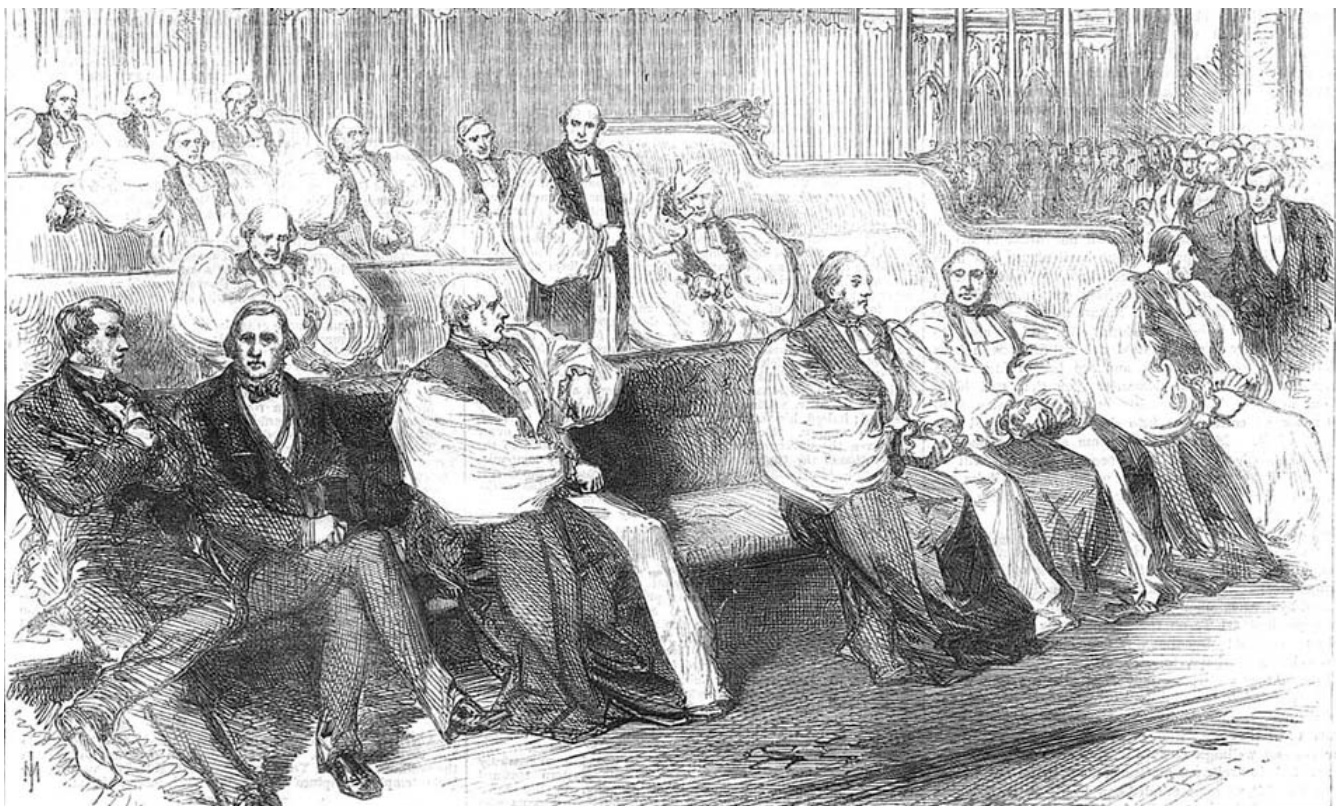


Liberals and the Lords

Tony Little examines Gladstone's struggles to have legislation passed by the House of Lords

Jogging Along by the Gladstone's First Government



The Bishops' bench in the House of Lords during the debate on the Irish Church Bill, 1869

AT THE 1868 general election, Liberals won a majority in excess of 100 seats. But in the Lords, Conservatives predominated. According to a paper that Gladstone sent the queen in 1869, there were 433 'voting members' of the upper chamber and 'the balance of opinion in the House of Lords tends to become increasingly adverse to the Liberal Party'. This point was reinforced by Lord Granville a few days later: 'Lord Bessborough has lost from his list of 1850, of those he used to summon, 45 Peers whose Peerages have become extinct, who are incapacitated, or who in their own persons or in that of their sons have become Conservatives.' Granville estimated the Conservative majority at 'between 60 and 70 without counting Bishops or Liberals who vote oftener for the Opposition than for the

Government.' Ominously he added that 'many' Liberal peers 'are not friends of Mr. Gladstone and prefer the failure to the success of his colleagues.'¹

How could the new Liberal government overcome the potential veto of a chamber inherently hostile to its reforming zeal? This article examines four of the most controversial bills to assess how Gladstone's first government managed its legislation in the Lords.

The tone was set even before the election. After its Second Reform Act debacle, Gladstone reunited the Liberal Party, in spring 1868, by proposing resolutions to disestablish the Church of Ireland. He followed through with a bill suspending new Church appointments. When this bill reached the Lords, Lord Clarendon, soon to be Gladstone's foreign secretary, declared that,

Parliamentary Train? Government and the House of Lords

after electoral reform, anyone supposing things would ‘go on in their old train’ would be ‘greatly mistaken’:

In the new House of Commons we must expect to find many new men with many new ideas, which will possibly be persisted in all the more strongly because they are new and because they will jar with routine opinions and prejudices. It behoves us, therefore, to look well at our position – because it will never do for the House of Lords to jog along by the Parliamentary Train while the House of Commons travels by the express.²

Responding to Clarendon, the disaffected new Tory peer, Lord Salisbury, formulated the convention that still governs the Lords. While rejecting the ‘humiliation of being a mere echo and supple tool of the other House’, he counselled his colleagues that ‘when the opinion of your countrymen has declared itself, and you see that their convictions – their firm, deliberate, sustained convictions – are in favour of any course, I do not for a moment deny that it is your duty to yield’.³ Salisbury was reinforced by Lord Cairns, then Disraeli’s lord chancellor, who concluded a lengthy onslaught on the bill:

These are the issues involved in your Lordships’ decision now, and they are the issues yet to be presented to the country in the great appeal to its enlarged constituencies ... in that great appeal the Government will stand as the defenders of all that this Bill and the policy of its promoters would seek to overthrow. By the result of that appeal we are prepared to abide; and, my Lords, be that result what it may.⁴

Salisbury had been more circumspect, arguing that ‘the difficulty of ascertaining the opinion of the country may be great’ and that sometimes the Lords knew ‘the opinion of the nation better than the House of Commons’.⁵ ‘Since 1945, the

Salisbury doctrine has been taken to apply to Bills passed by the Commons which the party forming the Government has foreshadowed in its General Election manifesto,⁶ but in 1868, Salisbury clearly envisaged the Lords reaching their own judgement. In the event, their Lordships declined to board either of Clarendon’s trains, rejecting the Suspension Bill by a majority of ninety-five, which set the stage for Gladstone’s 1868 election victory.

Although their customs differed, the legislative procedures of the two Houses were analogous. After a second reading debate, which could dispute its principles, a bill went through committee and report stages, which considered amendments, concluding with a third reading debate. For bills initiated by the Commons, any Lords amendments needed the further agreement of the lower House. Theoretically, amendments could be battled between the two chambers indefinitely but, in practice, the parliamentary timetable necessitated compromise or the abandonment of the legislation. The outcome of disputes between the Houses was not predetermined but depended on the character and determination of the party leaderships. Yet the relationship between the chambers in this period has been explored largely for the development of the referendal, or Salisbury, convention rather than this intrinsic party conflict.⁷ How far would opposition to the new government be carried?

When Gladstone took office, the Conservative peers were led by Lord Cairns, an austere Ulster Protestant lawyer, though a better counsellor than leader. Cairns had recently succeeded Lord Derby⁸ who had preferred to exploit Liberal differences rather than unite his opponents through confrontation and had drawn satisfaction from Palmerston’s legislative inactivity. When Cairns resigned in February 1870, the recently elevated Lords Derby⁹ and Salisbury both declined the post; Derby citing lack of experience and Salisbury want of confidence in Disraeli, from whose government he had resigned over electoral reform. Consequently, the Tories were led by the

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Jogging along by the parliamentary train? Gladstone's first government and the House of Lords

Duke of Richmond, a more representative, substantial landowner but dismissed by Disraeli's biographer, Lord Blake, as 'an amiable but ineffective nonentity'. Richmond, however, quickly persuaded Salisbury to join his front bench and retained Cairns as an adviser.¹⁰

Liberal leadership in the Lords was provided throughout by Granville with Lord Bessborough as the chief whip. The March 1869 *Vanity Fair* cartoon of Granville is captioned 'The ablest professor in the Cabinet of the tact by which power is kept: it is his mission to counteract the talk by which it is won and lost.' Its text contrasts his strengths with Gladstone's:

There are those who can speak for three hours twenty minutes on the Irish Church and would fail ignominiously in the task of satisfying with a word a cold and unenthusiastic assembly of Peers who want to go home and dress for dinner. There are those who fill newspapers and those who fill lobbies, and of the two, the former sort can infinitely better be spared from a Cabinet, than the latter, for reports pass and votes remain.¹¹

'Woful huckstering'

When Gladstone proclaimed that his mission was to pacify Ireland, that enterprise had three components: the Church, the land and education. Since defending Church and landed interests were the essence of Tory beliefs, these reforms provided a central test of the Lords' resolve.

Gladstone's 1868 election address was elusive, as was his style, but on disestablishment he was adamant: 'One policy has advocates who do not shrink from its avowal. It is the policy to bring absolutely to an end the civil establishment of the Church of Ireland.'¹² Disraeli forcefully condemned the 'dissolution of the union between Church and State', offering 'to this policy uncompromising resistance. The connexion of religion with the exercise of political authority is one of the main safeguards of the civilisation of man.'¹³

From the beginning, Gladstone anticipated difficulties. In January 1869, he urged the Irish attorney general to establish 'a party of concession' among English and Irish clergy:

I assure you I think it is impossible to overrate the value of such a diversion with reference to that wh. is the most formidable stumbling block in our way, viz. the possibility that the H of Lords might be tempted, partly by the English County elections, partly by a possible development of *minor* schism in the Liberal body, when we come to adjunct details esp. with ref. to R.C.s – to use its majority by rejecting the Bill.¹⁴

The Times reported a hostile meeting, on 5 June, between the bishops and the Conservative peers who anticipated rejecting the Disestablishment Bill by a majority of eighty.¹⁵ A few days later,

after conversations with the Archbishop of Canterbury and Lord Carnarvon, Granville advised Gladstone that Carnarvon 'has still some hopes of getting Salisbury to vote, and of persuading other peers', though he complained 'it was a mistake' for 'Argyll to take this week as a good opportunity' to throw contempt on Lord Russell's (Life Peerages) bill, and 'attack Salisbury and Carnarvon.'¹⁶ Tensions rose further when a second minister, John Bright, told his constituents that the Lords were 'not very wise' in threatening to delay the bill and concluded, 'In harmony with the nation, they may go on for a long time; but, throwing themselves athwart its course, they may meet with accidents not pleasant for them to think of.'¹⁷

John Morley described the four-day Lords' second reading as 'a fine debate' in 'the fullest House assembled in living memory'.¹⁸ After outlining the details of disestablishment, Granville stated bluntly, 'My Lords, you have power – great power – immense power – for good; but there is one power you have not ... you have not the power of thwarting the national will when properly and constitutionally expressed' and reminded opposition leaders of their previous declarations. While Cairns recognised that the 'House of Lords must faithfully interpret the wishes of the nation' he still opposed the bill 'because I believe that the more the country sees and knows of this measure the less it likes and approves it'. By conceding that the Lords should 'fairly accept the conclusion at which the nation has arrived', Salisbury acknowledged the implications of his earlier statements but, when it came to amendments, he did not believe 'any Minister, however great his talents, however brilliant his success, is powerful enough even to threaten an independent branch of the Legislature, if in details of this kind its opinions do not chance to coincide with his own.' In the early morning of 19 June the second reading was carried by 179 to 146 – a majority of 33.¹⁹ Only one bishop supported the government, eleven opposed.²⁰ The next day, Lord Kimberley recorded in his diary that 'immediately after the division Lord Salisbury said to de Grey and me, "we have given you more than we intended". The fact is they meant us to win by 7 or 8 but with so many peers uncertain, they dare not withdraw their men.'²¹

If that completed one act of the drama, a climax had not yet been reached. The Conservatives pursued two strategies in committee: to increase the property and financial resources retained by the Church and to divide the Liberals by proposing concurrent endowment.²² Gladstone concluded 'the amendments seem to mean war to the knife.'²³ Kimberley noted 'Granville's perseverance thro' all those nights in spite of a fit of gout was most heroic. The debates were very exciting. The opposition being all powerful have knocked the bill to pieces.'²⁴ The Lords gave their amended bill a third reading on 12 July with Gladstone warning the queen that 'the only result of persistence in such a course can be to establish a

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permanent discord between the House of Lords and the country, and probably as the first effect to produce a movement against the Episcopal seats in the House of Lords such as has never yet been seen.²⁵

On 15 July, the Commons rejected the Lords amendments, though with some financial concessions. At this point, conventionally, the Lords should have capitulated but when it became clear that they would persist, Gladstone 'determined to throw up the bill', being 'unwilling to carry this Bill against our friends by the votes of our opponents'.²⁶ Prompted by Granville, a posse of ministers met behind the Speaker's Chair to dissuade Gladstone from immediate action and to adjourn the Lords.²⁷ Following a 'flying cabinet'²⁸ the next morning, Gladstone outlined the government's options for the queen: abandon responsibility for the bill immediately, debate the amendments in whole or part and if carried then leave the majority to arrange the consequences, or return the bill to the Commons and again urge MPs to reject them. 'Under a strong desire to exhibit patience' the cabinet agreed to continue because 'Lord Granville deemed it just possible that the peers might be prepared to give way.'²⁹

Since the bill had left the Commons, the government had received several approaches from the clergy and opposition and, while refusing continued endowment, had hinted where concessions could be made – 'this woful [sic] huckstering affair' as Gladstone described it.³⁰ On the day of the resumed Lords' debate, with Gladstone ill in bed, Granville and Cairns conducted last minute negotiations – Granville shuttling between the Colonial Office, Cairns' room and Gladstone's home, and Cairns liaising with Salisbury and the Archbishop of Canterbury. Sometime after 4.30 pm, having secured an assurance from Cairns that 'he, the Archbishop and I could carry anything we agreed upon', Granville and Cairns compromised on yet more generous funding for both the Church and its clergy. Finally, Granville reported 'I shook his hand, which was trembling with nervousness' and agreed that Cairns 'should be the person to announce the details'.³¹ After Cairns' statement to the Lords, around 7.00 pm, a revised bill quickly passed its remaining stages in both Houses. Cairns had exceeded his brief and Kimberly believed that 'the Tories never forgave him for his moderation'.³² More ponderously Morley concluded, 'Never was our political system more severely tested' and 'The Lords fought hard, but yielded before the strain reached a point of danger'.³³

Almost intolerable

If the government had been forewarned on the Irish Church Bill, it had not been forearmed, reacting to opposition approaches, improvising a solution to the impasse and anxious to avoid a reform agitation. The only practical Lords' reform considered during the ministry was

Liberal leaders in the Lords:

Granville Leveson-Gower, 2nd Earl Granville (1815–91): Secretary of State for the Colonies 1868–70, Foreign Secretary 1870–74

George Villiers, 4th Earl of Clarendon (1800–70): Foreign Secretary 1868–70



Russell's unsuccessful private member's bill to create a small group of specialist life peers.

However, over the summer after the disestablishment crisis, Gladstone and Granville made a coordinated effort to persuade the queen to create more Liberal peers. Informally submitting a list of candidates for prior approval, Gladstone outlined the decline in peerage numbers over the previous thirty years and the need 'to maintain and strengthen the order' before delicately suggesting 'some regard is also to be had to the preservation of harmony between the new Houses'. He compared the modest number of Palmerston's nominations to the greater numbers elevated under Derby's shorter premiership. In response to royal resistance, Granville was plainer: 'The position of Your Majesty's Government in the Lords is almost intolerable. ... No one would pretend that a dozen Peers could swamp such a majority; but Her Majesty's Government requires moral support in the House.' Knowing the queen's reliance

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on her late husband, Granville added, diplomatically, 'The Prince was averse to numerous creations, but it was at a time when there was no such hurtful anomaly as a majority of 100 in the Commons, and an immense majority on the opposite side in the Lords. But even then His Royal Highness constantly told Lord Granville that the House was wanting in Peers representing different classes and different types of ideas.' He concluded, 'It is disadvantageous to the Lords that it should be difficult to initiate measures in it. It is not good for the Crown that its servants should be helpless in either branch of the Legislature'.³⁴ With no crisis to force her hand, Victoria grudgingly allowed only '7 or 8 now and 2 or 3 added later'.³⁵ Although Gladstone did not immediately admit defeat, only modest numbers of further peerages were created.

They would have acted more wisely

The Irish land reforms³⁶ were formulated against a background of agrarian unrest and the 1867 Fenian uprising. Around three-quarters of Irish land was held at will,³⁷ with tenants professing a customary entitlement to their farms and owners often fearing to enforce the law. Regularising and ameliorating the position of Irish tenants without destroying the rights of landlords or sparking an equivalent English agrarian agitation was, as Gladstone lamented to Granville, 'a question arduous & critical within as without the Cabinet'.³⁸ Despite initiating debate between colleagues in May 1869, it was not until February 1870 that Gladstone introduced his bill. The delay proved beneficial to the passage of the legislation, if not to the success of the policy. Firstly the public debate it stimulated was exploited by Irish agitators which, paradoxically, made landowners more amenable to a settlement. Secondly, the cabinet discussions modified Gladstone's more radical proposals, again enhancing their acceptability.

After the initial Commons debates on the 16 February, Derby noted that 'the land bill is everywhere talked about. ... The landlords appear on the whole inclined to think that matters might have been worse: and everybody agreed that there would be danger in putting off legislation to another year.' A later meeting with Cairns, Hardy and Disraeli reached the same conclusion, but, by March, the Conservatives were looking to modify the proposals.³⁹ The Lords gave the bill a second reading without a division but it took three days of opposition damning with faint praise to which most cabinet peers felt obliged to respond. One junior minister, Lord Dufferin, conceded so many opposing arguments that he felt obliged to offer his resignation, though it was refused⁴⁰.

The Lords' committee stage was where the parties clashed. Following publication of proposed amendments towards the end of June, the government prepared by means of two cabinets and a meeting between the principal ministers

and nine Liberal peers, though Gladstone was glad to delegate final arrangements to Granville.⁴¹ Although willing to accept government funded land purchase, the regularisation of Ulster Custom tenancies and compulsory compensation for tenant improvements, Conservatives balked at compensation for 'disturbance'. They sought to limit the amounts payable and the circumstances justifying compensation for eviction. This battle was directed by the leaderships on both sides with divisions attracting around half of the total peerage. The Conservatives were not wholly united and Salisbury carried an amendment restricting compensation in which Richmond voted with the government.

Granville and Fortescue (chief secretary for Ireland) conferred again ahead of the Lords' report stage, where the real bargaining began. Cairns and Richmond met Granville on 2 July at his Mayfair home for two hours with the Irish attorney general available 'in a back room'. The committee stage alterations were divided into those to be accepted by the government, either immediately or in the Commons, those to be negated in the Commons and Salisbury's amendment. Cairns and Richmond obviously expressed themselves forcibly about Salisbury as Granville was 'bound to not tell what they said on the subject'. Granville agreed that Bessborough, as an Irish landlord, would introduce a new clause that 'cancelled' Salisbury's restrictions, a clause approved with the votes of Cairns and Richmond against rebellious Tory peers. Richmond assured Granville that he had the Conservative peers 'in hand' but admitted that even former Conservative ministers had not been informed of their concessions.⁴² After this 'anxious interview' Gladstone wrote to Granville: 'I think every difficulty is solved in your *projet de loi* and we have only to desire that the evil angels may not fly athwart the light, and the execution may correspond with the design.'⁴³

Execution in the Lords proceeded smoothly and the Liberal backbencher Sir John Trelawny detected signs of the deal, when the bill returned to the Commons, noting 'Govt seemed to exercise their power moderately, only insisting upon disagreement with the Lords in cases in which agreement would most likely peril the Bill. Disraeli seemed to be equally discreet. The Bill will pass.'⁴⁴ However, 'evil angels' had intervened, as the Commons tampered with a negotiated amendment. As Granville complained 'the improvement ... is unlucky as it was part of the positive agreement between Richmond & me, and was wished by him to reassert his position with his party.' Granville was obliged to 'offer to decline agreeing your amendment to our amendment.' He added that if other alterations were made it would 'upset me as to the conduct of any bill in the Lords.'⁴⁵

On 27 June 1870, part way through the committee stage Clarendon had died suddenly, promoting Granville to foreign secretary, while remaining leader of the Lords. Consequently, the

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Franco-Prussian crisis, which surprised the Foreign Office, distracted Liberal leaders during the final stages of land reform. That and the abstruse nature of the remaining differences, may account for the tetchy tone of the letter Gladstone wrote to Granville on 22 July:

We had to cram dishes of the Lords amendments down the throats of our men today ... We have strained ourselves as well as our friends a good deal for the sake of peace: I hope the Lords will not tempt us any further.

I am unable to join in the compliments paid to their moderation, but I have kept silence thus far. They would have acted more wisely for the order as well as for the country, had they acted more liberally.

I hope the Bill will not come back: if it does our debates will I fear be of a different colour.

Both Disraeli and Ball spoke with prudence; indeed I am fully persuaded that they have by no means concurred in all the steps taken by your Opposition.⁴⁶

Two days later, Granville and Gladstone swapped apologetic notes about a heated exchange in cabinet, Gladstone feeling 'mortified' and Granville with a 'bad taste in my mouth' after Gladstone's misinterpretation of the 'treaty' left Richmond feeling double-crossed and no longer willing to find a 'mezzo termine'.⁴⁷ The cabinet agreed 'to accept the Lords amendments rather than lose the bill'. Gamely, Granville reopened negotiations but, as he finally reported, 'I tried my best in public and private to get Richmond and Cairns to get something out of the fire, but notwithstanding Halifax's assistance they stuck to their pound of flesh'.⁴⁸ Supplemented by the Lords' final amendments the bill completed its parliamentary journey before the end of the month.

The feelings of an old guardsman

The Irish reforms fulfilled Liberal campaign pledges, but the remaining examples, from the 1871 legislative programme, encountered greater difficulties and would not have been protected under the Salisbury convention.

The Prussian army's swift victories against the French in 1870 provided renewed impetus for reform of the British army. Cardwell was charged with reorganising the War Office, restructuring the regiments to improve mobilisation and still cutting expenditure. The purchase of commissions, whereby individuals bought into a regiment and paid for promotion, restricted recruitment, frustrated ambition, hindered efficiency and prevented flexibility. But significantly, on retiring, commissions could be sold to provide a pension. Theoretically, prices were regulated under the 1809 Brokerage Act but most transactions occurred at 'over-regulation' prices and were technically illegal though tolerated. The 1871

Army Bill sought to abolish purchase and compensate those affected.

Introduced to the Commons in February, the bill ran into difficulties from the outset. As Anthony Bruce concluded, 'It is the first example of systematic obstruction in the Commons, a technique used later by Irish nationalists to much greater effect'.⁴⁹ After five days of second reading debate, a group of Conservative backbenchers nicknamed 'the Colonels' prolonged the committee stage from the beginning of May till the middle of June, despite the government pruning the bill. On 3 July as it received its Commons third reading, Cairns discussed the Army Bill with Derby. They agreed as to 'the impolicy of opposing it: Carnarvon takes the same view: but Richmond has the feelings of an old guardsman on the question of purchase: and Salisbury is always for fighting'.⁵⁰ A wider group of peers met inconclusively the next day with Derby, Cairns and Carnarvon 'pointing out the danger and inexpediency of trying to throw out the bill: seeing that purchase cannot be permanently maintained, and that the officers are never likely to get equally good terms again. Salisbury and Redesdale were strongest on the opposite side dwelling chiefly on the political aspect of the question, the risk of breaking up the party by declining to give expression to their views ...'.⁵¹ This disunity may explain Richmond's tactic of refusing a second reading until a royal commission or similar body produced a 'complete and comprehensive scheme for the first appointment, promotion, and retirement of officers; for the amalgamation of the Regular and Auxiliary Land Forces; and for securing the other changes necessary to place the military system of the country on a sound and efficient basis'.⁵²

The weekend before the Lords' debate, Gladstone visited Lord Salisbury, noting 'We were most kindly received and very happy at Hatfield, army bill notwithstanding'.⁵³ Salisbury had saved his venom for the House, damning the bill as 'hasty and imperfect legislation' from which 'everything was cut away that might impede its progress. Nothing was kept except what would catch the democratic breeze'.⁵⁴ Facing defeat, Granville responded in kind claiming that they had heard 'how far one of the ablest men in this House can go in sarcasm and invective – particularly when, I think, he feels himself a little weak in argument'.⁵⁵ In the early morning of 17 July peers divided against the bill by 155 to 130.

If in previous disputes, the government had improvised concessions, this time they had prepared and were steadfast. The cabinet had met on 12 July and concluded it was 'impossible consistent with duty to allow the illegality of over-regulation prices, now made officially known, to continue'.⁵⁶ On 18 July, the cabinet advised the queen, through a formal minute, to issue a royal warrant withdrawing the regulations permitting the sale of commissions;⁵⁷ a decision conveyed

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to parliament on 20 July. This placed the 'crest-fallen'⁵⁸ Conservatives in an awkward position – purchase had been abolished but without the bill no compensation was available. They covered their retreat by a censure motion, with Salisbury accusing Granville of believing that 'the whole duty of the House of Lords is to obey the House of Commons',⁵⁹ before agreeing to the remaining stages of the bill. Kimberley described the censure as a 'foolish move. Such a vote utterly disregarded by the govt, serves no purpose but to proclaim to the world the impotence of the House', a conclusion echoed by the Conservative Lord Exeter writing to Richmond that in using 'the Royal Prerogative to abolish Purchase' Gladstone had 'plainly told the Country that he can do without the House of Lords.'⁶⁰

Presented with an authoritative knock

Among measures delayed by the Army Bill, was a bill for secret ballots in parliamentary elections, nominated by Gladstone as one of four key measures for the 1871 Queen's Speech.⁶¹ The bill did not secure its Commons' third reading until 8 August. Acknowledging its difficulties, the cabinet considered its options on 24 July and, after consulting the chief whip, favoured continuing into an autumn session rather than shortening the bill or delaying to a new parliamentary year. A decision characterised by Trelawny as 'a grim jest. Not a soul believes this possible' though necessary to retain the support of Radicals.⁶² Granville was instructed to consult the 'Duke of Richmond & learn whether his friends had a preference'.⁶³ They had. On 10 August, the Lords killed the bill by deferring consideration for six months, which Kimberley thought 'excessively foolish', even though 'the lateness of the Session is a decent excuse'. Gladstone, he described as 'violent against the H. of Lords.'⁶⁴

The problems with the Army and Ballot bills resulted in a degree of dissatisfaction with the government. Trelawny grumbled, 'A quarrel has been established with the House of Lords – a quarrel which might have been avoided. If Gladstone do[es] not exhibit more care, his Ministry will soon totter to its fall.'⁶⁵ On the other side, Derby noted 'the newspapers are full of comments on the session. It has undoubtedly left Gladstone and his colleagues in a weaker position than they were at its commencement'.⁶⁶ In response, Gladstone turned to the platform. In September, on a holiday jaunt to his son's Whitby constituency, he replied to an address from the local Working Men's Liberal Association. Using deliberately provocative terms, he questioned whether 'the will of majorities was to prevail or the will of minorities' and whether the rules of the Lords were to 'bar the way to the passing of useful measures'. Time spent on the Ballot Bill in the Commons had not been lost, he declared, 'The people's House had passed the people's Bill,

and that Bill, when presented again at the door of the House of Lords, as he trusted it would be very early next session, would be presented with an authoritative knock which it would not otherwise have possessed.'⁶⁷ In October, he spoke in his own, Greenwich, constituency: denouncing the Lords' rejection of the Ballot Bill as 'a great and serious error', he raised the spectre of reform – 'that we should eject and expel from the House of Lords what is termed the hereditary principle' – before dispelling it by a digression on how 'the Englishman is very apt indeed to prefer' a lord to a commoner.⁶⁸

The 1872 Ballot Bill reached the Lords in June and received a second reading by eighty-six votes to fifty-six. Unfortunately in Committee, the Lords passed an amendment making the secret vote optional. Unsurprisingly, this was reversed by the Commons, setting up another clash between the Houses.

On 3 July Gladstone wrote to his chief whip: 'Since you were here, I have seen a very alarming indication for Monday next in the Lords; not an ordinary note from the (Tory) Whip but a lithographed letter from the Leader, couched in strong terms.' He requested that Glyn 'let the trumpet blow that the Lords may know before the time comes what the country thinks.'⁶⁹ On previous occasions, the whips organised backbench cheering for Gladstone to warn off the Lords.⁷⁰ Gladstone also suggested a press campaign 'pointing to the extreme gravity of the consequences.'⁷¹

The cabinet met, on a Saturday, to consider 'six alternatives' if the Lords stuck to optional secrecy. They rejected the creation of peers, resignation, accepting the amendment, or trying again the following year.⁷² As Kimberley recorded, they decided to dissolve either immediately or early the next year if an autumn session again rejected the bill, despite expecting to lose between twenty-five and thirty seats⁷³. The preparations were unnecessary for, as Derby noted, 'the amendments were lost by 19: 157 to 138. The result was doubtful to the last: many peers remaining, as I believe, undecided even when they came into the House.'⁷⁴ A few days later, Gladstone reported to Granville from the Commons: 'We are engaged in proposing and giving effect to the scheme for dealing with the Lords Amendments which we understood to have been agreed upon by you & the Duke of Richmond', though he was confused by continued Conservative opposition, concluding 'I suppose the explanation is that Hardy & Co had not been apprised of the state of the case, through some default on the part of the leaders.'⁷⁵

A 'debateable and debated question'

In his 1867 essays, *The English Constitution*, Walter Bagehot argued that after the 1832 Reform Act, the House of Lords was 'a chamber with (in most cases) a veto of delay with (in most cases) a power of revision, but with no other rights or powers.'⁷⁶

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Bagehot was premature. Salisbury and his colleagues were unwilling to concede what Bagehot had called the 'evil of two co-equal Houses'. The four cases presented, chosen to avoid the internal Liberal divisions that complicated the education debates, illustrate the mix of negotiation and confrontation used by Gladstone's administration to circumvent this aristocratic opposition. They also demonstrate the boundaries that the government imposed on itself.

While hoping to persuade Queen Victoria to create more peers, Gladstone wrote that the Lords' 'constitution after the reform Act of 1867, might readily be brought into controversy. But without doubt it is a cardinal object of good sense and good policy, to keep this, if possible out of the category of debateable and debated questions.'⁷⁷ Gladstone deviated from this discipline in response to the Lords' obstruction to the Ballot Bill, as his Greenwich and Whitby speeches show. By 1872, ministers contemplated an election in which expelling 'the hereditary principle' from the Lords would inevitably become the main issue. Only Conservative timidity prevented their resolution being tested and Kimberley suspected that Disraeli had 'not wished any serious attack to be made on the Govt.'⁷⁸ But even then, against the greatest delay imposed by the Conservatives, the government did not contemplate the mass creation of new peers, the elimination of bishops or limiting the powers of the upper chamber.

Gladstone's first government was his most successful in managing the Lords. This reflected the strength of conviction embodied in its majority but also the relative competence of the Liberal and Conservative leaderships. The skills of Gladstone and Granville were complementary. Gladstone's virtues in conceiving and presenting complex legislation are well known, but he was also viewed as 'wanting of late in temper, discretion & straightforwardness'⁷⁹ Granville no doubt mastered detail less well but, as Steele suggests, 'He had the art of listening sympathetically to the disgruntled and the anxious, and giving without offence advice other than they had hoped to hear,'⁸⁰ skills very adaptable to the 'woful huckstering' of negotiation.

By comparison, in 1870, Derby wrote of Disraeli, 'from want of health he has virtually abdicated during the present session',⁸¹ and in the following year, 'Disraeli is disliked by many, and not much trusted even by those who like him best.'⁸² During the 1871 Ballot Bill dispute, Derby unfavourably assessed his fellow peers:

Richmond though sensible by nature, has never studied political matters, and his want of knowledge is painfully apparent in debate: Salisbury destroys by violence the effect of his undoubted ability: and Cairns, whose character and capacity make him the proper Conservative leader, if he would accept the post, is rather too much disposed to dwell at length on details – the usual

lawyer's fault – and so to weaken his admirably skilful arguments. But besides all this, there is no concert or communication, and each of the three takes a line of his own.⁸³

During the obstruction of the Army Bill, Derby wrote of Salisbury that if he was not 'gratifying an unhappy temper', his 'object must be to provoke a collision between the two Houses – but for what purpose I cannot see.'⁸⁴ Opposition is necessarily reactive but the Conservatives, except Salisbury, lacked a strategy and, tactically, lacked the cohesion required to judge the battles to fight or to win those chosen. The modest concessions won in the church and land contests were not commensurate with the effort employed. Salisbury had a clear determination that the Lords would not be subservient and during Gladstone's later governments, as Conservative leader he turned the Lords into an effective opposition.

The government appear to have kept well informed about their adversaries, despite which they underestimated the opposition they faced over disestablishment. From the beginning the queen encouraged compromise but, with the bishops and the Conservatives only intermittently coordinated, it required Gladstone's attention to detail and Granville's diplomatic skills to focus and limit the compromise to the financial complexities of the legislation. That the Liberals were perceived to be the victors is confirmed by Cairns' surrender of his leadership. Faced with the weaker leadership of Richmond, Granville ensured that he was kept in place by the token victories offered on the Land Bill.

The Conservatives fought the fundamentals not the details of the Army and Ballot Bills. In both cases the government had prepared in advance. The manoeuvre which abolished the purchase of commissions was sufficiently devious for Morley to quote the historian, E. A. Freeman, in his hero's defence: 'I believe that this is one of those cases in which a strictly conscientious man like Mr. Gladstone does things from which a less conscientious man would shrink.'⁸⁵ Ballot Bill frustrations emboldened Gladstone to threaten the radical option of making the Lords a 'debateable and debated question'. However, Conservative backbenchers deserted their leaders sensing that the optional secret ballot was too flimsy a weapon for such a confrontation.

To push Lord Clarendon's metaphor to its limits, the opposition in the House of Lords were very reluctant passengers on the parliamentary train, crowding into the guard's van, unsuccessfully fighting Granville over control of the brakes. If the train eventually derailed in 1873, the fault lay more with the over-ambitious driver than the passengers and guard.

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While hoping to persuade Queen Victoria to create more peers, Gladstone wrote that the Lords' 'constitution after the reform Act of 1867, might readily be brought into controversy. But without doubt it is a cardinal object of good sense and good policy, to keep this, if possible out of the category of debateable and debated questions.'

Jogging along by the parliamentary train? Gladstone's first government and the House of Lords

chapter cover *Gladstone's first ministry to the Group's Peace, Reform and Liberation* (2011). *Tony chairs the Liberal Democrat History Group*.

- 1 Philip Guedalla, *The Queen and Mr. Gladstone* (Hodder & Stoughton, 1933), pp. 196–7; WEG to QV 11 Aug. 1869, p. 199; Ld G to QV 23 Aug. 1869. Only representative Scottish and Irish peers were entitled to vote. For the causes of increased partisanship see David Large, 'The Decline of the "Party of the Crown" and the Rise of Parties in the House of Lords 1783–1837', in C. Jones and D. L. Jones, *Peers, Politics and Power: The House of Lords, 1603–1911* (The Hambledon Press, 1986), pp. 233–59.
- 2 Hansard, Parl. Debs. (series 3) vol. 192, col. 2088 (25 June 1868). Since ticket prices for parliamentary trains were regulated, railway companies made them slow and uncomfortable.
- 3 Glenn Dymond and Hugo Deadman, *The Salisbury Doctrine*, House of Lords Library, LLN 2006/006, 2006
- 4 Hansard, Parl. Debs. (series 3) vol. 193, col. 288 (29 June 1868).
- 5 Hansard, Parl. Debs. (series 3) vol. 193, col. 89 (26 June 1868).
- 6 Dymond and Deadman, *Salisbury Doctrine*.
- 7 For the referendal theory see, Corinne Comstock, 'Weston, Salisbury and the Lords, 1868–1895', in Jones and Jones, *Peers, Politics and Power*, pp. 461–88.
- 8 The 14th Earl.
- 9 The 15th Earl.
- 10 For Cairns see www.oxforddnb.com/view/article/4346, accessed 22 July 2016; for Richmond www.oxforddnb.com/view/article/33468, accessed 4 Aug. 2016, which cites R. Blake, *Disraeli* (Eyre & Spottiswood, 1966), p. 516.
- 11 *Vanity Fair*, 13 Mar. 1869 pp. 236–7.
- 12 *The Times*, 10 Oct. 1868.
- 13 *The Times*, 3 Oct. 1868, p. 5.
- 14 H. C. G. Matthew (ed.), *The Gladstone Diaries: Volume 7 January 1869 – June 1871* (Clarendon Press 1982), p. 4.
- 15 *The Times*, 7 Jun. 1869; p. 5;
- 16 Agatha Ramm, *The Political Correspondence of Mr. Gladstone and Lord Granville, 1868–1876*, 2 vols. (Camden Third Series; Royal Historical Society, 1952), vol. i, p. 27.
- 17 Cited by Cairns in the Lords: Hansard, Parl. Debs. (series 3) vol. 197, cols. 1–18 (17 Jun. 1869).
- 18 John Morley, *The Life of William Ewart Gladstone* (Macmillan, 1903), vol. ii, p. 269.
- 19 Granville: Hansard, Parl. Debs. (series 3) vol. 196, col. 1656 (14 June 1869); Cairns: Hansard, Parl. Debs. (series 3) vol. 197, cols. 293, 301 (18 June 1869); Salisbury: Hansard, Parl. Debs. (series 3) vol. 197, cols. 84, 95 (17 June 1869); Division: Parl. Debs. (series 3) vol. 197, cols. 306–7 (18 June 1869).
- 20 J. P. Parry, *Democracy & Religion: Gladstone and the Liberal Party 1867–1875* (Cambridge University Press, 1986), p. 283.
- 21 A. Hawkins and J. Powell (eds.), *The Journal of John Wodehouse 1st Earl of Kimberley for 1862–1902* (Camden Fifth Series; Royal Historical Society, 1997), p. 236.
- 22 Funding the Irish Roman Catholic and Presbyterian churches as well as the Anglican.
- 23 Morley, *Life of Gladstone*, vol. ii, p. 270.
- 24 Hawkins and Powell, *Journal of John Wodehouse*, p. 238.
- 25 Guedalla, *Queen and Mr. Gladstone*, pp. 1901.
- 26 Ramm, *Political Correspondence*, vol. i, p. 36.
- 27 Hawkins and Powell, *Journal of John Wodehouse*, p. 239.
- 28 The term used by Gladstone for a short-notice cabinet in a letter to Granville (Ramm, *Political Correspondence*, vol. i, p. 37).
- 29 Morley, *Life of Gladstone*, vol. ii, p. 645.
- 30 Ramm, *Political Correspondence*, vol. i, p. 36.
- 31 *Ibid.*, pp. 37, 40–2; and J. Brooke and M. Sorensen (eds.), *The Prime Ministers' Papers: W. E. Gladstone*, vol. iv (HMSO, 1981), pp. 6–16.
- 32 Hawkins and Powell, *Journal of John Wodehouse*, p. 493.
- 33 Morley, *Life of Gladstone*, vol. ii, pp. 257, 258
- 34 Guedalla, *Queen and Mr. Gladstone*, pp. 196–7, pp. 198–9.
- 35 Ramm, *Political Correspondence*, vol. i, pp. 50–1.
- 36 For the background, I have relied on E. D. Steele, *Irish Land and British Politics* (Cambridge University Press, 1974).
- 37 Derived from the table on p. 593 in T. W. Guinnane and R. I. Miller, 'The Limits to Land Reform: The Land Acts in Ireland, 1870–1909', *Economic Development and Cultural Change*, 45/3 (Apr. 1997), pp. 591–612.
- 38 Ramm, *Political Correspondence*, vol. i, p. 58.
- 39 J. Vincent (ed.), *A Selection from the Diaries of Edward Henry Stanley, 15th Earl of Derby (1826–93), Between September 1869 and March 1878* (Camden Fifth Series; Royal Historical Society, 1994), pp. 48, 50–1, 54 (DD). [What is the DD here?]
- 40 Sir Alfred Lyall, *Marquis of Dufferin and Ava* (John Murray, 1925), pp. 178–9, accessed online on 11 Sep 2018 at <https://archive.org/stream/lifeofmarquisofduffyualoft#page/198>.
- 41 Ramm, *Political Correspondence*, vol. i, p. 102.
- 42 *Ibid.*, pp. 104–5.
- 43 *Ibid.*, p. 105.
- 44 T. A. Jenkins (ed.), 'The Parliamentary Diaries of Sir John Trelawny, 1868–1873', *Camden Miscellany, Vol. XXXII* (Cambridge University Press, 1994), p. 410.
- 45 Ramm, *Political Correspondence*, vol. i, p. 110.
- 46 *Ibid.*, pp. 113–4. Dr Ball was the former Conservative Irish attorney general.
- 47 *Ibid.*, pp. 114–5.
- 48 *Ibid.*, pp. 115, 116.
- 49 Anthony Bruce, *Edward Cardwell and the Abolition of Purchase*, in F. W. Beckett and J. Gooch (eds.), *Politicians and Defence: Studies in the Formulation of British Defence 1845–1970* (Manchester University Press, 1983), p. 39.
- 50 Vincent, *Diaries of Edward Henry Stanley*, p. 83.
- 51 *Ibid.*, p. 83.
- 52 Hansard, Parl. Debs. (series 3) vol. 207, cols. 1315–6 (10 July 1871).
- 53 Matthew, *Gladstone Diaries, Vol. 7*, p. 7.
- 54 Hansard, Parl. Debs. (series 3) vol. 207, col. 1858 (17 July 1871).
- 55 Hansard, Parl. Debs. (series 3) vol. 207, col. 1859 (17 July 1871).
- 56 Guedalla, *Queen and Mr. Gladstone*, pp. 196–7, 290.
- 57 George Buckle (ed.), *The Letters of Queen Victoria, 2nd Series* (John Murray, 1926), vol. ii (1870–1878), pp. 147–50.
- 58 Granville's word to the Queen: see Buckle, *Letters of Queen Victoria*, p. 150.
- 59 Hansard, Parl. Debs. (series 3) vol. 208, col. 479 (31 July 1871).
- 60 Derby: see Vincent, *Diaries of Edward Henry Stanley*, p. 262; Exeter: see Michael Bentley, *Lord Salisbury's World: Conservative Environments in Late Victorian Britain* (Cambridge University Press, 2001). I am grateful for this reference to the reviewer of this article.
- 61 Ramm, *Political Correspondence*, vol. i, p. 215.
- 62 Jenkins, 'Parliamentary Diaries', p. 441.
- 63 Matthew, *The Gladstone Diaries, Vol. 7*, p. 12.
- 64 Hawkins and Powell, *Journal of John Wodehouse*, p. 263.
- 65 Jenkins, 'Parliamentary Diaries', p. 441.
- 66 Vincent, *Diaries of Edward Henry Stanley*, p. 87.
- 67 *The Times*, 4 Sep. 1871, p. 12.
- 68 A. Tilney Bassett, *Gladstone's Speeches* (Methuen, 1916), pp. 416–8.
- 69 Matthew, *Gladstone Diaries, Vol. 7*, p. 173.
- 70 For example Jenkins, 'Parliamentary Diaries', p. 365.
- 71 Matthew, *Gladstone Diaries, Vol. 7*, p. 173.
- 72 *Ibid.*, p. 174.
- 73 Hawkins and Powell, *Journal of John Wodehouse*, p. 270.
- 74 Vincent, *Diaries of Edward Henry Stanley*, p. 111.
- 75 Ramm, *Political Correspondence*, vol. ii, p. 335.
- 76 Walter Bagehot, *The English Constitution* (Thomas Nelson, n.d.), ch. 4 passim.
- 77 Ramm, *Political Correspondence*, vol. i, p. 56.
- 78 Hawkins and Powell, *Journal of John Wodehouse*, p. 271.
- 79 Jenkins, 'Parliamentary Diaries', p. 420.
- 80 Steele, *Irish Land*, p. 157.
- 81 Vincent, *Diaries of Edward Henry Stanley*, p. 61.
- 82 *Ibid.*, p. 88.
- 83 *Ibid.*, p. 111.
- 84 *Ibid.*, p. 84.
- 85 Morley, *Life of Gladstone*, vol. ii, p. 365.