicola Newson, Salisbury Convention: A Decade of Developments p.1

¹⁰ Ibid. p.1

¹¹ Nicola Newson, The Salisbury Addison Convention p.3

¹² House of Lords Constitution Committee, The Salisbury Convention, 20 October 2017, HL Paper 28 of session 2017-19 p.3

¹³ Meg Russell and Maria Sciarra, The Lords, the Party System and British Politics, p.308

¹⁴ Nicola Newson, The Salisbury Convention, p.13

¹⁵ HL Hansard, 25th April 2006, vol. 681, cols. 79-80

5.3. Furthermore, in his submission to the 2017 Committee and referring to the 2010-2015 Coalition Government, Lord Hope of Craighead argued that the Salisbury-Addison Convention did not apply to Coalition governments, either due to the lack of clear manifesto commitments or because promises might be diluted by negotiation and compromises between the involved parties. In relation to the Conservative – DUP confidence and supply agreement in 2017, Lord Hope of Craighead argued in his submissions to the 2017 Committee that once the Manifesto has been endorsed by the Queen’s Speech and approved by the House of Commons, it becomes subject to the Convention.

5.4 In discussing Manifesto pledges, he argued that the wording is not important as long as general commitments have been made towards a policy objective. There is, he said, a general understanding that contemporary manifestos are longer, more encompassing, complex and the number of issues included has expanded. Accordingly, it is not straightforward to transfer manifesto pledges to legislation. Therefore, Lord Hope argued, the Government should rely on the Government Bill Presumption that the House does not block government bills:

*“historically manifestos were shorter than they are today, and over time bills have grown in length, complexity and in the number of issues they address. So there is not always a straightforward transfer from a manifesto commitment to a piece of legislation. Further, where a bill covers multiple policy areas, the position is unlikely to be clear-cut”.*¹⁶

As a former Convenor of the Crossbench Peers Lord Hope’s conclusions remain highly influential to today’s Crossbench community.

6. The Labour Party

6.1 The Labour Party was party to the original Salisbury-Addison Convention.

In October 2017, Baroness Smith of Basildon, Shadow Leader of the House of Lords, confirmed the Labour Party position on the Salisbury-Addison Convention in her submission to the Constitution Committee. This remained fully supportive of the 2006 Report, and thus both the Salisbury-Addison Convention and the Government Bill Presumption as expressed there.

6.2 Baroness Smith of Basildon’s submissions to the 2017 Committee were largely consistent with Lord Hope’s views discussed above, stating that the Lords would respect manifesto commitments that were “unambiguous and clear”, but would have less regard to a general statement in a manifesto than a specific commitment.¹⁷ She discussed the Convention’s applicability to Minority Governments and raised the issue of the clarity of manifesto commitments in coalition situations. She did however place an emphasis on the primacy of the House of Commons over the unelected House of Lords. Baroness Smith was clear that in her view the Salisbury Convention was not intended to be applied to Minority Governments.¹⁸ She argued that the process of forming minority or coalition governments would cause the manifesto commitments to be “*diluted, jettisoned, forgotten*” as part of

¹⁶ House of Lords Constitution Committee, The Salisbury-Addison Convention, 20 October 2017, HL Paper 28 of session 2017–19 p.14, see also the Wakeham report which recognises that “there are substantial and practical obstacles putting any formal weight on manifesto commitments. Only a tiny minority of the electorate ever reads party manifestos; and as it is most unlikely that any voter will agree with very sentence of any manifesto, it is rarely possible to interpret a general election result as evidence of clear public support for any specific policy”. In HL Hansard, 15 December 1999, Vol 608, col 214. 4.23

¹⁷ 8 House of Lords Constitution Committee, The Salisbury-Addison Convention, 20 October 2017, HL Paper 28 of session 2017–19, p 6

¹⁸ HL Hansard, 25th April 2006, vol. 681, cols. 79-80. p.5

any deal, with no direct reference to the electorate.¹⁹ She added in her submission to the 2017 Committee, that the Confidence and Supply arrangement between the Conservative Party and the DUP did not materially change the Salisbury-Addison Convention as primacy still lay with the House of Commons in Parliament.²⁰

7. The Liberal Democrats

7.1 The Liberal Democrats are the fourth largest grouping in the House of Lords. They were not part of the original Salisbury-Addison arrangements made in 1945. However, as the Convention evolved this position changed.

The 2006 Report was made by a Joint Committee of both Houses, which included two senior Liberal Democrat Peers (Lord McNally, Leader of the Liberal Democrats in the Lords and Deputy Leader of the House of Lords during the Coalition Government 2010 to 2013, and Lord Tyler) and a senior Liberal Democrat MP (Simon Hughes MP). The Joint Committee reported unanimously and paragraphs 98 and 100 (see above) are clear that both the Salisbury-Addison Convention and the Government Bill Presumption applied to the whole House of Lords. The 2006 Report was debated in both Houses in January 2007 on “Take Note with Approval” motions. These were passed without any dissent.

In June 2010 Lord McNally, then Deputy Leader of the House of Lords, said in a major debate on House of Lords reform:

“the fact is that the commitments made in our manifestos have been merged into the coalition agreement. If the Labour Party is saying that it is planning some kind of guerrilla warfare on that basis, while as far as I am concerned the Salisbury Convention and the Cunningham Conventions will still be operated in this House,”²¹

7.2 In his submission to the 2017 Committee, however, Lord Newby, Leader of the Liberal Democrat took a different view on the Salisbury-Addison Convention and stated

“we have not felt bound by this convention, as we were not party to it”

However, where the Government Bill Presumption was concerned he said:

“We do agree, though, with the Joint Committee that “to reject Bills at Second Reading on a regular basis would be inconsistent with the Lords’ role as the revising chamber.”

In the second reading of the government’s Safety of Rwanda (Asylum and Immigration) Bill the Liberal Democrats sought to vote down the Bill through a motion tabled by Lord German. He argued in introducing his motion:

“This legislation was not in the Government’s manifesto; the Addison/Salisbury Convention does not apply”

This would arguably suggest that the Salisbury-Addison Convention does apply to the Liberal Democrats. He did not address the Government Bill Presumption which his motion ran counter to. In winding up for the Liberal Democrats in the same debate, Lord Purvis of Tweed however said:

¹⁹ Ibid.

²⁰ Ibid. / The Salisbury-Addison Convention, Appendix I: Written Evidence 2017 available at: <https://publications.parliament.uk/pa/ld201719/ldselect/ldconst/28/2804.htm>

²¹ This refers to the Government Bill Presumption

“others have referred to the Salisbury/Addison convention. I am not an expert like the noble Lord, Lord Lisvane, but even if the Bill got close to being anything like what was in the 2019 Government manifesto, these Benches have never adhered to that convention.”

His speech did cover the Government Bill Presumption area and argued simply that this Bill was exceptional.

The Position of the Liberal Democrats therefore seems unclear on the Salisbury-Addison Convention but supportive of the Government Bill Presumption.

8. The Bishops

8.1 The 26 Bishops would be covered by the conclusions of the 2006 Report in respect of both the Salisbury-Addison Convention and the Government Bill Presumption and while they have no stated position, they have to date acted accordingly.

9. Smaller parties in the House of Lords

9.1 There are a number of smaller parties in the House of Lords and while they would appear to be bound by both the Salisbury-Addison Convention and the Government Bill Presumption following the 2006 Report, their positions are generally not clear.

In the recent vote on the Safety of Rwanda (Asylum and Immigration) Bill the Green Party and Plaid Cymru both voted with the Liberal Democrats which may suggest that they have similar views.

10. The Coalition Government (2010)

10.1 The applicability of the Salisbury-Addison Convention was questioned after the 2010 General Election which produced a hung parliament. The Conservatives and Liberal Democrats formed a Coalition Government although the two parties had campaigned on different Manifestos. The Coalition agreement, in which they set out their programme for Government was drawn up after the election. Both parties argued that the Convention still applied. Lord Strathclyde (Conservative), then Leader of the House of Lords, and Lord McNally (Liberal Democrat), then Deputy Leader of the House of Lords, both spoke in favour of the applicability of the convention.²² However, Baroness D’Souza, then Convenor of the Crossbenchers, suggested that the situation was not clear cut due to the key issue of manifesto commitments of both parties being campaigned independently and not agreed until after the elections. She proposed three possibilities:

- The Salisbury-Addison Convention cannot and does not apply since no one voted for the coalition agreement.
- The coalition agreement between the two parties should count as a manifesto.
- The Lords should respect only those policies which were put forward in the manifestos of both the Tories and the Lib Dems and are therefore similar.²³

10.2 Lord Adonis (Labour) argued that a Coalition Government was not a manifesto, but if it commanded the confidence of the House of Commons, it should have been accorded the status of

²² See Lord Strathclyde’s intervention here: HL Hansard, 25 May 2010, col 22. And Lord McNally’s intervention here: HL Hansard, 29 June 2010, col 1784.

²³ Baroness D’Souza, ‘Is the Coalition Agreement a Manifesto?’, Lords of the Blog, 17 November 2010 In Nicola Newson, (2019) Salisbury Convention: A decade of developments, House of Lords Library. Available at: <https://researchbriefings.files.parliament.uk/documents/LLN-2019-0155/LLN-2019-0155.pdf> (Accessed: 25 January 2024). p.14

manifesto.²⁴ Soon after, two parliamentary committees: the House of Commons Political and Constitutional Reform Committee (PCRC) and the House of Lords Constitution Committee both concluded that a Coalition Agreement made after the election did not have the same status as a manifesto.²⁵

11. Unamended Pass

11.1 The Salisbury-Addison Convention provides that “manifesto bills” are provided with a special status and should pass through the House of Lords with minimal amendments. However, this does not equate to an “unamended pass” through the House. Following the House of Lords Act 1999 a much more balanced chamber resulted. The ability of the House of Lords to use their constitutional veto powers was unchanged by the 1999 Act.²⁶

Some commentators have argued that the House of Lords has been emboldened by the 1999 Act, resulting in “defeats” for elements of “manifesto bills”²⁷ as well as pointing to a rise in the number of ping pong insistences.²⁸ This behaviour may have caused further evolution of the Salisbury-Addison Convention and we will return to these issues in later papers.²⁹

What’s next?

11.1 Upcoming papers in the series will explore various themes including “manifesto commitments”, “wrecking amendments” and the meaning of “defeat” in the House of Lords.

Bibliography

Beamish, Sir David, what is the Salisbury convention, and have the Lords broken it over Brexit? Published on the 12th of June 2018 available at: <https://constitution-unit.com/2018/06/12/what-is-the-salisbury-convention-and-have-the-lords-broken-it-over-brexite/>

Brown, F. (2023a) Labour plans to expand lords with new peers if it wins election - despite wanting to abolish it, Sky News. Available at: <https://news.sky.com/story/labour-plans-to-expand-lords-with-new-peers-if-it-wins-election-despite-wanting-to-abolish-it-12907239> (Accessed: 25 January 2024).

Constitution Unit, University College London (2024) Government defeats in the House of Lords, The Constitution Unit. Available at: <https://www.ucl.ac.uk/constitution-unit/research-areas/parliament/changing-role-house-lords/government-defeats-house-lords>

²⁴ House of Commons Political and Constitutional Reform Committee, Lessons from the Process of Government Formation After the 2010 General Election, 28 January 2011, HC 528 of session 2010–12, Ev 13, Q53.

²⁵ PCRC notes a range of issues after seeking the views of the Leaders of the main political parties in the House of Lords and the Convenor of the Crossbenchers Peers and independent peers, but there was no consensus. See House of Commons Political and Constitutional Reform Committee, Lessons from the Process of Government Formation After the 2010 General Election, 28 January 2011, HC 528 of session 2010–12, p. 18. Meanwhile, the House of Lords Constitution Committee concluded in 2014 that the Salisbury Convention “does not apply strictly speaking to measures proposed by a coalition government”. See House of Lords Constitution Committee, Constitutional Implications of Coalition Government, 12 February 2014, HL Paper 130 of session 2013–14, para 98.

²⁶ Meg Russell. ‘A stronger second chamber? assessing the impact of House of Lords reform in 1999 and the lessons for bicameralism’, pp.869–870

²⁷ See Lords inflicting defeats’ statistical numbers in Meg Russell. ‘A stronger second chamber? assessing the impact of House of Lords reform in 1999 and the lessons for bicameralism’ p.872

²⁸ See number of insistences (ping pong) in Meg Russell. ‘A stronger second chamber? assessing the impact of House of Lords reform in 1999 and the lessons for bicameralism’ p.874

²⁹ Joint Committee on Conventions, HL Paper 265 – II, HC 1212-II, para 83

Constitution Unit. (2023) The Brown Commission's proposals on reform of the House of Lords, The Constitution Unit Blog. Available at: <https://constitution-unit.com/2023/03/01/the-brown-commissions-proposals-on-reform-of-the-house-of-lords/> (Accessed: 25 January 2024).

Conventions: Joint Committee Report, Volume 688: debated on Tuesday 16th of January 2007

Craig, J. (2024) Lib Dem Lords to ignore convention and vote against safety of Rwanda bill, Sky News. Available at: <https://news.sky.com/story/lib-dem-lords-to-ignore-convention-and-vote-against-safety-of-rwanda-bill-13054800> (Accessed: 25 January 2024).

Dymond, G. and Deadman, H. The Salisbury Doctrine, Library Note, (Updated June 2006), 30th June 2006, LLN 2006/006 available at: <https://www.parliament.uk/globalassets/documents/lords-library/hllsalisburydoctrine.pdf>

Edgington, T. (2023) House of Lords: What is it and what could Labour replace it with?, BBC News. Available at: <https://www.bbc.co.uk/news/uk-politics-63864428> (Accessed: 25 January 2024).

Helm, T. and Savage, M. Labour to omit funding of social care reform from manifesto and Scale Back Lords plans (2023) The Guardian. Available at: <https://www.theguardian.com/politics/2023/oct/15/labour-to-omit-social-care-reform-from-manifesto-and-scale-back-lords-plans> (Accessed: 25 January 2024).

House of Lords Act 1999 available at: <https://www.legislation.gov.uk/ukpga/1999/34#:~:text=An%20Act%20to%20restrict%20membership,C ommons%3B%20and%20for%20connected%20purposes>

Joint Committee on Conventions, Conventions of the UK Parliament (First Report, Session 2005–06, HL Paper 265 – I, HC 1212-I), The Stationery Office Limited published on 3rd November 2006

Joint Committee on Conventions, Conventions of the UK Parliament (First Report, Session 2005–06 Volume II, HL Paper 265 – II, HC 1212-II, Minutes of Evidence and appendices), The Stationery Office Limited published on 6th of November 2006

Maer, L. and Kelly, R. (2017) Research Briefings Publications - House of Commons Library. Available at: <https://commonslibrary.parliament.uk/research-briefings/> (Accessed: 07 February 2024).

Newson, N. (2019) Salisbury Convention: A decade of developments, House of Lords Library. Available at: <https://researchbriefings.files.parliament.uk/documents/LLN-2019-0155/LLN-2019-0155.pdf> (Accessed: 25 January 2024).

Norris, E. (2019) Manifestos still matter even though their promises aren't being delivered, Institute for Government. Available at: <https://www.instituteforgovernment.org.uk/article/comment/manifestos-still-matter-even-though-their-promises-arent-being-delivered> (Accessed: 25 January 2024).

Royal Commission on the Reform of the House of Lords (2000) A House for the Future - Chapter 4, GOV.UK. Available at: <https://www.gov.uk/official-documents> (Accessed: 07 February 2024).

Rogers, R., and Walters, R. (2015) How Parliament Works, Routledge.

Russell, M. (2023) The next Labour Government must focus on Achievable House of Lords Reform, Bennett Institute for Public Policy. Available at: <https://www.bennettinstitute.cam.ac.uk/blog/navigating-the-obstacles/> (Accessed: 25 January 2024).

Russell, M. (2010) 'A stronger second chamber? assessing the impact of House of Lords reform in 1999 and the lessons for bicameralism', *Political Studies*, 58(5), pp. 866–885. doi:10.1111/j.1467-9248.2009.00810.x.

Russell, M., Sciara, M. Why Does the Government get Defeated in the House of Lords?: The Lords, the Party System and British Politics. *Br Polit* 2, 299–322 (2007).
<https://doi.org/10.1057/palgrave.bp.4200064>

Scott, E. (2019) House of Lords Act 1999: Twenty Years on, House of Lords Library. Available at: <https://researchbriefings.files.parliament.uk/documents/LLN-2019-0151/LLN-2019-0151.pdf> (Accessed: 25 January 2024).

The Salisbury-Addison Convention, Appendix 1: Written Evidence 2017 available at: <https://publications.parliament.uk/pa/ld201719/ldselect/ldconst/28/2804.htm>

The Office of the Convenor of the Crossbench Peers

Email: lordscrossbenchconvenor@parliament.uk

The Salisbury-Addison Convention

Paper Three: What is a Manifesto Bill?

Author: Mr Francesco Bruno, Senior Researcher to Lord Kinnoull

Introduction

This series of short papers aims at providing a factual underpinning for considering where the Salisbury-Addison Convention is today in relation to the legislative process. The topic continues to be of interest and importance as the convention concerns the behaviour of the House of Lords in relation to the “manifesto commitments” of the election-winning parties and the House of Commons. This paper tells a story of evolution. It explores the gradual evolution of the concept of the “manifesto bill” since 1945 and builds on the previous papers in this series. “Manifesto bill” remains an elusive term, and the paper cannot provide the reader with an exact definition, but it does consider what factors might confer this status on a bill and look at snapshots in time in 2006 and 2017 when Committees of Parliament have looked at the issue.

1. Background

1.1 In general, the principle underpinning the Salisbury Convention is that of a manifesto bill enjoying a special form of democratic legitimacy as, directly or indirectly, it has some form of endorsement of the electorate.

This paper considers whether a manifesto bill status can be achieved through various parameters:

- Is the policy area mentioned with reasonable detail in the manifesto
- Did the policy area feature in the election campaign and were there clear statements by the party forming an administration after an Election
- Did the policy area feature in the most recent King’s Speech
- Has the Bill before the House of Lords been passed by the House of Commons

1.2 The paper is structured in three parts: the first part explores the difficulties behind the meaning of “manifesto” and manifesto bill. The second explores the four parameters and their influence in classifying bill as a manifesto bill, and the third part explores the applicability of the Salisbury-Addison Convention to minority and coalition governments.

2. The difficulties of identifying a Manifesto Bill

2.1 When agreeing the original Convention in 1945, Viscount Cranborne said that he believed “*it would be constitutionally wrong, when the country has so recently expressed its view, for this House [of Lords] to oppose proposals which have been definitely put before the electorate*”.¹ Therefore the question arises: How can the question of whether a proposal has been definitely put to the electorate be decided?² The main difficulty associated with the identification of a manifesto bill is the breadth of a manifesto and the wide profile of the of policies that the modern manifesto often

¹ HL Hansard, 16 August 1945, Vol 137, col 47.

² Joint Committee on Conventions, Conventions of the UK Parliament (First Report, Session 2005–06, HL Paper 265 – I, HC 1212-I), The stationery Office Limited published on 3rd November 2006 1 p.33

sets out, often with little detail of specific areas. In para 107 of its 2006 Report, the Joint Committee on Conventions agreed that legislation cannot be easily identified as a “direct transportation from a manifesto”.³ The opposition agreed, stating that *‘It is not possible to reduce this to a simple formula, particularly one based on Manifesto commitments.’ The Convention was pragmatic in origin – and should continue to be addressed in pragmatic fashion from case to case*”.⁴ In paragraph 105, The Liberal Democrats supported this assertion, arguing that “manifestos are not and will never be, detailed enough to constitute a reliable, still less a justiciable basis on which to draft legislation”⁵ stating that manifesto bills have become much more complex and less precise than they were in 1945.⁶ Lord Williamson of Horton, the Convenor of the Crossbench Peers, argued that “to consider what are the core elements on which a party goes to the electorate to have a mandate and you have to be careful, because every word in a manifesto may not necessarily be part of a core programme, that that does not tie too much the relations between the two Houses”.⁷

2.2 *A House for the Future*, known as the Wakeham Report, published in 2000, was the report of a Royal Commission headed by Lord Wakeham, on reform of the House of Lords. The Wakeham Report similarly recognised at paragraph [4.23] that

*“there are substantial theoretical and practical obstacles to putting any formal weight on manifesto commitments. Only a tiny minority of the electorate ever reads party manifestos; and as it is most unlikely that any voter will agree with every sentence of any manifesto, it is rarely possible to interpret a general election result as evidence of clear public support for any specific policy. ...Thinking on any given issue inevitably develops or changes over time and legislation introduced in the third or fourth session of a Parliament may differ significantly from the relevant manifesto commitment. To deny such legislation constitutional protection, while providing additional safeguards for other proposed legislation simply because it happened to be truer to the original commitment, would be unreasonable.”*⁸

3. What is a manifesto bill?

3.1 The word “manifesto” derives from the Latin *manifestare* which means “to bring into the open, to make manifest”.⁹ There is no agreed definition of manifesto bills despite numerous attempts to define it.¹⁰

3.2 In the current parliament.uk glossary a manifesto is defined as “a publication issued by a political party before a General Election. It contains the set of policies that the party stands for and would wish to implement if elected to govern.”¹¹

³ Joint Committee on Conventions, Conventions of the UK Parliament (First Report, Session 2005–06, HL Paper 265 – I, HC 1212-I), p.33

⁴ Joint Committee on Conventions, Conventions of the UK Parliament (First Report, Session 2005–06, HL Paper 265 – I, HC 1212-I), para 104

⁵ HL Hansard, 15 December 1999, Vol 608, col 214 Ev 58, para 2.3.

⁶ HL Hansard, 15 December 1999, Vol 608, col 214 Q 148

⁷ HL Hansard, 15 December 1999, Vol 608, col 214 Q 120

⁸ Royal Commission on the Reform of the House of Lords para 4.23

HL Hansard, 15 December 1999, Vol 608, col 214 para. 4.23

⁹ Martin Puchner “Manifesto = Theatre.” Theatre Journal 54, no. 3 (2002): 449–65.

<http://www.jstor.org/stable/25069096>. p.1

¹⁰ Joint Committee on Conventions, Conventions of the UK Parliament (First Report, Session 2005–06, HL Paper 265 – I, HC 1212-I), <https://publications.parliament.uk/pa/jt200506/jtselect/jtconv/265/265.pdf> p.32

¹¹ <https://www.parliament.uk/site-information/glossary/manifesto/>

3.3 Therefore, it is reasonable to presume that a manifesto bill includes (as a minimum) a bill which contains direct links to one or more policies set out in the manifesto of an election-winning political party.

3.4 This paper explores two ways of identifying a manifesto bill. Those are:¹² When a Motion on a King's Speech which contains the relevant measure has been approved by the House of Commons; and when there has been any other indication of approval by that House.

4. Manifesto Bills and the Salisbury-Addison Convention?

4.1 The Salisbury-Addison Convention was the initial agreement between Viscount Cranborne and Viscount Addison in 1945. Since then, it has evolved to encompass the complexities of the modern interpretation of manifesto bills. The current definition of the convention in relation to manifesto bills is:

- A manifesto Bill is accorded a Second Reading;
- A manifesto Bill is not subject to 'wrecking amendments' which change the Government's manifesto intention as proposed in the Bill; and
- A manifesto Bill is passed and sent (or returned) to the House of Commons, so that they have the opportunity, in reasonable time, to consider the Bill or any amendments the Lords may wish to propose.

It applies to a Bill introduced in the House of Lords as well as one introduced in the House of Commons.¹³

4.2 In 2017, Baroness Evans of Bowes Park, the Leader of the House of Lords, argued that "it is clear in most cases from the subject matter of the bill and the debate in Parliament which legislation stems from manifesto commitments".¹⁴ The leader of the other parties did not necessarily agree. Lord Newby, Leader of the Liberal Democrats, said he believed that "legislation now cannot easily be identified—either positively or negatively—as a direct transplanted from a manifesto".¹⁵ Lord Hope of Craighead, then Convenor of the Crossbenchers, agreed: "historically manifestos were shorter than they are today, and over time bills have grown in length, complexity and in the number of issues they address. So there is not always a straightforward transfer from a manifesto commitment to a piece of legislation. Further, where a bill covers multiple policy areas, the position is unlikely to be clear-cut".¹⁶ Baroness Smith of Basildon, the Leader of the Opposition in the Lords, said that the Lords would respect manifesto commitments that were "unambiguous and clear", but would perhaps have less regard to a general statement in a manifesto than a specific commitment.¹⁷

5. Is the policy area mentioned with reasonable detail in the manifesto

5.1 Modern manifestos struggle to provide reasonable detail on policy, thus obscuring the definition of a manifesto bill. As already mentioned, manifesto bills are the foundations of the Salisbury-Addison Convention. Underpinning the convention is the idea that such bills enjoy a special form of

¹² Lord Lisvane interview with Lord Kinnoull February 2024

¹³ HL Hansard, 29 March 1999, Vol 599, col 21 Ev 3, para 19. Q 4 (Government); Q 78 (Opposition).

¹⁴ House of Lords Constitution Committee, HL Paper 28 of session 2017–19, p 3.

¹⁵ Ibid. p.11

¹⁶ Ibid. p.14

¹⁷ Ibid. p 6.

democratic legitimacy as, directly or indirectly, they have some form of endorsement by the electorate.¹⁸ However, the evolution of manifesto interpreting has become the central issue in the applicability of the Salisbury-Addison Convention.¹⁹ For example, the manifesto on which the Labour Party won the 1945 election contained 8 pages, whilst its 2005 election manifesto was 112 pages.²⁰ It would be unrealistic to expect that many, if any, voters agreed with every line of the manifesto.²¹ Modern manifestos are very different from the Clement Attlee Labour Party manifesto in 1945 with its exclusive focus on policy pledges and a detailed explanation of how each policy would be implemented.

5.2 Nowadays, manifestos focus on several other choices focused on two dimensions of campaigning: "*past versus future and positive versus negative*".²² The former refers to the party looking into the past and using the manifestos to talk about their record and then focusing on the future by choosing to describe desired states of the world or explicitly committing to certain future policies.²³ The latter relates to the extent to which parties use manifestos to talk about themselves, their policy ideas or the quality of their candidates.²⁴ Furthermore, in writing manifestos parties consider what image they want to project.²⁵ This complexity has made manifestos philosophical in nature leading to perceived vagueness of the election promises and providing flexibility for governments, who then are more easily able to jettison or change a manifesto commitment if things change.²⁶

5.3 Length is an issue for all parties. The Conservative Party's manifesto in 2017 contained 84 pages of proposed policies, although the 2019 version was only 60 pages.²⁷ Similarly, the Labour Party campaigned in 2019 with a 107 page manifesto²⁸ after 126 pages in 2017.²⁹ Further questions have been raised on whether the Convention applies to matters included in regional manifestos.³⁰ The then Leader of the House of Commons confirmed that the specific issue on which he was questioned was in the UK manifesto but added "even if it had not been a reference in the Welsh manifesto would have been sufficient."³¹

Thus the level of detail of a policy within a manifesto which would give rise to conventional protection is for at least some modern commentators a low bar.

¹⁸ Ibid. p.4

¹⁹ Joint Committee on Conventions, Conventions of the UK Parliament (First Report, Session 2005–06, HL Paper 265 – I, HC 1212-I) repeatedly mentions the difficulty of defining a manifesto bill from manifesto pledges

²⁰ HL Hansard, 15 December 1999, Vol 608, col 214. QQ 1-2

²¹ Royal Commission on the Reform of the House of Lords, para 4.23.

²² Dolezal, M., Ennser-Jedenastik, L., Müller, W. C., Praprotnik, K., & Winkler, A. K. (2018). Beyond salience and position taking: How political parties communicate through their manifestos. *Party Politics*, 24(3), 240-252.

<https://doi.org/10.1177/1354068816678893> p.241

²³ Dolezal, M., et al (2018). Beyond salience and position taking: How political parties communicate through their manifestos. *Party Politics* p.241

²⁴ Ibid. p.214

²⁵ Ibid.

²⁶ Joint Committee on Convention check paragraph or footnote 130 / see also Dennis Kavanagh, THE POLITICS OF MANIFESTOS, *Parliamentary Affairs*, Volume XXXIV, Issue 1, Winter 1981, Pages 7–27,

<https://doi.org/10.1093/oxfordjournals.pa.a054190>

²⁷ <https://www.conservatives.com/our-plan>

²⁸ <https://labour.org.uk/wp-content/uploads/2019/11/Real-Change-Labour-Manifesto-2019.pdf>

²⁹ <https://labour.org.uk/wp-content/uploads/2017/10/labour-manifesto-2017.pdf>

³⁰ Royal Commission on the Reform of the House of Lords, para 4.23. Q.10

³¹ Royal Commission on the Reform of the House of Lords, para 4.23. Q.11

6. Did the policy area feature in the campaign and were there clear statements by the Government

6.1 This point refers to two elements:

- Featuring in the campaign and in the manifesto pledges
- Were there clear statements by the Government

6.2 Asylum and Immigration policy featured in the 2019 General Election campaign. This policy area was one of the top three most important issues for the British public and campaigned on by the Conservatives.³² However, their manifesto was quite vague on what their plans in this policy area were. The 2019 manifesto talked of the introduction of an "Australian-style points-based system to control immigration" and in his introduction to the manifesto Boris Johnson also stated that the government would take "control of the country's borders".³³

6.3 The manifesto mentions in two places the issue of tackling illegal immigration³⁴, first in the passage about the Australian points-based system, saying that the Conservatives will "deal with criminals and keep track of migrants" and second the Conservatives "commit to recognising genuine refugees".³⁵

6.4 Despite the relatively small amount of the Conservative 2019 manifesto being devoted to illegal immigration the issue did feature heavily in the 2019 General Election and was widely covered in the media and spoken about by the parties and the candidates. Opinion poll data suggested that the issue was a critical one, especially in some seats, for instance in Kent.

6.5 There have been various pieces of primary legislation since 2019 that have sought to give effect to a considerably tougher Asylum and Immigration set of policies, two are particularly important: the Nationality and Borders Act 2022 and Illegal Migration Act 2023. Those that have passed into statute all effectively enjoyed Convention protection as after some rounds of ping pong an unhappy House of Lords gave in (although some minor concessions were granted by the House of Commons).

It remains to be seen if this pattern will be repeated with the current Safety of Rwanda (Asylum and Immigration) Bill.

6.6 The pattern of behaviour could be argued as being an example of a General Election campaign giving Convention protection to a Bill, and that Bill became a Manifesto Bill.

7. Did the policy area feature in the most recent King's Speech

7.1 The King's Speech (previously the Queen's Speech) is a speech drafted by the government and approved by the Cabinet which contains the key policy intentions of the government for the coming session.³⁶ It sets out the bills that the government will introduce. The latest King's Speech, and the first of this reign, included 21 new bills and 6 which had been carried over from the previous

³² Anonymous (2024) Trust in the conservatives on immigration and asylum ..., Ipsos. Available at: <https://www.ipsos.com/en-uk/trust-conservatives-immigration-and-asylum-improves-though-most-still-lack-confidence> (Accessed: 27 February 2024).

³³ The Conservative Party (2024) Our plan. Available at: <https://www.conservatives.com/our-plan> (Accessed: 27 February 2024).

³⁴ The Conservative Party (2019) Conservative Party Manifesto 2019 and immigration, Brand. Available at: <https://www.rlegal.com/news/conservative-party-manifesto-2019-and-immigration/> (Accessed: 27 February 2024).

³⁵ The Conservative Party, "Our plan"

³⁶ BRobert Rogers and Rhodri Walters(2015) How Parliament Works, Routledge. p.124

session.³⁷ The Wakeham Report argued that if the Commons had endorsed any government's programme and approved the Queen's Speech, "the Lords should think very carefully before opposing legislation that gives effect to it".³⁸ Lord Hope said that a manifesto receiving the support of the House of Commons by approving the Queen's Speech fell within the Salisbury-Addison Convention.³⁹ The words with which the Monarch's Speech traditionally ends "other measures will be laid before you" means that there may be other new legislation which has not been mentioned in the Speech.⁴⁰

7.2 There is thus a canon of evidence that mention of a Bill in the King's Speech, in at least some circumstances, is helpful in providing conventional protection to a Bill.

8. Has the Bill before the House of Lords been passed by the House of Commons

8.1 What then of Government Bills passed by the elected House of Commons? There is a presumption that such will receive a 2nd reading in the House of Lords (see the second paper of this series).

8.2 In evidence to the Joint Committee on House of Lords reform the then Labour government considered that Commons primacy rested on two things, "the election of its members as the representatives of the people", and "power to grant or withhold supply".⁴¹ This point has been considered by academics as the direct supremacy of the House of Commons, as representatives of the will of the electorate.⁴² That could imply, among other things, that any bill passing through the House of Commons should be considered a manifesto bill.⁴³ In effect, the Wakeham Report, commenting on the Salisbury-Addison Convention, said that the second chamber should "think very carefully before", or "be cautious about", "challenging the clearly expressed views of the House of Commons on any issue of public policy".⁴⁴

8.3 The Joint Committee on Conventions in its 2006 Report observed:

In paragraph 32, "so long as the government has the confidence of the Commons, it has the right to carry through the programme set out in its election manifesto".⁴⁵

³⁷ Jack Pannell. (2023) What was in the 2023 King's Speech?, Institute for Government. Available at: <https://www.instituteforgovernment.org.uk/explainer/kings-speech-2023> (Accessed: 27 February 2024).

³⁸ Nicola Newsom, The Salisbury Convention: A Decade in the making p.8

³⁹ Ibid.

⁴⁰ Robert Rogers and Rhodri Walters.(2015) How Parliament Works p.124 and Jack Pannell, "What was in the 2023 King's speech?"

⁴¹ Second Report of the Joint Committee on House of Lords Reform, Session 2002-03, HL Paper 97, HC 668, Ev 2, para 9.

⁴² Prof. Russell argued that the primacy of the House of Commons is the cornerstone of the intra-House relationship, with the House of Lords respecting the House of Commons' primacy almost without exception. See the House of Lords Constitution Committee, The Salisbury-Addison Convention, 20 October 2017, HL Paper 28 of session 2017-19 p.17

⁴³ Lord Hope of Craighead has argued that "any government which can command the support of the House of Commons is entitled to get its business through" in Nicola Newsom The Salisbury Convention: A decade of development, p.8. and the Wakeham Report says that: "the Salisbury-Addison Convention is "an understanding that a 'manifesto' Bill, foreshadowed in the governing party's most recent election manifesto and passed by the House of Commons, should not be opposed by the second chamber on Second or Third Reading." In HL Hansard, 15 December 1999, Vol 608, col 214 para 4.21

⁴⁴ O Hood Phillips and Jackson on Constitutional and Administrative Law (8th ed., Sweet & Maxwell 2001) para 4.21 and Recommendation 7 in para 26

⁴⁵ Joint Committee on Conventions, Conventions of the UK Parliament (First Report, Session 2005-06,

In paragraph 64, *"The Government may, therefore, I think, fairly claim that they have a mandate to introduce these proposals. I believe it would be constitutionally wrong, when the country has so recently expressed its view, for this House to oppose proposals which have been definitely put before the electorate."*⁴⁶

9. Coalition Government

9.1 The supremacy of the Elected House came to the fore during the Coalition Government (2010 – 2015). When the Conservative Party and the Liberal Democrats formed a coalition government, the two parties ran on different manifestos and the coalition agreement in which they set out their programme for government was drawn up after the General Election. The lack of clarity on the application of the Salisbury-Addison Convention resulted in the acceptance that an *ad hoc* manifesto cannot have the same validity as that of a majority government, but at least one senior opposition peer, Lord Adonis, said it should be given a "significant status".⁴⁷

9.2 There appeared to be a consensus that there was a presumption that the House of Lords should give a second reading to government bills passed by the House of Commons. .

9.3 The two coalition parties stated to the House that in their view the Salisbury-Addison Convention applied⁴⁸. Baroness D'Souza, then Convenor of the Crossbenchers, suggested that there were three possibilities for the application of the Salisbury-Addison Convention:

- The Salisbury-Addison Convention cannot and does not apply since no one voted for the coalition agreement.
- The convention does not apply strictly but since the electorate by its votes ensured a hung Parliament and that therefore a coalition was more than likely, the agreement forged between the two parties should count as a manifesto.
- The Lords should respect only those policies which were put forward in the manifestos of both the Tories and the Lib Dems and are therefore similar.⁴⁹

Two Parliamentary committees also expressed their views on this issue:

9.4 The House of Commons Political and Constitutional Reform Committee (PCRC) stated that: a coalition government's programme drawn up after the elections cannot be given the same status as a party manifesto, because the electorate did not vote for it.⁵⁰ In this case, it was for individual Peers to decide whether to apply the Convention to bills which originated from the Coalition Government's programme for government.

HL Paper 265 – I, HC 1212-I) para 32

⁴⁶ HL Hansard, 16 August 1945, Vol 137, col 47

⁴⁷ Lord Adonis (Labour) argued that a coalition agreement able to commend the confidence of the House of Commons should be accorded "a significant status" but s not be classified as a manifesto. See in House of Commons Political and Constitutional Reform Committee, Lessons from the Process of Government Formation After the 2010 General Election, 28 January 2011, HC 528 of session 2010–12, Ev 13, Q53.

⁴⁸ Lord Strathclyde (Conservative), then Leader of the House of Lords, said in May 2010: "Of course, the Salisbury Convention will apply. There is no difficulty there" in 73 HL Hansard, 25 May 2010, col 22. And Lord McNally (Liberal Democrat), then Deputy Leader of the House of Lords, said in June 2010 that: "As far as I am concerned, the Salisbury Convention and the Cunningham Conventions [ie the Conventions set out in the Joint Committee on Conventions' report] will still be operated in this House" in HL Hansard, 29 June 2010, col 1784.

⁴⁹ Baroness D'Souza, 'Is the Coalition Agreement a Manifesto?', Lords of the Blog, 17 November 2010.

⁵⁰ House of Commons Political and Constitutional Reform Committee, Lessons from the Process of Government Formation After the 2010 General Election, 28 January 2011, HC 528 of session 2010–12, p 3.

9.5 The House of Lords Constitution Committee also concluded in 2014 that the Salisbury-Addison Convention does not strictly apply to a coalition agreement because it “cannot be said to have a mandate from the electorate in the way that a manifesto can”.⁵¹ However, if the two parties made the same or a similar commitment in their manifestos, then it should be entitled to the benefit of the Salisbury-Addison Convention in respect of that commitment.⁵²

9.6 The numerical realities of the House of Lords in coalition (with two of the major parties together) mean that it is not easy to judge whether the House generally felt conventionally bound and if so by what.

10. Minority Government

10.1 The supremacy of the Elected House over the Lords was a consistent theme from the representatives of the main parties in the Lords in their evidence to the 2017-19 Report of Constitution Committee of the House of Lords on the Salisbury-Addison Convention.

10.2 Opinions have differed about the applicability of the Salisbury-Addison convention to minority governments. Academic opinion has suggested that the legitimacy of manifesto bills in relation to minority governments depended on the electoral support gained. Thus, following the 2017 General Election, the manifesto commitments of the Conservative Party alone would not make the Salisbury-Addison Convention apply⁵³ due to the lack of a general majority (or perhaps apply only in England, where the party won the majority).⁵⁴ However, the manifesto commitments shared by the Conservative Party and the DUP would represent a combined majority, therefore falling within the Salisbury-Addison Convention.⁵⁵

10.3 In giving evidence to the Constitution Committee Baroness Evans of Bowes Park, Leader of the House of Lords, said the Government felt that the Salisbury-Addison Convention continued to apply to its manifesto pledges.⁵⁶ In contrast, the other leaders were not convinced that the Salisbury-Addison Convention applied to a minority government. Baroness Smith of Basildon, Leader of the Opposition in the Lords said it was “far from clear that the Salisbury-Addison Convention was ever intended to apply to minority governments”⁵⁷ Lord Newby of the Liberal Democrats said that it “does not totally restrict the ability of the House to act where it believes that there is not a clear endorsement of a majority government’s manifesto and legislative programme—or specific legislative proposal—by the electorate” and that the House of Lords does not reject any bill at Second Reading.⁵⁸ Lord Hope of Craighead, then Convenor of the Crossbenchers, thought it was “hard to see why [the convention] should apply to a minority government which has not achieved a

⁵¹ House of Lords Constitution Committee, Constitutional Implications of Coalition Government, 12 February 2014, HL Paper 130 of session 2013–14, para 98.

⁵² House of Lords Constitution Committee, HL Paper 130 of session 2013–14, para 99

⁵³ Mark Elliott, ‘Does the Salisbury Convention Apply During a Hung Parliament?’, Public Law for Everyone Blog, 10 June 2017.

⁵⁴ Mark Elliott, ‘Does the Salisbury Convention Apply During a Hung Parliament?’.

⁵⁵ Ibid.

⁵⁶ House of Lords Constitution Committee, The Salisbury-Addison Convention, 20 October 2017, HL Paper 28 of session 2017–19, p 3

⁵⁷ House of Lords Constitution Committee, HL Paper 28 of session 2017–19, p 5.

⁵⁸ Ibid. p.10

majority at the election”.⁵⁹ However, he argued there was “a recognition that any government which can command the support of the House of Commons is entitled to get its business through”.⁶⁰

The 2017-2019 parliament saw no non-Brexit related government bills defeated.

What’s next?

The next short paper will look into the Parliament Acts, and later ones will include the meaning of “wrecking amendments” and government defeats in the House of Lords.

Bibliography

Anonymous (2024) Trust in the conservatives on immigration and asylum ..., Ipsos. Available at: <https://www.ipsos.com/en-uk/trust-conservatives-immigration-and-asylum-improves-though-most-still-lack-confidence> (Accessed: 27 February 2024).

Baroness D’Souza, ‘Is the Coalition Agreement a Manifesto?’, Blog of the House of Lords, 17 November 2010.

Sir David Beamish, “what is the Salisbury convention, and have the Lords broken it over Brexit? Published on the 12th of June 2018 available at: <https://constitution-unit.com/2018/06/12/what-is-the-salisbury-convention-and-have-the-lords-broken-it-over-brexit/>

Constitution Unit, University College London (2024) Government defeats in the House of Lords, The Constitution Unit. Available at: <https://www.ucl.ac.uk/constitution-unit/research/areas/parliament/changing-role-house-lords/government-defeats-house-lords>

Conventions: Joint Committee Report, Volume 688: debated on Tuesday 16th of January 2007

Dolezal, M., Ennsler-Jedenastik, L., Müller, W. C., Praprotnik, K., & Winkler, A. K. (2018). Beyond salience and position taking: How political parties communicate through their manifestos. *Party Politics*, 24(3), 240-252. <https://doi.org/10.1177/1354068816678893>

Dymond, G. and Deadman, H. The Salisbury Doctrine, Library Note, (Updated June 2006), 30th June 2006, LLN 2006/006 available at: https://www.parliament.uk/globalassets/documents/lords_library/hllsalisburydoctrine.pdf

House of Lords Constitution Committee, Constitutional Implications of Coalition Government, 12 February 2014, HL Paper 130 of session 2013–14

House of Commons Political and Constitutional Reform Committee, Lessons from the Process of Government Formation After the 2010 General Election, 28 January 2011, HC 528 of session 2010–12

House of Lords Act 1999 available at: <https://www.legislation.gov.uk/ukpga/1999/34#:~:text=An%20Act%20to%20restrict%20membershi p,C ommons%3B%20and%20for%20connected%20purposes>

Joint Committee on Conventions, Conventions of the UK Parliament (First Report, Session 2005–06, HL Paper 265 – I, HC 1212-I), The stationery Office Limited published on 3rd November 2006

⁵⁹ Ibid. p 13.

⁶⁰ Nicola Newson, The Salisbury Convention: A Decade of development p.8

Joint Committee on Conventions, Conventions of the UK Parliament (First Report, Session 2005–06 Volume II, HL Paper 265 – II, HC 1212-II, Minutes of Evidence and appendices), The stationery Office Limited published on 6th of November 2006

Kavanagh, D. (1981) THE POLITICS OF MANIFESTOS, *Parliamentary Affairs*, Volume XXXIV, Issue 1, Winter 1981, Pages 7–27, <https://doi.org/10.1093/oxfordjournals.pa.a054190>

Maer, L. and Kelly, R. (2017) Research Briefings Publications - Hung Parliament, House of Commons Library. Available at: <https://commonslibrary.parliament.uk/research-briefings/> (Accessed: 07 February 2024).

Mark Elliott, 'Does the Salisbury Convention Apply During a Hung Parliament?', Public Law for Everyone Blog, 10 June 2017.

Newson, N. (2019) Salisbury Convention: A decade of developments, House of Lords Library. Available at: <https://researchbriefings.files.parliament.uk/documents/LLN-2019-0155/LLN-2019-0155.pdf> (Accessed: 25 January 2024).

O Hood Phillips and Jackson on Constitutional and Administrative Law (8th ed., Sweet & Maxwell 2001)

Pannell, J. (2023) What was in the 2023 King's speech?, Institute for Government. Available at: <https://www.instituteforgovernment.org.uk/explainer/kings-speech-2023> (Accessed: 27 February 2024).

Puchner, Martin. "Manifesto = Theatre." *Theatre Journal* 54, no. 3 (2002): 449–65. <http://www.jstor.org/stable/25069096>.

Royal Commission on the Reform of the House of Lords (2000) A House for the Future - Chapter 4, GOV.UK. Available at: <https://www.gov.uk/official-documents> (Accessed: 07 February 2024).

Rogers, R., and Walters, R.(2015) How Parliament Works, Routledge.

Russell, M. (2010) 'A stronger second chamber? assessing the impact of House of Lords reform in 1999 and the lessons for bicameralism', *Political Studies*, 58(5), pp. 866–885. doi:10.1111/j.1467-9248.2009.00810.x.

Russell, M., Sciarra, M. Why Does the Government get Defeated in the House of Lords?: The Lords, the Party System and British Politics. *Br Polit* 2, 299–322 (2007). <https://doi.org/10.1057/palgrave.bp.4200064>

The Conservative Party (no date) Conservative Party Manifesto 2019 and immigration, Brand. Available at: <https://www.rlegal.com/news/conservative-party-manifesto-2019-and-immigration/> (Accessed: 27 February 2024).

The Salisbury-Addison Convention, Appendix 1: Written Evidence 2017 available at: <https://publications.parliament.uk/pa/ld201719/ldselect/ldconst/28/2804.htm>

House of Commons Political and Constitutional Reform Committee, Lessons from the Process of Government Formation After the 2010 General Election, 28 January 2011, HC 528 of session 2010–12, p 3.

The Office of the Convenor of the Crossbench Peers

Email: lordscrossbenchconvenor@parliament.uk

The Salisbury-Addison Convention

Paper 4: The Parliament Acts

Author: Mr Francesco Bruno – Senior Researcher to Lord Kinnoull

Introduction

This paper explores the Parliament Acts (1911 and 1949) and their relation to the Salisbury Convention. In the last 113 years, the Parliament Acts have been used seven times. The paper is divided into three parts, the first section explores the Salisbury Convention and the origins and developments of the Parliament Acts. The second part explores the Hunting Act 2002/3 and 2003/04 to which the Parliament Acts were applied and examines the principles of the Salisbury Convention to understand the relationship between the Act and the Convention. The final part explores the passage of the Safety of Rwanda Bill and examines how the conventional protection for Government legislation in the House of Lords.

1. The Salisbury Convention and the Parliament Acts (1911, 1949)

As already highlighted in the previous papers, the Salisbury Convention is an unwritten convention. If a Bill is considered to be a manifesto bill it must:

- Be accorded a Second Reading.
- Not be subject to “wrecking amendments”¹ which change the Government’s manifesto intentions as proposed in the Bill.
- be passed and sent (or returned) to the House of Commons, so that they have the opportunity, in reasonable time, to consider the bill or any amendments which the House of Lords may wish to propose.²

Until 1910, the two Houses of Parliament had a parity of legislative powers. The Parliament Acts altered such balance by changing the status quo and concentrating it in the elected House of Commons.³ The Parliament Acts of 1911 and 1949 limit the House of Lords’ power to veto legislation and were born out of the House of Lords refusal to pass David Lloyd-George’s “people’s budget” of 1909. This led to the Parliament Act 1911.⁴ This Act removes the power from the House

¹ “Wrecking amendments” are defined in this paper as “a proposal to change the wording of a Bill so that it is made useless, contradictory or unworkable in some way. This type of amendment is used intentionally by an opponent of the Bill.” Available at: “Wrecking Amendments”, Glossary, <https://www.parliament.uk/site-information/glossary/wrecking-amendment/>

² Joint Committee on Conventions, Conventions of the UK Parliament (First Report, Session 2005–06, HL 265-I, HC 1212); / Glenn Dymond and Hugo Deadman, The Salisbury Doctrine, Library Note, (Updated June 2006), 30th June 2006, LLN 2006/006, p.32

³ Select Committee on the Constitution (2006) Constitutional aspects of the challenge to the Hunting Act ... Available at: <https://publications.parliament.uk/pa/ld200506/ldselect/ldconst/141/141.pdf> (Accessed: 05 April 2024).

⁴ The parliament acts - UK parliament, www.parliament.uk. Available at: <https://www.parliament.uk/about/how/laws/parliamentacts/> (Accessed: 05 April 2024). / see also the act:

of Lords to veto a Bill, except one to extend the lifetime of a Parliament and instead allows the Lords to delay a Bill by up to two years. The Parliament Act 1949 amended the 1911 Act, reducing the Lords' delaying power to one year.⁵

The key provisions of the Parliament Acts define the powers of the House of Lords in relation to Public Bills. They are: 1) Money Bills: Bills designed to raise money through taxes or spend public money which start in the Commons and must receive Royal Assent no later than a month after being introduced in the Lords, even if the Lords has not passed them. The Lords cannot amend the Bill. 2) Other Commons Bills: the majority of Commons Bills can be held up by the Lords if they disagree with them for about a year, but ultimately the elected House of Commons can reintroduce and pass them without the consent of the Lords. 3) Bills not subject to the Parliament Acts are: Bills prolonging the length of a Parliament beyond five years; Private Bills; Bills sent up to the Lords less than a month before the end of a session; and Bills which start in the Lords.⁶

The key conditions that must be met for the Parliament Acts to be used are the following:

- The bill has been rejected by the House of Lords in two successive sessions which means that either the bill has not completed its passage through the Lords or that the Lords decline to progress the bill⁷; or that the Lords has insisted on amendments that the Commons refuses.
- At least one year has elapsed between the time in the first session that the Commons gave the bill its second reading; and the time in the second successive session that the Commons gave the bill its third reading.
- The Lords received the bill at least one month before the end of the two successive parliamentary sessions.
- The bill does not change between the two sessions, other than:
 - a) Changes that are needed because of the time elapsed during the process, or
 - b) Changes to reflect amendments made by the Lords in the first session, even if they were not agreed by the Commons.⁸

“Whatever our personal views, we should frankly recognize that these proposals were put before the country at the recent General Election and that the people of this country, with full knowledge of these proposals, returned the Labour Party to power. The Government may, therefore, I think, fairly claim that they have a mandate to introduce these proposals. I believe that it would be constitutionally wrong, when the country has so recently expressed its view, for this House to oppose proposals which have been definitely put before the electorate”.⁹

Participation, E. (1979) Parliament act 1911, Legislation.gov.uk. Available at:

<https://www.legislation.gov.uk/ukpga/Geo5/1-2/13/contents> (Accessed: 05 April 2024).

⁵ Mark Elliott. “The Sovereignty of Parliament, the Hunting Ban, and the Parliament Acts.” The Cambridge Law Journal 65, no. 1 (2006): 1–4. <http://www.jstor.org/stable/4509158>. see also the act: Parliament act 1949 (1979) Legislation.gov.uk. Available at: <https://www.legislation.gov.uk/ukpga/Geo6/12-13-14/103/contents> (Accessed: 05 April 2024). and Richard Kelly and Lucinda Miles. 2016. “The Parliament Acts”, House of Commons Library, available at: <https://researchbriefings.files.parliament.uk/documents/SN00675/SN00675.pdf> paragraph 3.1 p.13

⁶ The parliament acts - UK parliament

⁷ The definition of “Declining” is difficult to identify with certainty in the absence of any explicit statement therefore it could also mean that there is just no progress on the bill.

⁸ Alice Lilly. (2024) The parliament acts, Institute for Government. Available at: <https://www.instituteforgovernment.org.uk/explainer/parliament-acts> (Accessed: 05 April 2024).

⁹ (HL Hansard, 16th August 1945, vol. 137, col. 47)

The Parliament Bill 1948-1949 further reduced the House of Lords' ability to delay legislation from two years to one year.¹⁰ According to the Parliament Act 1911, the House of Lords could use its power to delay Bills for a period of two years spread over three sessions.¹¹ This in turn meant that the Bills which had passed the Commons in the first three years would still be able to pass into law; however, the Lords still had the power to delay legislation approved by the Commons in the last two years of a full Parliament's life, which over time would have killed the government's ability to pass its business through.¹² Clement Attlee said that:

"the Iron and Steel Bill would not get through the Lords without the use of the Parliament Bill".¹³ Therefore, "in November 1947, a Bill to amend the 1911 Act was introduced by [Herbert] Morrison [Lord President of the Council]. This Bill said that any measure rejected by the Lords would become law if it had been passed by the Commons in two successive sessions instead of three (as under 1911 Act) and provide that one year (instead of two) had elapsed between its first appearance for the second reading and its passage through the Commons for a second time. The Conservatives naturally put-up strong opposition to this Bill".¹⁴

The Parliament Bill was not part of the Manifesto commitments of the Labour Party winning the 1945 General Election, and the Conservatives voted against the Bill at Second Reading. However, the programme of nationalisation Bills which was backed by the people through the General Election included Attlee's Iron and Steel Bill 1948 – 1949 which could not be passed without the Parliament Act 1949. Lord Addison, Labour Leader of the House, stated:

"The claim to decide whether a subject is or is not in accordance with the mandate of the people contains this implication that, if this House is of opinion that it is not in the mandate, this House is at liberty to reject it; that is the deliberate and obvious implication. We challenge that implication from the very start. We claim that it is for the elected representatives of the people to decide whether an issue is or is not the subject of Parliamentary activity... We do not accept, and we do not intend to accept, that this House, entirely unrepresentative, shall be the final arbiter as to what is and what is not the opinion of the people... These conditions were not foreseen, and could not very well be foreseen at the time of the General Election. But that does not in any way invalidate the claim or the right of the representative House to introduce measures on these matters. There is no question of mandate at all".¹⁵

Lord Salisbury, Leader of the Opposition, moved an amendment in which the House declined to give a second reading to a Bill "for which the nation has expressed no desire"¹⁶ arguing that:

"... an entirely false argument that the views of a temporary majority in the House of Commons and the will of the people are inevitably identical ... After all, this argument of the Government rests on a fundamental misconception of the whole nature of the British Constitution. Ministers talk as if the House of Commons were a sovereign body – a sovereign body under His Majesty, the King; but, in fact, the House of

¹⁰ Richard Kelly and Lucinda Miles. 2016. "The Parliament Acts", House of Commons Library, SN00675 p.13

¹¹ Joint Committee on Conventions, Conventions of the UK Parliament (First Report, Session 2005–06, HL 265-I, HC 1212); / Glenn Dymond and Hugo Deadman, The Salisbury Doctrine, Library Note, (Updated June 2006), 30th June 2006, LLN 2006/006p.23

¹² Joint Committee on Conventions, Conventions of the UK Parliament, First Report p.23

¹³ Clement Attlee, As It Happened (1954), p.167

¹⁴ Clement Attlee, As It Happened p. 167)

¹⁵ (HL Hansard, 27th January 1948, vol. 153, cols. 634–635)

¹⁶ Joint Committee on Conventions, Conventions of the UK Parliament, First Report p.25

*Commons is not a sovereign body at all. It never has been. There is only one sovereign body under His Majesty the King, so far as I know, and that is the broad mass of the British people. It is perfectly true that, for convenience's sake, the electorate delegate certain powers to their elected representatives. But they never surrender their ultimate authority; and they would be most unwise if they did so. Experience shows that the elected representatives, whether of the Right or of the Left – it applies equally to both – very easily get out of touch with their electors. They may become the representatives, the voting counters, of a small clique holding certain views which are not in the least representative of the broad views of public opinion”.*¹⁷

The Bill that became the Parliament Act 1949 was originally passed by the House of Commons in 1947 before the mechanics of the Parliament Act 1911 were used to bypass the House of Lords in 1949, when Royal Assent was granted.

2. Hunting Act 2002/03 and 2003/04

*“An Act to make provision about hunting wild mammals with dogs; to prohibit hare coursing; and for connected purposes.”*¹⁸ [18th November 2004].

We will examine the Hunting Act 2004 and the three key tenets of the Salisbury Convention to consider today whether the Salisbury Convention might have provided an alternative route.

Can the Bill be considered a Manifesto Bill? The Labour Manifesto 2001 stated that “The House of Commons elected in 1997 made clear its wish to ban fox-hunting. The House of Lords took a different view (and reform has been blocked). Such issues are rightly a matter for a free vote and we will give the new House of Commons an early opportunity to express its view. We will then enable Parliament to reach a conclusion on this issue. If the issue continues to be blocked we will look at how the disagreement can be resolved”.¹⁹

By applying the three tenets of the Salisbury Convention:

- *Be accorded a Second Reading.*

The Bill was accorded a Second Reading in both parliamentary sessions before the triggering of the Parliament Acts. The Bill was sent to the House of Lords in July 2003 and read for a second time unopposed on 16th September 2003.²⁰ An identical Bill to that passed by the Commons in July 2003 was reintroduced in the 2003-2004 session and the Government hinted at the use of the Parliament Acts. On 12th October 2004, the House of Lords again gave the Bill an unopposed second reading and also agreed a motion to allow it to consider the House of Commons suggested amendment.²¹

- *Not be subject to “wrecking amendments” which change the Government’s manifesto intentions as proposed in the bill.*

The 2003 Bill received a large number of amendments and Committee stage began on 21st October 2003. In the event the Lords consideration of the Bill was not completed and the Bill fell as the

¹⁷ HL Hansard, 27th January 1948, vol. 153, cols. 644–647

¹⁸ Participation, Expert. “Hunting Act 2004.” Legislation.Gov.Uk. Statute Law Database. Accessed April 5, 2024. <https://www.legislation.gov.uk/ukpga/2004/37/introduction>.

¹⁹ “2001 Labour Party General Election Manifesto.” 2001 Labour Party Manifesto - LABOURMANIFESTO.COM. Accessed April 5, 2024. <http://labourmanifesto.com/2001/2001-labour-manifesto.shtml/>; Harrop, S. (2006). Parliamentary Process, Opposition in the House of Lords and the Hunting Act 2004: R (Jackson & Ors) v Attorney General [2005] 3 WLR 733, House of Lords. Environmental Law Review, 8(4), 299-304. <https://doi.org/10.1350/enlr.2006.8.4.299>

²⁰ HL Deb 16 September 2003 cc769-894

²¹ HL Deb 12 October 2004 cc124-260

session ended in November.²² This counted as a “rejection” under the Parliament Acts. The 2004 Bill also was the subject of a large number of amendments. Lord Whitty, on the first day of Committee, commented “What I am saying is that if this Chamber behaves as these amendments imply that it will, it will not only send back to the House of Commons a proposition that the House of Commons has already rejected but, in terms of the majority position in the House of Commons, send back a proposal that is actually worse than the one previously recommended. That does not suggest to me a basis for compromise”.²³ The Lords amended the Bill and entered into “Ping Pong” with the Commons, but the two Houses were unable to reach agreement and the Speaker certified that the Parliament Acts could be used in November.

- *be passed and sent (or returned) to the House of Commons, so that they have the opportunity, in reasonable time, to consider the bill or any amendments which the House of Lords may wish to propose.*

Arguably again here the facts as set out above may or may not amount to an unreasonable delay, but the operative reason for the use of the Parliament Acts was legislative time. The Commons agreed for an outright ban on hunting, whilst the Lords aimed to propose amendments amounting to something less and the invocation of the Parliament Acts followed. Lord Carter, a former Chief Whip in the House of Lords, said about the Hunting Bill 2002-2003 that “ In my five years as Chief whip, we never spent so long on groups of amendments. Those who wished to kill the Bill in this House have succeeded”.²⁴

To conclude, it is possible to argue that the Hunting Act should have been granted the status of manifesto bill and therefore fallen under the Salisbury-Addison Convention. The inability by the House of Lords to recognise the Hunting Act as a manifesto bill resulted in the use of the Parliament Acts. In effect, such disagreement demonstrated that if the House of Lords had abided by the Salisbury-Addison Convention, the bill should not have been subject to wrecking amendments (a large number of them, in this instance) and allowed to pass.

3. The Safety of Rwanda Bill and the Parliament Acts

The Parliament Acts have been cited in multiple debates in recent years.²⁵ The fact remains however that in 113 years they have been used just seven times and not for nearly 20 years. The most recent discussion took place at second reading of the Safety of Rwanda (Asylum and Immigration Bill), but the Acts were not required. Why is that?

Speaking in the debate Lord Davies of Brixton quoted Winston Churchill’s speech on the Parliament Act 1947: “The spirit of the Parliament Act, and the purpose of that Act, were to secure the intimate, effective and continuous influence of the will of the people upon the conduct and progress of their affairs”.²⁶

²² [Richard Kelly and Lucinda Miles, 2016. “The Parliament Acts”](#) p.17

²³ HL Deb, 26 October 2004, c1175

²⁴ HC Deb 28 October 2003 c251

²⁵ Notably: see HL Debate March 2024 Vol. 746, Col.397;

[https://hansard.parliament.uk/Commons/2024-03-07/debates/521A216B-902C-4DC3-B122-774E39D2FD45/LGBTHistoryMonth?highlight="parliament act"](https://hansard.parliament.uk/Commons/2024-03-07/debates/521A216B-902C-4DC3-B122-774E39D2FD45/LGBTHistoryMonth?highlight=) HL Debate, 2 March 2023, Vol. 828, col.459;

HL Debate, March 2 March 2023, Vol.828, Col.444

²⁶ HL Debate, 29 January 2024, Vol. 835, col.1062

And Lord Lisvane's speech on the Parliament Acts and the Salisbury Convention is highly instructive on the relationship between the two.²⁷ Lord Lisvane argues that the relationship between the Salisbury-Addison Convention and Manifesto Bills reflects the relationship between the two Houses and the Government. He pointed out how the Salisbury-Addison Convention came to be known as the "Government Bill Convention" expressed in the endorsement of the elected House was sufficient to give the status of "manifesto" bill. This is the premises for the speech below which justified the green light to the Rwanda Bill.

"The Salisbury/Addison Convention, as it became known, was not invented in 1945. If it had a progenitor, it was the third Marquess of Salisbury in the late 1880s. In an age of widening suffrage, he said that your Lordships' House had an obligation to reject, and so refer back to the electorate, especially contentious Bills, usually involving a revision of the constitutional settlement. We have come a long way since then, of course, enacting the Parliament Act 1911 en route.

There is no doubt that a manifesto Bill has a special significance in the relationship between the two Houses—but this animal has become elusive. The Labour Party manifesto in 1945 was, with Attleian brevity, only eight pages long. It was a clear and specific checklist of intentions. Nowadays, manifestos may be 10 or 20 times that length, and they have taken on the character of a philosophical tract. Distilling legislative intent is not always easy.

In 2006, the Joint Committee on Conventions examined the so-called Salisbury/Addison convention. Its report is well worth reading. The committee did not support any attempt to define a manifesto Bill. It concluded that the 1945 convention, which was, of course, between parties rather than between the Houses, had evolved and it recommended naming the convention "the Government Bill Convention". The logic of this was that, rather than struggle to find manifesto lineage in a Bill, it was better to treat the endorsement of the elected House as being sufficient democratic authority.

That is a reasonable position to take. I would not support voting against a Bill—even this Bill—on Second Reading. Rejection on Second Reading would be read by many outside this place as a suicide note. However, I counsel care and restraint in seeking to characterise the democratic authority I referred to a moment ago. Phrases such as "the will of the people" are not appropriate—as well as being, in terms, manifestly untrue.

If this Bill is given a Second Reading, I imagine that it will be significantly amended on Report. If so, I expect your Lordships' views to be widely misrepresented—I hear echoes of "Enemies of the People". Exchanges between the Houses are not a face-off. They are a constitutionally valuable way of identifying any common ground and of giving the Commons the opportunity to think again. We should not buy into the urban myth that there should be only, let us say, two exchanges. When the Bill for the Corporate Manslaughter and Corporate Homicide Act 2007 was before Parliament, there were seven exchanges between the Houses—as I have some personal cause to remember. If on this Bill there are continuing disagreements, we should have confidence in the strength of our arguments.

My final point is that, when there are exchanges between the Houses, it is important to see them as disagreements not between the Lords and the Commons but between Government and Parliament. That, I think, puts them in their proper context."

Why were the Parliament Acts not used considering that the bill was subject to multiple rounds of ping pong?²⁸ There are two points of contention with regards to the applicability of the Parliament Acts. As mentioned above, the Parliament Act 1911 reduced the Lords' delaying power to two years and the Parliament Act 1949 to one year. The Parliament Acts also require that a Bill must meet

²⁷ HL Debate, 29 January 2024, Vol. 835, col. 1065

²⁸ See the stages of the Rwanda Bill here: Safety of Rwanda (asylum and immigration) bill stages (2024) Parliamentary Bills. Available at: <https://bills.parliament.uk/bills/3540/stages> (Accessed: 21 May 2024).

certain conditions before the Acts can be applied. These are, first, that the Bill should have been rejected by the Lords in two consecutive sessions, and secondly, that at least one year will have elapsed between the time in the first session of Second Reading in the Commons and the time in the second successive session of Third Reading. As outlined by Paul Evans, a former Clerk in the House of Commons, *“this Parliament must dissolve for a general election by 17 December 2024. With just nine months of parliamentary time remaining, the Parliament Act cannot therefore be deployed in relation to the Rwanda Bill or any other Bill in this Parliament.”*²⁹

The second point of contention relates to the classification of the Rwanda Bill as a Manifesto Bill.³⁰ As discussed in the most recent paper on this topic, regardless of the Parliament Acts, it is argued that the Conservative Manifesto, campaign trails and the majority in the House of Commons should have provided the Bill with the protection of the Salisbury-Addison Convention. Therefore, had the Lords not passed the Bill it may have been in breach of the Salisbury-Addison Convention as stated by Lord Lisvane in his speech. This could have been seen as a challenge to the elected House and in contention with the priorities of the British people.³¹ The difficult position in which the House of Lords found itself perhaps provides justification for the multiple rounds of ping pong which could be seen as a process of negotiation to reach a compromise between the two Houses.

Conclusion

To conclude, this paper aims to demonstrate the relationship between the Parliament Acts and the Salisbury-Addison Convention. The fact that the Parliament Acts have not been used for 20 years is evidence to suggest that the conventional protection for Government legislation in the House of Lords has been afforded. The existence of the Parliament Acts and their successful use is arguably one of the factors which underpins that protection. Furthermore, the Government’s ability to pass legislation in the House of Lords shows how the House has evolved to abide by the primacy of the House of Commons, while retaining its role of scrutinising legislation and holding the Government account.

In the next papers we will consider the trends that are visible in “ping pong” in recent years, followed by “wrecking amendments.”

²⁹ ²⁹ Paul Evans (2024) Two houses go to war: The safety of Rwanda bill and the origins of the parliament act, Hansard Society for Parliamentary Democracy. Available at: <https://www.hansardsociety.org.uk/blog/two-houses-go-to-war-the-safety-of-rwanda-bill-and-the-origins-of-the> (Accessed: 21 May 2024).

³⁰ See paper three in this series on “What is a Manifesto Bill?”

³¹ See the previous point on poll regarding the most pressing issues for the British People

Bibliography

- Attlee, Clement R. *As It Happened*. Melbourne: London, 1954. "Disestablishment in Wales." National Secular Society. Accessed April 5, 2024. <https://www.secular-ism.org.uk/disestablishment-in-wales>.
- Defence of the Realm Act 1914 - UK Parliament. Accessed April 5, 2024. <https://www.parliament.uk/about/living-heritage/transformingsociety/parliament-and-the-first-world-war/legislation-and-acts-of-war/defence-of-the-realm-act-1914/>.
- "Ecclesiastical Law and the Church in Wales." Ecclesiastical Law and the Church in Wales | Law Wales. Accessed April 5, 2024. <https://law.gov.wales/ecclesiastical-law-and-church-wales>.
- Elliott, M. (2006) "The Sovereignty of Parliament, the Hunting Ban, and the Parliament Acts." *The Cambridge Law Journal* 65, no. 1 (2006): 1–4. <http://www.jstor.org/stable/4509158>.
- "European Parliamentary Elections Act 1999." Legislation.Gov.Uk. King's Printer of Acts of Parliament. Accessed April 5, 2024. <https://www.legislation.gov.uk/ukpga/1999/1/enacted>.
- Evans, P. (2024) Two houses go to war: The safety of Rwanda bill and the origins of the parliament act, Hansard Society for Parliamentary Democracy. Available at: <https://www.hansardsociety.org.uk/blog/two-houses-go-to-war-the-safety-of-rwanda-bill-and-the-origins-of-the> (Accessed: 21 May 2024).
- Ganz, G. (2012) "European Parliamentary Elections Act 1999: The Constitutional Issues." *Amicus Curiae* 1999, no. 18 doi:10.14296/ac.v1999i18.1466.
- Government of Ireland act 1914 - UK parliament. Available at: <https://www.parliament.uk/about/living-heritage/evolutionofparliament/legislativescrutiny/parliamentandireland/collections/home-rule-1914/gov-of-ireland-act-1914/> (Accessed: 05 April 2024).
- Government of Ireland act, 1914. Available at: https://www.legislation.gov.uk/ukpga/1914/90/pdfs/ukpga_19140090_en.pdf (Accessed: 05 April 2024).
- Harrop, S. (2006). Parliamentary Process, Opposition in the House of Lords and the Hunting Act 2004: R (Jackson & Ors) v Attorney General [2005] 3 WLR 733, House of Lords. *Environmental Law Review*, 8(4), 299-304. <https://doi.org/10.1350/enlr.2006.8.4.299>
- Hunting Act 2004." Legislation.Gov.Uk. Statute Law Database. Accessed April 5, 2024. <https://www.legislation.gov.uk/ukpga/2004/37/introduction>.
- Joint Committee on Conventions, Conventions of the UK Parliament (First Report, Session 2005–06, HL 265-I, HC 1212); / Glenn Dymond and Hugo Deadman, The Salisbury Doctrine, Library Note, (Updated June 2006), 30th June 2006, LLN 2006/006 Kelly, R. and Miles, L.. 2016. "The Parliament Acts" , House of Commons Library available at: <https://researchbriefings.files.parliament.uk/documents/SN00675/SN00675.pdf>
- Lilly, A. (2024) The parliament acts, Institute for Government. Available at: <https://www.instituteforgovernment.org.uk/explainer/parliament-acts> (Accessed: 05 April 2024).
- "Lords Reject Gay Bill for Third Time." *The Guardian*. Guardian News and Media, November 14, 2000. <https://www.theguardian.com/politics/2000/nov/14/uk.politicalnews2>.

Office, Home. "Explanatory Notes to Sexual Offences (Amendment) Act 2000." Explanatory Notes. King's Printer of Acts of Parliament. Accessed April 5, 2024. <https://www.legislation.gov.uk/ukpga/2000/44/notes>.

Parliament Acts - UK parliament, www.parliament.uk. Available at: <https://www.parliament.uk/about/how/laws/parliamentacts/>

Parliament Act 1911 (1979), legislation.gov.uk. Available at: <https://www.legislation.gov.uk/ukpga/Geo5/1-2/13/contents>

Parliament Act 1949 (1979) legislation.gov.uk. Available at: <https://www.legislation.gov.uk/ukpga/Geo6/12-13-14/103/contents>

"Parliament Act Brings an End to 700 Years of Hunting." The Guardian. Guardian News and Media, November 19, 2004. <https://www.theguardian.com/politics/2004/nov/19/houseofcommons.lords>.

Safety of Rwanda (asylum and immigration) bill stages (2024) Parliamentary Bills. Available at: <https://bills.parliament.uk/bills/3540/stages> (Accessed: 21 May 2024).

Select Committee on the Constitution (2006) Constitutional aspects of the challenge to the Hunting Act ... Available at: <https://publications.parliament.uk/pa/ld200506/ldselect/ldconst/141/141.pdf>

Welsh church act 1914 (1977) legislation.gov.uk. Available at: <https://www.legislation.gov.uk/ukpga/Geo5/4-5/91>

Welsh church act (1970) Archives Hub. Available at: <https://archiveshub.jisc.ac.uk/search/archives/df7f1dd7-0526-3172-9f74-15c31511b6ca#:~:text=The%20act%20had%20been%20demanded,the%20Anglican%20Church%20of%20England,War%20Crimes%20Act%201991> - legislation.gov.uk. Accessed April 5, 2024. <https://www.legislation.gov.uk/ukpga/1991/13/contents>.

"1987 Conservative Party General Election Manifesto." 1987 Conservative Party Manifesto - CONSERVATIVEMANIFESTO.COM. Accessed April 5, 2024. <http://www.conservativemanifesto.com/1987/1987-conservative-manifesto.shtml>.

"2001 Labour Party General Election Manifesto." 2001 Labour Party Manifesto - LABOURMANIFESTO.COM. Accessed April 5, 2024. <http://labourmanifesto.com/2001/2001-labour-manifesto.shtml>.

The Office of the Convenor of the Crossbench Peers

Email: lordscrossbenchconvenor@parliament.uk

The Salisbury-Addison Convention

Paper Five: Ping Pong

Author: Mr Francesco Bruno – Senior Researcher to Lord Kinnoull

Introduction

This paper traces ping pong activity in the sessions starting with 2006-07 and ending with the 2022-2023 session. There are observable trends that (i) more bills are entering a ping pong phase and (ii) that the length of ping pong ‘rallies’ is increased. These trends are especially marked in the most recent sessions 2019-21, 2021-22 and 2022-23.

This has two principal repercussions. The first is of a legislative nature; the longer the length of ping pong, the more time it takes for the Government to pass legislation and, the second is of conventional nature, that the trend represents a change in the territory of the Salisbury-Addison Convention, a key “Government Bill Convention” which accepts the primacy of the House of Commons.

The paper is divided into four sections. The first section provides the key elements of the Salisbury-Addison Convention; the second analyses the practice of ping pong; and the third provides a detailed analysis of the eleven bills with more than two rounds of ping pong in the 2019-2021, 2021-2022 and 2022-2023 sessions. The last section gives a statistical analysis of the trends in ping pong in the period between 2006 and 2023.

Part I: The Salisbury-Addison Convention

The “Salisbury-Addison Convention” is a parliamentary convention of the House of Lords since 1945.¹ It has earlier roots, especially in the views of the third Marquess of Salisbury in the late 1880s in a time in which the universal suffrage was expanding.

A good statement of the Salisbury Convention today from two recent Committee Reports of the House of Lords is:

The House of Lords should not reject at second reading any government legislation that has been passed by the House of Commons and that carries out a manifesto commitment.

According to the Salisbury-Addison Convention bills should:

A) be given a second reading.

B) not be subject to “wrecking amendments” which change the Government’s manifesto intentions as proposed in the Bill.²

¹ See paper one in this series – The Salisbury Convention p.1 and the Salisbury Doctrine The Salisbury Doctrine (Updated June 2006), House of the Lords Library p.21-23, Rogers, Robert, and Rhodri Walters. How Parliament Works, Routledge, 2015. pp.211-212 and The Salisbury-Addison Convention (2019) p.2 Appendix 1

² Manifesto bills are discussed in paper number three of this series “What is a Manifesto Bill?”

C) be passed and sent (or returned) to the House of Commons, so that they have the opportunity, in reasonable time, to consider the bill or any amendments which the House of Lords may wish to propose.³

Part 2: The Procedure and Practice of Ping Pong

*“A bill that passes without amendment through the second House then needs only the Royal Assent – or formal approval by the King – before it becomes law”.*⁴ Where a bill which has originated in one House is amended by the other House the mechanism aimed at achieving consensus is known as “ping pong”.⁵ The bill is returned to the first House with a message setting out the amendments⁶ to be considered by the first House; and those amendments (but no other part of the bill) are then considered.⁷

If the amendments are agreed by the first House, the bill is ready for Royal Assent.⁸ If any of the amendments is disagreed to by the first House, it can either insist upon one or more amendments, make compromise proposals (amendments in lieu, or amendments to the amendments proposed by the second House, or drop its insistence.⁹ The bill and accompanying message is sent back to the second House. This represents the first ball in a ping pong rally.

If the second House does not agree the amendment or compromise a rally develops. In theory it could go on indefinitely until the session ends.¹⁰ But if one House insists on its amendment after the other House has insisted on its disagreement to it, it is described as ‘double insistence’ and the bill would normally fall. This is also referred to as ‘three shots at the same target’¹¹. An option would then be for the Government in the subsequent session to introduce the same bill as passed in the first House and use the Parliament Acts. (See also the earlier paper on the Parliament Acts.)¹²

³ See paper four in this series and Joint Committee on Conventions, Conventions of the UK Parliament (First Report, Session 2005–06, HL 265-I, HC 1212); / Glenn Dymond and Hugo Deadman, The Salisbury Doctrine, Library Note, (Updated June 2006), 30th June 2006, LLN 2006/006, p.32

⁴ Robert Rogers and Walters, R. (2015) How Parliament Works, Routledge p.217

⁵ <https://erskinemay.parliament.uk/section/5521/consideration-of-lords-amendments>

⁶ Those are endorsed by the Clerk of the Parliament, Erskine May, Chapter 30.2 available here:

<https://erskinemay.parliament.uk/section/5518/house-bill>

⁷ How Parliament Works p.217

⁸ <https://erskinemay.parliament.uk/section/5526/lords-amendments-agreed-to> and How Parliament Works p.217

⁹ Robert Rogers and Walters, R. (2015) How Parliament Works, Routledge p.218

¹⁰ How Parliament Works p.217 and Erskine May paragraph 30.13 available

<https://erskinemay.parliament.uk/section/5529/stages-in-process-of-securing-agreement-between-the-two-houses> According to Erskine May, 3 general rules or practice should apply. See Erskine May paragraph 30.14 here: <https://erskinemay.parliament.uk/section/5530/relevance-of-propositions-relating-to-lords-amendments>. In case the second House’s amendments “have been disagreed to by the first House without any alternative proposal being offered, it is necessary to appoint a committee to draw up a reason for each disagreement” see Erskine May paragraph 30.16 and 30.17 here:

<https://erskinemay.parliament.uk/section/5532/committee-to-draw-up-reasons>;

¹¹ Erskine May paragraph 30.25 available here: <https://erskinemay.parliament.uk/section/5541/double-insistence-and-the-loss-of-the-bill>

¹² Erskine May paragraph 30.18 available here: <https://erskinemay.parliament.uk/section/5534/bill-returned-to-lords>

Part 3: Ping Pong in Practice: List of Bills and Statistics

Government Party	Session	Number of Sitting Days	Number of Public Bills	Number of Public Bills receiving Royal Assent	No of Bills at Ping Pong Round 1	Round 2	Round 3	Round 4	Highest No of Ping Pong Rounds
<i>Labour</i>	2006-07	142	56	33	9	3	1	1	5
<i>Labour</i>	2007-08	164	48	33	8	-	-	-	1
<i>Labour</i>	2008-09	134	47	27	7	-	-	-	1
<i>Labour</i>	2009-10	68	43	30	1	-	-	-	1
<i>Coalition</i>	2010-12	293	80	49	10	4	-	-	2
<i>Coalition</i>	2012-13	137	71	38	6	3	-	-	2
<i>Coalition</i>	2013-14	149	62	30	7	-	-	-	1
<i>Coalition</i>	2014-15	126	68	36	5	1	-	-	2
<i>Conservative</i>	2015-16	151	78	29	6	4	1	-	1
<i>Conservative</i>	2016-17	141	84	33	8	2	-	-	2
<i>Conservative</i>	2017-19	352	149	67	7	1	-	-	2
<i>Conservative</i>	2019-19	15	51	3	-	-	-	-	-
<i>Conservative</i>	2019-21	224	141	54	17	8	3	1	4
<i>Conservative</i>	2021-22	152	92	50	15	5	3	-	3
<i>Conservative</i>	2022-23	221	113	67	16	9	4	-	3

Credit: The House of Lords Journal Office

In looking at the statistics for the 15 sessions from the 2006-2007 session to the 2022-23 one, we see that in the first 12 sessions only two bills went to more than 2 rounds of ping pong. In the later three sessions 10 bills did so.

At the same time in the first 12 sessions the average number of ping pong bills was 6.2 and this rose to 16.0 in the later 3 sessions.

It should be noted, however, that some of this increase may be attributable to a larger legislative agenda.

We will then consider the 10 bills which have more than two rounds of ping pong in the three sessions starting with the 2019 – 2021 session. Please see the annex for the full list of bills with links.

Part 4:

Has Ping Pong grown?

The statistics show several trends in relation to the Salisbury-Addison Convention and the role of ping pong. From 1945 to 2019, two rounds of ping pong had been the normal maximum during the Salisbury-Addison convention period, where the Lords asks the Commons to think again. The trend in the number of ping pong rounds has risen in the three sessions between 2019-2021 and 2022-2023 in comparison to the 12 sessions starting with 2006-2007. The average number of bills reaching two rounds of ping pong for the 12 sessions starting with the 2006-07 session was 1.5. The average for the three sessions starting with the 2019-21 session was 7.3, nearly 5 times higher.

The average number of bills reaching three rounds of ping pong for the 12 sessions starting with the 2006-07 session was 0.17. The average for the three sessions starting with the 2019-21 session was 3.3 and is exactly 20 times higher. The trend in the aggregate number of times that the House of Lords sits for ping pong has also gone up. The average for the 12 sessions starting with the 2006-07 session was eight. The average for the three sessions starting with the 2019-21 session was 27, over three times higher. Third, the number of bills being subject to rounds of ping pong in comparison to the total number of bills which received the Royal Assent is also instructing. The average percentage of bills entering ping pong for the 12 sessions starting with the 2006-07 session was 0.18. The average for the three sessions starting with the 2019-21 session was 0.28, an increase of over 50%.

In summary, by looking at the statistics and the trends above, if the trend were to develop, the House would be spending a considerable amount of time on ping pong which, in turn might impact the Salisbury-Addison Convention and the Government's ability to pass its business through the House of Lords.

Bibliography

Economic crime and corporate transparency bill 2022. Available at:

<https://bills.parliament.uk/bills/3339>

Fire Safety Act 2021 - parliamentary bills - UK parliament. Available at:

<https://bills.parliament.uk/bills/2730>

Joint Committee on Conventions, Conventions of the UK Parliament (First Report, Session 2005–06, HL 265-I, HC 1212); / Glenn Dymond and Hugo Deadman, The Salisbury Doctrine, Library Note, (Updated June 2006), 30th June 2006, LLN 2006/006

Joint Committee on Conventions, Conventions of the UK Parliament (First Report, Session 2005–06, HL Paper 265 – I, HC 1212-I), The stationery Office Limited published on 3rd November 2006

Joint Committee on Conventions, Conventions of the UK Parliament (First Report, Session 2005–06 Volume II, HL Paper 265 – II, HC 1212-II, Minutes of Evidence and appendices), The stationery Office Limited published on 6th of November 2006

Meyenburg, I. (2023) Politicians weren't confident discussing Brexit – my analysis of parliamentary debates shows how, The Conversation. Available at:

<https://theconversation.com/politicians-werent-confident-discussing-brexit-my-analysis-of-parliamentary-debates-shows-how-195259> (Accessed: 29 May 2024).

Meyenburg, I. (2022) “Brexit means Brexit!”: Investigating the production of social phenomena in political discourses’, Symbolic Interaction, 45(4), pp. 570–595. doi:10.1002/symb.615.

Mudde, C. (2018) How populism became the concept that defines our age | Cas Mudde, The Guardian. Available at:

<https://www.theguardian.com/commentisfree/2018/nov/22/populism-concept-defines-our-age> (Accessed: 29 May 2024).

National Security and Investment Act 2021 - parliamentary bills - UK parliament.

Available at: <https://bills.parliament.uk/bills/2801>

Newson, N. (2019) Salisbury Convention: A decade of developments, House of Lords Library. Available at: <https://researchbriefings.files.parliament.uk/documents/LLN-2019-0155/LLN-20190155.pdf>

Police, Crime, Sentencing and Courts bill - parliamentary bills - UK parliament.

Available at: <https://bills.parliament.uk/bills/2839>

Public Order Bill - parliamentary bills - UK parliament. Available at:

<https://bills.parliament.uk/bills/3153>

Retained EU Law (Revocation and reform) act 2023. Available at:

<https://bills.parliament.uk/bills/3340>

Rogers, R., and Walters, R.(2015) How Parliament Works, Routledge

Safety of Rwanda (Asylum and Immigration) bill - parliamentary bills - UK parliament.

Available at: <https://bills.parliament.uk/bills/3540>

Scott, E. and Newson, N. (2022) House of Lords: Timeline of response to covid-19 pandemic - House of Lords Library, The House of Lords Library. Available at:

<https://lordslibrary.parliament.uk/house-of-lords-timeline-of-response-to-covid-19-pandemic/> (Accessed: 29 May 2024).

Strikes (Minimum Service Levels) Bill - parliamentary bills. Available at:

<https://bills.parliament.uk/bills/3396>

Trade Act 2021 - parliamentary bills - UK parliament. Available at:

<https://bills.parliament.uk/bills/2729>

United Kingdom Internal Market Act 2020 - parliamentary bills - UK parliament.

Available at: <https://bills.parliament.uk/bills/2775>

<https://publications.parliament.uk/pa/ld201719/ldselect/ldconst/28/28.pdf>

Appendix – Bills Considered

2019-2021 session

- United Kingdom Internal Market Act 2020
<https://bills.parliament.uk/bills/2775/stages>
- Fire Safety Act 2021
<https://bills.parliament.uk/bills/2730/stages>
- Trade Act 2021
<https://bills.parliament.uk/bills/2729/stages>

2021-2022 session

- Nationality and Borders Act 2022
<https://bills.parliament.uk/bills/3023/stages> originated in 2021-2022
- Police, Crime, Sentencing and Courts Act
<https://bills.parliament.uk/bills/2839/stages>

2022-2023 session

- Economic Crime and Corporate Transparency Act 2023
<https://bills.parliament.uk/bills/3339/stages> ,
- Public Order Act 2023
<https://bills.parliament.uk/bills/3153/stages>
- EU Retained Law (Revocation and Reform) Act 2023
<https://bills.parliament.uk/bills/3340/stages>
- Strikes (Minimum Service Levels) Act 2023
<https://bills.parliament.uk/bills/3396/stages>