

## **Conclusion: The Future of Parliamentary Politics**

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Political scientists have a mixed record in predicting the political future; and so, as political scientists, we won't engage in expansive 'futurology' and 'guesstimates' about the future of Parliament in this chapter. Instead, in exploring the future of parliamentary politics, we will invoke the words often attributed to Albert Einstein: 'The future is an unknown, but a somewhat predictable unknown. To look to the future we must first look back upon the past'. If we can identify what parliament was and is, and what it did and still does – which has been the central connecting thread interwoven in the preceding chapters – then we can provide a basis for exploring what we might expect parliament to be and do in the future. Individually, the 31 chapters of this book have explored what parliament does and why it does what it does. Collectively, these chapters provide an overarching assessment of the contemporary significance of the UK parliament in the UK's political system by revealing what it 'is' as an institution. Whilst it is not our intention to reprise the analyses of earlier chapters; it is our intention, however, to identify key puzzles implicit within these analyses which raise fundamental questions about what parliament is and why it exists. In turn, this will help us to identify the 'predictable unknowns' as starting points for the exploration of the future.

### **'Predictable unknowns': Puzzles and functions**

Gerhard Loewenberg, one of the preeminent analysts of parliaments in modern times, has argued that 'legislatures are puzzling institutions' inasmuch as they 'are unlike other political institutions' (2011:1). In making this case he maintains that there are three principal puzzles that need 'hard thinking' in order to understand legislatures: representation; collective decision making (in terms of internal organization and procedure); and their role in the political system (as connectors between government and the public). In identifying these three primary puzzles, Loewenberg echoes a set of three key functions, ascribed earlier by Copeland and Patterson (1994), to legislatures – linkage, decision making and legitimation. The importance of these inter-linked functions is elemental 'because a parliament's very reason for existence is found in them', and changes in claims surrounding these institutional functions 'go to the heart of [their] role in a political system' (Copeland and Patterson 1994:154). To understand the possible futures of parliament we need, therefore, to understand the past puzzles and associated functions that have defined parliament as an institution (what it is) and its roles within the wider political system (what it does), and to use these to structure our discussion of the 'predictable unknowns' facing the UK parliament.

### **Thinking hard about Representation and Linkage**

### *The 'who', 'what' and 'how' questions*

The chapters in Part 4 outlined the contemporary significance of representation in parliament and the changing emphases and tensions observable in answering the 'who', 'what' and 'how' questions of representation. The 'who' question focuses attention upon the similarity (or otherwise) of social characteristics between represented and their representatives, and has increasingly found an answer in calls to enhance 'descriptive representation'. At the heart of a definition of descriptive representation is the idea of 'shared experiences' whereby representatives are 'in some sense typical of the larger class of persons whom they represent' (Mansbridge 1999:644). Historically the 'shared experience' of greatest significance in most representative democracies, and certainly in the UK, has been locality. The contemporary significance of geographic location has been visible in voters' preferences for local candidates as well as in constituency activity by their MPs, and in the work patterns of MPs in Westminster. The impact of geographical differences, and voters' 'shared experiences' associated with those differences, was clearly evident in the responses of MPs to Brexit in Westminster. The 2016 EU referendum, exposed deep geographical divisions between leave and remain supporters in disparate parliamentary constituencies. These geographical differences, and voters' 'shared experiences' associated with those differences, will undoubtedly continue to drive debate in Westminster, and determine the votes of MPs, during the course of the implementation of Brexit. The importance of these 'shared interests', whether conceived in terms of 'forgotten' geographical areas or of 'left behind' social groups, is that demands for parliament to reflect more closely those interests and opinions will be amplified more forcefully in the Brexit and post-Brexit context. In the immediate future, the cross-cutting pressures upon representatives whose personal referendum voting preferences are diametrically opposed to those of the vast majority of their constituents (most notably for Labour MPs) will reveal, dramatically, the complexities of the linkage relationship between the represented and their representatives.

If Brexit has reinserted the claims of the 'left behind' into the normative case for descriptive representation, the claims of women and ethnic minorities – the most forceful claims of the recent past – will continue to dominate demands for parliament to be more like the society from which its members are drawn. Despite the 2017 general election returning the 'most diverse parliament yet' (*BBC News* 11 June 2017) campaigners for a more socially representative parliament continued to argue that much still remained to be done in the future. This argument had been amplified by the House of Commons' Women and Equalities Committee which recommended that the government set a domestic target of 45 per cent representation of women in Parliament by 2030 (HC 630 2017:11). The committee was in 'no doubt that a representative and diverse House of Commons is beneficial to the effective

functioning of parliamentary democracy’ (2017:34). Equally, it was in no doubt that parliamentary effectiveness would be enhanced by ‘fair representation of many different groups of people, including women, ethnic and religious minorities, lesbian, gay, bisexual and transgender people, people from diverse socioeconomic backgrounds, disabled people and more’ (2017:34). But advocacy of ‘fair representation’ for multiple diverse groups brings with it future problems of ‘intersectionality’, and how to deal, both conceptually and practically, with the multidimensionality of social group identities (see Severs et al. 2016, Evans 2016).

On the specific issue of ensuring more social diversity within Westminster, political parties have had the primary responsibility in the past and have been charged to ‘bear the lion’s share of responsibility’ in the future (HC 630 2017:34, see chapter 21). On the more general issue of ‘what’ is being represented, political parties will also be expected to perform a key future role in the ‘representation of ideas’. Indeed, the primary representational focus of political parties in Westminster, both in the past as well as in the present, has been the ‘politics of ideas’, which assumes a ‘shared ideology’ or ‘same political viewpoint’ between represented and representative. However, the simplicities of electoral competition between two dominant class-based parties, and of the internal cohesion within those parties in the Commons, is a thing of the past. As shown in chapter 23, and amplified in political events in the post-Brexit referendum era, internal ideological cohesion within parliamentary parties – and between MPs and wider party members and supporters – has been ‘stress-tested’ to its further limits by significant and reinforcing ideological fissures.

These splits, in turn, have impacted upon the ‘how’ of representation. How a representative in parliament should act has typically been conceived in terms of a continuum defined by the polar positions of ‘trustee’ and ‘delegate’. Whereas representatives and represented alike recognise the logic of delegation implicit in party support when MPs make their voting decisions in Westminster, this logic may be cross-cut in practice by alternative ‘delegation’ demands emanating from an MP’s constituency, or a counter-posed logic of ‘trusteeship’ where MPs privilege their personal consciences, or their own interpretations of a wider national interest, above the sectional interests of party or locality. These cross-cutting representational forces were manifest in many MPs’ speeches in the debate on the European Union (Notification of Withdrawal) Bill in January 2017 (see for example HC Debates 31 January 2017 vol. 620: cols 830-2; 890; 928; 981). These cross-pressures will undoubtedly continue to manifest themselves in future debates about Brexit (both as process and as policy).

*Amplifying the voice of the people in the representative process*

If representational linkage is likely to be more descriptive and inclusive in the future it is also more likely to be less, or un-, mediated. Whilst they clearly play an instrumental part in representative democracy, parties and representatives' key role as mediators between people and governance has increasingly been questioned. This has happened simultaneously through declining levels of trust in political institutions and the rise of new forms of democracy, namely direct, advocacy and participatory democracy which often sit uneasily alongside representative democracy. Whereas a standard model of representative democracy largely assigns a passive role to voters between elections, increasingly this model has been modified by participatory expectations on the part of the public, whereby citizens seek to be consulted between elections, contribute to setting the political agenda, make their own representations and inputs in the decision-making process, and monitor closely the activities of parliamentarians. These expectations have been recognised in the Westminster parliament's prioritisation of enabling the public 'to engage constructively and to have an input into parliamentary processes' (House of Commons Service 2015:35). The chapters in Part V have examined the extent to which this commitment has guided contemporary practice, but here we extrapolate recent trends into the near future.

The difficulties in reconciling ideas about popular sovereignty and direct public participation with notions of parliamentary sovereignty and indirect public participation in decision-making were made apparent, starkly, by the 2016 EU referendum and its aftermath. As a result, parliamentarians have become more risk-averse towards future UK-wide referendums (see Ipsos MORI 2017). Less dramatically, the tension between the inclusion of the people and their exclusion – inherent within the very concept of representative democracy (see Judge 2014) – has been manifest in the development of the UK parliament's e-petition system. The creation of the Petitions Committee in 2015 led to innovative and creative public engagement initiatives and resulted in immediate and notable impacts upon the public policy agenda (most notably in the brain tumour and the dress code petitions). The 'inclusionary' success of the new e-petitions system, measured by the submission of 30,247 e-petitions within only 20 months of the e-petitions website going live, was, however, offset by the practical organisational 'exclusionary' restrictions, measured by the small proportion achieving the necessary thresholds for a government response (445) or for a debate in parliament (55). More tellingly, fully 65 per cent of e-petitions were rejected in this period. As revealed in chapter 29, the current challenges in dealing with such high volumes of petitions are clear. In the immediate future, parliament will be required to address the questions already posed by these challenges: How to accommodate such high demand? How to distinguish between what is prudent and what is popular? How to manage public expectations? Future answers to these questions will require serious thought about how the UK Parliament can fulfil its (inclusionary)

commitment to openness, engagement and accessibility while addressing the practical (exclusionary) considerations of internal organisational efficacy, efficiency of in-house decision processes, and fulfilment of a broader civic responsibility for decision making (in the sense of occupying an institutional space shielded from populist vagaries).

The tension posed by the inclusion-exclusion paradox of parliamentary democracy has also been a feature of other e-participatory initiatives at Westminster. Inclusionary intent has been apparent in: the crowdsourcing of questions for select committee scrutiny sessions; the experiment with crowdsourcing of questions to be asked at PMQs; more structured e-consultation exercises undertaken by parliamentary committees; alongside e-consultation exercises trialled by individual MPs with their constituents; and e-monitoring platforms. Yet, current concerns about the capture of such initiatives – by organised publics (for example professional lobby groups, cyber-groups constituted in social media echo silos) at the expense of unorganised publics and technologically voiceless publics (captured in the term ‘digital divide’); by unmediated clicktivism; by hacktivists; and by unaccountable, often secretive, corporations; and by the pedlars of ‘fake news’ – hold the potential to be magnified in the future as the scope and penetration of digital technologies expand exponentially.

Parliament has, of course, sought to respond to challenges of the ever-changing digital world. In 2015, the Digital Democracy Commission set a target, that ‘by 2020 Parliament should be fully active and digital’, which had clear inclusionary intents of enabling the public to contribute to the law-making process, ‘to have their say’ in House of Commons debates, and of engaging people through ‘an issue-based approach’. But the Commission’s report was seen ‘as the start of a conversation, not the end’ (2015:75). A key part of this future conversation will reflect the tensions between inclusion and exclusion, between participation (input) and decision-making (output), and between the articulation and promotion of specific, often sectional interests, and the filtering and assessment of those interests against wider collective ideas about *the* public interest and *the* national interest. To-date parliament has claimed an exclusive ability to determine and weigh the latter against the former. Yet, this distinctive ability may yet come to be challenged in the future by emerging technologies and algorithms which enable large volumes of citizen-generated text and speech patterns to be summarised, and, on this basis, for the strength of public opinion on key issues to be estimated.

### **Thinking hard about collective decision making**

One of the key puzzles of parliaments identified by Loewenberg (2011:49) is that the ‘equal status of each member of a legislature presents a fundamental challenge to its capacity to reach collective decisions’. According to him, the only way to resolve this puzzle is for

legislatures to accept 'an implicit hierarchy, which entails delegating authority to committees, party groups and to leaders' (2011:59). The chapters in Parts II and III have examined how this delegation works in the contemporary practice of Westminster. What we aim to do here, however, is to project some of the key recent organisational and procedural developments into the future and so identify some of the 'predictable unknowns'.

What is predictable is that, just as with the puzzle of representation, technologically-assisted engagement and inclusion programmes will be a predominant feature of future thinking about law making, scrutiny and accountability processes in Westminster. What is predictable, equally, is that parliamentary decision making processes will continue to be dominated by leadership hierarchies built upon interlocked government and party positions. What is less predictable however, after the 2017 general election, is the extent to which pre-existing parliamentary norms associated with executive dominance – based upon resilient parliamentary majorities – and procedural devices, which despite reforms such as the backbench business committee, had privileged the executive, will be modulated in the near future as a minority government (underpinned by a third party) tests its capacity to secure the passage of its legislative programme through parliament. In these circumstances the Commons and the Lords will remain, to use Mezey's (1979:47) categorisation, 'reactive'. In this reactive position, they will set the parameters of government action through a capacity to modify, delay and deliberate upon such action, but will normally be unable to veto such action (although a 'hung parliament' makes party management more precarious and 'normal' government majorities less certain). Nonetheless, even in the 'normal circumstances' of executive majorities of recent decades, the capacity to modify and exert influence over government policies should not be underestimated. Indeed, even before 2017, there was growing research evidence that parliament's specific impact upon legislative outputs and, more generally, its scrutiny of government activity through the select committee system, had increased in recent decades (see Russell and Cowley 2015; Russell and Gover 2017).

Parliament's increased influence reflects both attitudinal change and procedural and organisational change (as examined in the chapters in Parts II and III). The essence of these changes has been to challenge what Thompson (2015:66) has called the 'culture of resistance' embedded in government to parliamentary amendment of its legislation, or what others have called an 'executive mentality' which privileges power hoarding in the hands of ministers in decision-making more generally (see Judge 1993:143; Flinders 2002:30; Kelso 2009:19). This challenge to executive dominance has also been evident in some of the public engagement strategies outlined in Part 5.

Modern legislation may be complex and increasing in volume, but notable steps have been taken to make it more comprehensible to those beyond parliament. In recent years, parliament has modernised its online provision of legislative documents. A recognition of the need for user-friendly language and for the provision of explanatory statements alongside amendments to bills has provided a partial antidote to the almost impenetrable procedural and linguistic obscurities of the past. The House of Commons has piloted a 'public reading stage', building on previous government consultations on legislation, to encourage citizens to add comments and suggestions to a legislative text (see Leston-Bandeira and Thompson 2017). Select committees have been empowered to conduct pre-legislative scrutiny, on the premise that governments are more likely to make concessions to parliament before the formal introduction of a bill at Westminster. The Liaison Committee (HC 954 2015:25) has identified the merits of this system, and have argued that, in the future, 'there is scope to go further and that the benefits of pre-legislative scrutiny in terms of improving the quality of legislation which reaches the statute book and in easing the passage of controversial, technical and complex bills'. Yet, there are limits to expanding this scope. Thus, for example, in March 2017 David Davis (Brexit Secretary) made it absolutely clear that the vastly politically contentious Great Repeal Bill would not be subject to pre-legislative scrutiny' (HC Debates 30 March 2017: col 435); a position confirmed after the general election of 2017.

Indeed, the enormity of the legislative task of disentangling UK law from EU law in the wake of Brexit, threatens to overwhelm parliament's recent strengthened scrutiny capacity. The immediate future will be dominated not only by fundamental political debates about the meaning of Brexit and its economic, social and constitutional consequences, but also by parallel procedural debates about the what and how of legislative scrutiny. In particular, future generations of students of parliament will be obliged to pay far more attention to the procedures for the scrutiny of, what is variously called, delegated legislation, statutory instruments, subordinate legislation, or what is often referred to as Henry VIII clauses. In so doing, the historic problems associated with the parliamentary scrutiny of secondary legislation will be highlighted; and the significant 'constitutional risks', arising from the wide discretionary powers afforded to governments by the use of such legislation will have to be mitigated (HL 123 2017).

Simultaneously, the 'repatriation' of legislative powers by Westminster will also re-energise territorial pressures for regional or national solutions to the problems of collective decision making in the UK. Since late 2015 there has been provision – through the operation of English Votes for English Laws (EVEL) – for English, or sometimes English and Welsh, or even English and Welsh and Northern Irish MPs only, to consider certain bills (or parts of bills) that

apply in their part of the UK. The complexities and opacity of the procedure have generated much criticism. Indeed, just before the 2017 general election, Gover and Kenny (2017) in 'looking to the future' (of a then Conservative majority government) voiced 'serious concerns' that the additional legislative burden that Brexit will place on parliament might call into question key features of EVEL. One of which was the possibility that Brexit 'could well bring to the surface new tensions and disagreements within the Conservative Party, and the EVEL procedures may become an additional site where such conflicts are played out'. These concerns were only magnified after the 2017 election when the reduction in the number of Conservative MPs in England and Wales simultaneously increased the need for even more judicious internal party management within designated EVEL procedures, as well as increasing the dependence of the government on non-English MPs to secure successful passage of 'English only' Bills at the later stages of the legislative process (where a majority of UK MPs is required). In a world of 'hung parliaments' (potentially short-term), and in a post-Article 50 world (stretching far into the long-term), the exact future of collective decision-making at Westminster is a realm of 'unknowns', but there are certain 'predictabilities' that may be used to make sense of those 'unknowns'.

### **Thinking hard about legitimisation**

Historically, the UK parliament has fused the core principles of representation, consent and authorisation into the legitimisation of state policy making processes and their outputs. The notion of parliamentary legitimisation has been central to the exercise of public power by the UK state. Over time the foundational legitimisation claims of the modern state have come to be associated with democratic authorisation and accountability afforded by election. Moreover, Westminster, as seen in Part 1, has served symbolically, through its rituals and architecture, as the epicentre of the state and the collective embodiment of its constituent nations. This centrality has been ossified in 'the fundamental principle of the UK constitution' of parliamentary sovereignty (Cm 9417 2017:13). A principle that has been at the heart of historic constitutional battles between parliament, political executives and the judiciary, and continues to drive constitutional contestation over the issues of the UK state's relationship with the EU, with its own sub-nations, with the popular will of its people as articulated through referendums, and with the use of the judiciary's interpretive powers.

Just as the unfettered scope of parliamentary sovereignty has been a continuing feature of official discourse, so too have the practical constraints upon that convention been routinely revealed in the practice of UK governance. These constraints were apparent in the decision, of February 2017, to trigger Article 50 of the Treaty on the European Union and so serve notice



of the UK's intention to withdraw from the EU. For all that the principle of the legal supremacy of parliament was reasserted by the Supreme Court in 2017, in its majority judgement that an Act of Parliament was required to authorise ministers to trigger Article 50, the practical supremacy of the government (exercised through its control of conjoined party and executive hierarchies in Westminster) was evident throughout the passage of the Brexit legislation. In practice, therefore, the theoretical sovereignty of parliament rapidly transmogrifies into the daily routines of, what Griffith (1982:14) revealingly called, executive sovereignty. Indeed, Dicey, the 19<sup>th</sup> century academic jurist widely credited with popularising the notion of parliamentary sovereignty, was well aware that, even by the beginning of the 20<sup>th</sup> century, the 'power of passing any bill whatever' had passed to the 'House of Commons, or, in plain language, *to the majority thereof*' (Dicey [1915] 1982:xli emphasis added). In which case, he maintained that parliamentary government in the UK 'means a very vicious form of government by party' ([1894] cited in Cosgrove 1980:107).

In the 21<sup>st</sup> century, the prescriptions of a legislature-centred mode of decision making intrinsic within the notion of parliamentary sovereignty continue to be used by governments to justify the practices of executive-centred decision making. In looking to the past, this incongruity has been one of the fundamental 'predictabilities' of parliamentary politics. In looking to the future, the predictabilities of the past help us to formulate 'predictable unknowns'. Hence, predictably, governments will continue to legitimise their actions through specific claims to parliamentary authorisation and consent, and through general claims to permissive consent stemming from electoral processes and mandates. The 'unknowns' arise, however, in the short-term at least after June 2017, from the uncertain durability of a minority government (dependent on a 'confidence and supply' agreement with a peripheral party) and the extent to which adversarial and partisan norms in the Commons are permeated, in the absence of clear electoral mandates, by more consensual and more porous policy accommodations in the face domestic, UK, political fluidity and external, EU, negotiating rigidity. In the longer-term, 'unknowns' may be more predictable and arise, first, from the potential restitution of executive ascendancy – asserted by a dominant governing party or parties in parliament (memorably termed 'elective dictatorship' by Lord Hailsham (1978)) – and the extent to which such a return to 'normality' would undermine the very legitimation rooted in the historic principles of consequential parliamentary authorisation and consent. Second, from the sustaining of parliamentary opposition to such ascendancy in an era of party reconstitution (with multi-party and intra-party dimensions). Third, from the degree of erosion to the unifying ideology of Westminster sovereignty powered by nationalist aspirations of sub-state parliaments and governments and their responses to Brexit. Fourth, from the challenges posed by the amplification of populist claims of 'popular sovereignty'. Fifth, from the advancement of 'non-electoral' representative

claims; and, sixth, from the expansion of 'democratic innovations' beyond parliament driven by ideas of direct, unmediated democratic participation and sustained by exponential technological development.

While we make no pretence of knowing the future, we are convinced, along with all the authors of the chapters in this book, that an understanding of parliament – of its functions, roles, puzzles and limitations – is vital to the vibrancy of democracy in the UK. *Exploring Parliament* has provided a guide through what, for many readers, has been unfamiliar political terrain. Future exploration, to return to the words attributed to Einstein, will prospect the unknown; but, with an understanding of parliament's past and present, this should be an exploration of 'the somewhat predictable unknown'. We wish you an enlightened journey into the parliamentary future.

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