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REPORT

SODOMY, SLAUGHTER, SUNDAY SHOPPING AND SEATBELTS

Free Votes in the House of Commons, 1979 to 1996

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ABSTRACT

This report analyses the cohesion of British parliamentary parties over a range of 'free' votes – votes on which the party managers gave no instructions – between 1979 and 1996. British parties are usually highly cohesive, and this is often attributed to strict party management by the party 'whips', who are said to bully MPs into line. But this report shows that high levels of party discipline exist even when the whips are 'off'. Even on moral issues, which are said to split the parties, it is more usual to see the vast majority of one main party opposing the vast majority of the other main party.

KEY WORDS ▪ British parliament ▪ free votes ▪ intra-party divisions ▪ party cohesion

Introduction

The cohesion of British parliamentary parties has decreased since the immediate post-war period, when Samuel Beer (rightly) declared that party cohesion 'was so close to 100 per cent that there was no longer any point in measuring it' (Beer, 1969: 350–1). Beginning around 1970, a significant behavioural change affected British MPs. They began to dissent from the party line more often and with more effect (Norton, 1975, 1980). However, cohesion remains high (Rose, 1983). The vast majority of whipped divisions still do not witness a single dissenting vote. Even when dissent does

occur it is often very limited. 'The overall picture is one of relatively frequent but isolated and disparate rebellion' (Melhuish and Cowley, 1995: 60).

The 'whips' – the parliamentary party managers – are often blamed for this high level of cohesion. It is claimed that they place various pressures upon MPs which force them to conform to the party line, against their will and genuine intentions. Because of this, researchers have searched for other guides to party divisions. Early Day Motions (EDMs) have been much used, especially by Hugh Berrington and assorted others (see, for example, Berrington, 1973). Another favourite of researchers has been those occasions when there are unwhipped – or 'free' – votes. These are votes on which the party managers do not provide instructions to their MPs. Such votes usually occur on private members' legislation, on many procedural or internal House of Commons matters, and occasionally on aspects of government legislation.

Free votes give an insight into party cohesion not offered by analysis of 'normal' roll calls. Moreover, whereas EDMs have little or no actual impact, the same cannot be said of all free votes. Many – though not all – free votes are on 'conscience' matters, what Packenham termed 'exit' issues:

> When the political system seems to have reached an impasse and the mechanisms for decision-making . . . seem incapable of providing a way out of the situation, the elites sometimes turn to the legislature for either the substance or the form, or both.
>
> (Packenham, 1970)

These decisions thus form part of the category of 'value-changing' policies, which are not dealt with by the 'logic of negotiation' (Jordan and Richardson, 1982: 100–2). Whether the death penalty should be restored, whether abortion should be legal and if so under what restrictions, at what age – if at all – consenting homosexual acts should be legal, whether hunting should continue, and a whole host of similar questions, are not peripheral or unimportant. As P. G. Richards (1972: 149) rightly concluded: 'It is difficult not to feel that many [of these decisions] made a greater impact on the daily lives of men and women than many Government measures'. These votes are therefore central to understanding part of the British policy process, that part that is not 'post-parliamentary'. This report thus considers party cohesion on a range of free votes between 1979 and 1996. We do not examine the individual-level factors that might make an MP vote one way or the other (such as marginality or religion). That is already the subject of a blooming literature (see, for example, Hibbing and Marsh, 1987; Norton, 1994; Pattie et al., 1994; Read et al., 1994). Nor do we consider the relationship between the views of the population and MPs, and concomitantly, whether these issues *should* be decided by free votes, which has been ably done by Peter Jones (1995). Rather, this report considers macro questions of party behaviour.

Methodology

But which votes should one look at when considering such behaviour? There is no point in examining every free vote. Not all free votes are on matters of high conscience; many are on procedural or otherwise minor matters. Even when the subject matter itself is contentious, many votes will be less than vital: during the debate over the Corrie bill in the 1979–80 session, which would have reduced the time limits for abortions, for example, there were a series of divisions which saw five or six MPs (mostly but not solely Labour MPs) force divisions – on matters on which everyone else agreed – in an attempt to waste time and help disrupt the bill. Similarly, the Human Fertilisation and Embryology Bill in 1990 saw a number of divisions on various types of research; but there were key divisions on whether research should be permitted or not. It is these key divisions (listed below) that we analyse. We thus examine a sample of votes, and taking a similar approach to that of Pattie et al. (1994) and Hibbing and Marsh (1987), we have tried to identify the vote or votes that best exemplify the political debate. We have also ensured that all these key votes were 'genuine' free votes, in which no informal pressure was placed upon MPs by their party managers.

We utilize a measure borrowed from Read et al. (1994) known as the Index of Party Unity (IPU). This is calculated by 'merely excluding non-voters, subtracting the minority percentage from the majority and expressing it as a decimal' (Read et al., 1994: 375).[1] The IPU thus ranges from 0.0 to 1.0. An IPU of zero indicates that the party is totally split, with half the voting MPs in one lobby being opposed by the remaining half in the other. An IPU of 1.0 indicates that the party is totally cohesive, with all voting MPs voting in the same lobby. A 'party vote' (Lowell, 1908: 74–81), with 90 percent of a party voting in one lobby, faced by 10 percent in the other, records a figure of 0.80. A split that sees one-third of a party's MPs faced by two-thirds leads to an IPU of 0.33. Because the IPU is based on percentages, it is sensitive to those votes that see small numbers of MPs voting; small shifts in the number of MPs in one lobby or the other can, in those cases, bring about quite large shifts in the IPU. This is a problem when analysing the centre parties,[2] but it is also a problem when looking at those votes on which there is low turnout (perhaps because there is a large deliberate abstention). Such cases are pointed out when necessary. To summarize: an IPU of 0.80 and above demonstrates a cohesive party; an IPU that falls below 0.80 demonstrates division; and an IPU that falls to 0.33 or below reveals a serious split.

Overview

Table 1 shows the IPUs for the three main British parties for a range of free votes. In all but one case we have selected one key vote to use for this part of the analysis. The votes are:

Table 1. IPUs for selected free votes, 1979–96

Issue	*Conservative*	*Labour*	*Centre*
DEATH	***0.09***	1.00	1.00
EUTHAN	***0.77***	***0.09***	***0.75***
DIVORCE	***0.17***	0.82	0.45
SEATBTS	***0.16***	0.74	0.69
WARCRMS	***0.48***	***0.92***	***0.75***
GAY16	***0.71***	0.69	1.00
GAY18	***0.11***	***0.89***	***0.90***
PAGE3	***0.57***	1.00	0.60
OBSCENE	***0.94***	0.19	***0.75***
HUNTING	***0.74***	1.00	0.00
SUNDAY	***0.78***	0.51	***0.12***
ABORT	0.89	0.30	***0.50***
EMBRYO	***0.12***	***0.68***	***0.67***

Note: In each case the Conservative Party's IPU is in bold italics, as are those of parties where the majority of the voting MPs vote with the majority of the Conservatives.

1 a vote to restore the death penalty for murder (pending an automatic referral to the Court of Appeal) (DEATH);
2 a vote to introduce a bill allowing voluntary euthanasia (EUTHAN);
3 a vote to tighten the divorce laws (DIVORCE);
4 a vote to make the wearing of front seatbelts in cars compulsory (SEATBTS);
5 the Second Reading of the 1990 War Crimes Bill, which would have allowed for the trying of war criminals now living in Britain, for crimes committed overseas, when not British subjects (WARCRMS);
6 the two votes to lower the age of consent for male homosexual acts to 16 and 18 respectively (GAY16 and GAY18);
7 a vote to introduce a bill prohibiting so-called 'Page Three Girls' ('naked or partially naked women in sexually provocative poses in newspapers') (PAGE3);
8 the Second Reading of the 1986 Obscene Publications (Protection of Children Etc.) (Amendment) Bill, which tightened up the 1959 Obscene Publications Act (OBSCENE);
9 the second reading of the 1992 Wild Mammals (Protection) Bill, which would have prohibited hunting with hounds (HUNTING);
10 the third reading of the 1994 Sunday Trading Bill, which partially deregulated Sunday trading (SUNDAY);
11 a vote to reduce the time limit for abortion to 24 weeks (ABORT);
12 a vote to legalize (under certain restrictions) embryo research (EMBRYO).[3]

In each case in Table 1 the Conservative Party's IPU is in bold, as are those parties where the majority of the voting MPs vote with the majority of the Conservatives.[4]

The first point to note from Table 1 is how the majority of each of the two main parties vote in opposite lobbies on most occasions. Only four of these votes see a majority of Labour and Conservative MPs in the same lobby – EUTHAN, WARCRMS, GAY18 and EMBRYO – and these are issues on which the majority of the centre parties join them. These four issues, then, are examples where the main division is not between the parties. But these are exceptions. On all the other issues, the majority of Labour MPs face the majority of Conservative MPs. The centre parties do not – on conscience issues at least – behave like a surrogate of either of the other parties. Excepting those four issues on which there was all-party consensus, the centre parties vote with Labour on some issues (DEATH, DIVORCE, SEATBTS, GAY16 and PAGE3), but with the Conservatives on others (OBSCENE, SUNDAY and ABORTION). In their analysis of the age-of-consent votes and the death penalty, Read et al. (1994: 375) refer to the Liberal Democrats as 'solidly liberal'. As this analysis shows, in so far as that means not voting with the Conservatives, that conclusion is flawed by only looking at two issues, two issues that are not particularly representative of the rest.[5]

Note also how the parties split. Table 2 shows the party splits for the two main parties. The Conservatives split on DEATH, SEATBTS, GAY18, DIVORCE and EMBRYO. But on all of these issues Labour is either completely unified, party voting, or at worst, say on SEATBTS and EMBRYO, just slightly divided. Conversely, where the Conservatives are united, Labour is split. This is true of EUTHAN, OBSCENE and ABORT. The nearest that we get to a situation where both the main parties split is over EMBRYO, where the Labour IPU falls to 0.68, with the Conservatives badly split with an IPU of 0.12. But even this represents a situation where some 84 percent of the Labour Party's voting MPs were in the same lobby. There is not one situation out of these selected votes where both the parties have IPUs of

Table 2. Labour and Conservative divisions on free votes, 1979–96

	Conservative		
Labour	*Split* (*IPU*≤*0.33*)	*Divided* (*0.33*≤*IPU*≤*0.80*)	*Cohesive* (*IPU*≥*0.80*)
Split (IPU ≤0.33)		EUTHAN	OBSCENE ABORT
Divided (0.33≤IPU≤0.80)	SEATBTS EMBRYO	GAY16 SUNDAY	
Cohesive (IPU≥0.80)	DEATH DIVORCE GAY18	WARCRMS PAGE3 HUNTING	

less than 0.33. Rather, five issues badly split the Conservatives; a different three issues split the Labour Party; and yet another two issues split the centre parties.

This approach is helpful, but an overview like this can obscure as much as it illuminates. Moving from arclight to laser, we now examine three of these issues in more detail.

Abortion

The best example of voting on the issue of abortion comes with the mammoth parliamentary debate over the Human Fertilisation and Embryology Bill in 1990 (Cunningham, 1991; Montgomery, 1991). Table 3 shows the IPUs for the various options MPs were given for time limits for abortion. The issue clearly splits all the parties. The IPUs drop as far as 0.30 (Labour), 0.24 (Liberal Democrats) and 0.06 (Conservative). At first this appears to contradict our earlier claim that there is not one vote where both of the major parties are significantly split. But although the issue splits the parties, it does not, on closer examination, ever split both the main parties together. The divisions on 18, 20 and 22 weeks saw the Conservative Party split, but Labour was (relatively) solid. The divisions on 24, 26 and 28 weeks saw a solid Conservative Party faced by a split Labour Party.

The direction of the splits is also important. In every case, the majority of Labour MPs were against any lowering of the time limits. (Although the majority voted for 26 weeks, that vote had occurred after 24 had been proposed and 28 rejected, so it was in effect voting for an extension of the limits.) Although Labour split on some of the votes, there is a constant about the *direction* of their votes: it is for no reduction, or as small as reduction as is possible, in the time limits. With the Conservatives a different pattern emerges: they voted overwhelmingly for the reduction to 24 weeks (and consequently, against any move to increase the limit to 26 or 28 weeks). In

Table 3. IPUs for abortion votes, 1990

Option	*Conservative*	*Labour*	*Centre*
18 weeks	***0.17***	***0.79***	***0.58***
20 weeks	***0.06***	***0.74***	***0.58***
22 weeks	***0.28***	0.70	0.24
24 weeks	***0.89***	0.30	***0.50***
26 weeks	***0.84***	0.34	0.40
28 weeks	***0.90***	0.32	0.50

Note: IPUs in bold italics for conservatives and where majority of voting MPs voted with majority of Conservatives.

addition, the majority would like a reduction to 22 weeks, and a minority would like to see reductions to 20 or even 18 weeks. But a majority of Conservative MPs rejected the choice of 20 and 18 weeks.

The centre-party MPs behaved more like the Conservatives than Labour. They were for a drop to 24 weeks (and therefore against 26 or 28), and against 18 or 20, but, unlike the Conservatives, they were opposed to 22 weeks. But note how split they are: unlike the other parties, who became cohesive on at least one or more of the options, the centre parties – albeit with a small number of MPs – were always split on the issue.

Abortion is thus a good example of the difficulties of taking one vote and calling it the 'abortion' vote. The vote used in the overview was the vote to reduce the time limit to 24 weeks; this saw the Conservatives united and the Labour Party split. Hibbing and Marsh (1987: 281) claim that 'the greatest degree of Tory unity comes precisely where we found the least Labour unity – on abortion votes'. But as we have seen, that depends on the question that is asked about abortion. It is also a good example of a trend among Conservative MPs which could, for want of a better expression, be called Tory 'pragmatism'. This trend is also seen with the issue of capital punishment.

Capital Punishment

In Britain, the capital punishment debate centres around whether or not to reintroduce the death penalty. It is a topic that is much debated in parliament: there is at least one vote per parliament on the subject. However, in practical terms, the likelihood of its reintroduction has diminished in recent years. In 1979 the Commons majority against the death penalty was 20 percent. In 1994 it was 43 percent. As Read et al. (1994: 375) conclude: 'the reintroduction of capital punishment is very unlikely, unless there are major changes in the composition of Parliament'. This increasing majority against the death penalty has mainly been the result of a change in the beliefs of Conservative MPs. In 1966, the Conservative IPU was 0.62. The vast majority of Conservative MPs were in favour of the death penalty. But, although the majority of Conservative MPs still favour the death penalty, those who oppose it are now no longer a small minority: the Conservative parliamentary party now splits almost right down the middle. The IPU in 1994 was 0.09. At the same time, the Labour Party, which was once split over the issue (although less so than the Conservatives), has become solid. In 1966 the Labour Party IPU was 0.62; from 1983 onwards it has been 1.00.

What is more interesting, however, is the variations *between* the votes. MPs are often offered a series of options when they debate the issue: to reintroduce the death penalty for any murder; to reintroduce the death penalty for terrorist murders; to reintroduce the death penalty for those who murder police officers; and so on. There is a consistency about Labour. Since 1983 not one Labour MP has voted for the death penalty in any of its manifesta-

tions.[6] However, Conservative cohesion varies between the questions. Take the votes in 1983 as an example. The Conservative IPU for the reintroduction of the death penalty for any murder was 0.20 (with the majority, of course, being in favour). The party split less over bringing it back for terrorist murder (0.26), for the murder of a police officer (0.36) or for the murder of a prison officer (0.32), and more over its reintroduction for murder involving explosives or guns (0.13) or murder whilst carrying out theft (0.12).

This variation can be seen quite clearly by examining two capital punishment votes not discussed above: the first is the 1990 vote on the abolition of the death penalty from the Treason Acts of 1790 and 1814 and the Piracy Act of 1837.[7] The second is the vote in 1991 during the Armed Forces (Recommitted) Bill to remove the death penalty from the army in time of war.[8] These votes are interesting for two reasons. In the first place, the House in both cases decided *against* liberalizing the law. The first vote was decided by a majority of just 32 (or 6 percent); the second by a majority of 104 (or 29 percent). Considering the size of the majorities against capital punishment more generally, these figures are notable because they exist at all; and the second is notable for its size. Second, they are interesting because of the reason such majorities against liberalization exist: because the Conservative Party voted as a bloc, rather than splitting. The Labour vote was, again, unified, with no Labour MP supporting the retention of the death penalty.[9] But the Tories were also much more unified than they are on most issues. Only 17 Conservative MPs supported the plans to remove the death penalty in cases of treasons and piracy, and only 18 to remove it as a punishment available in the army in time of war. The Conservative IPU in 1990 was 0.89, and in 1991 it was 0.85, both clear party votes.

This demonstrates, again, this theme of Conservative pragmatism. Whilst there are Conservative MPs who oppose the death penalty in all its forms (and, concomitantly, those who support it come what may), there is clearly a group who take a more pragmatic view: they will support capital punishment in certain cases but not in others.

Sunday Shopping

The issue of shopping on Sundays caused severe problems for the government in the 1980s (Bown, 1990; Barnard, 1994). It was resolved (as least in the short term) by the 1994 Sunday Trading Act, which partially deregulated the law (Maher, 1995). MPs voted on three key options, followed by a third-reading vote on the whole bill (Table 4). The options were to totally deregulate, to modify the 1950 Shops Act, or to partially deregulate.[10]

Table 4 is notable for the amount of party division it indicates. The Labour Party was united in opposition to total deregulation, and the Conservative Party was (less) united in support of the third reading. On all the other

Table 4. IPUs on Sunday trading votes, 1993

Option	*Conservative*	*Labour*	*Centre*
Deregulation	***0.12***	0.99	0.53
Modification	***0.47***	0.47	0.06
Partial deregulation	***0.51***	0.27	0.18
Third reading	***0.78***	0.51	***0.12***

Note: IPUs in bold italics for Conservatives and where majority of voting MPs vote with Conservatives.

occasions, for no party do the IPUs ever rise above 0.53, and in four cases are below 0.20. This is about the nearest we get in this period to a real cross-party split on any vote of importance; but even here some 70–75 percent of one party are in one lobby facing 70–75 percent of the other party in the other lobby. And note that on all four votes, the majority of Labour and Conservative MPs are in different lobbies. The Conservative Party split in favour of deregulation, but split badly in so doing, but the other parties were unanimous (or nearly so) in opposing. On modification, all three parties split quite badly. The Labour Party and the Liberal Democrats voted in favour, but the Conservative Party was opposed. Note how badly the (admittedly small number) of Liberal Democrats split. On the final option, the Labour Party and the Liberal Democrats again entered the same lobby, in opposition again to the bulk of the Conservatives. But the measure was carried because the two parties who opposed it were badly split (IPUs of 0.27 and 0.18) whereas the Conservatives were reasonably solid (IPU 0.51).

Conclusion

During the debate on hanging that took place in December 1990, one Conservative MP said:

> . . . we [the supporters of capital punishment] should have waited for the next general election and an increased Conservative majority. We would then have got capital punishment through Parliament.
>
> (*Hansard*, 17 December 1990, c. 110)

He was wrong on two counts. First, that there would be an increased Conservative majority after the election; and second, that even if there had been such a majority, the reintroduction of the death penalty would have occurred. Given the current split in Conservative voting, it would require 569 Conservative MPs – out of a Commons of 659 – to be elected for the death penalty to be reintroduced. However, his argument, albeit implicitly, contained the same argument that this report has been making. Conscience issues are not, as often described, non-party issues. They do not 'cut across party lines'. As we have shown, the dominant cleavage is that of party. These issues are more likely to cut *down* party lines than *across* them. It is,

even on conscience issues, more likely that the majority of one of the major parties will be found in the 'aye' lobby facing the majority of the other in the 'noe' lobby. Similarly, it is rare to find one vote where both major parties are significantly split. Conscience issues may split some of the parties some of the time, but they do not split all of the parties all of the time. Thus British parliamentary parties are not artificial constructs, kept in line by nasty party managers. Divisions between the parties are born of genuine differences.

Notes

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1 We include tellers in all figures.
2 The phrase 'centre parties' is used throughout this paper to denote the various combinations of Liberals, SDP, Liberal–SDP Alliance, and Liberal Democrats that have sat in the Commons since 1979. We do not discuss the behaviour of the other parties, such as the various Ulster parties or the nationalists, nor the few independent MPs.
3 The divisions were: Division 135, 21 February 1994; Division 192, 8 May 1990; Division 106, 24 April 1996; Division 292, 28 July 1981; Division 136, 19 March 1990; Divisions 136 and 137, 21 February 1994; Division 252, 13 April 1988; Division 48, 24 January 1986; Division 83, 14 February 1992; Division 145, 23 February 1994; Division 168, 24 April 1990; and Division 166, 23 April 1990.
4 This enables the reader to see when parties are voting together or not. An alternative measure would be to indicate whether the parties voted in a 'liberal' or a 'conservative' fashion, but this is difficult to do. Take the case of Page Three and Obscene Publications. Both are issues of censorship, yet, as can be seen from the table, the two issues see the parties behave in a different way. Which position is the 'liberal' position?
5 That the relationship did not hold for hunting was pointed out by Cowley and Stace (1996: n. 36).
6 On a division on the 1990 Criminal Justice Bill, Terence Rooney, a Labour MP, voted against the rest of his party (who were voting to remove the death penalty from the 1814 Treason Act and the 1837 Piracy Act) but he did so in error. He then entered the other lobby to cancel his vote.
7 Division 32, 17 December 1990.
8 Division 175, 17 June 1991.
9 As mentioned above, on the 1990 vote, one Labour MP entered the wrong lobby, and then cancelled his vote by entering the other lobby.
10 Divisions 15, 16, and 17, 8 December 1993.

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