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PARLIAMENT IN BRITISH POLITICS

Philip Norton

2ND
EDITION



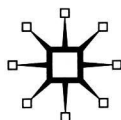
Parliament in British Politics

Second Edition

Philip Norton



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First edition 2005

Second edition 2013

Published by
PALGRAVE MACMILLAN

Palgrave Macmillan in the UK is an imprint of Macmillan Publishers Limited, registered in England, company number 785998, of Houndmills, Basingstoke, Hampshire RG21 6XS.

Palgrave Macmillan in the US is a division of St Martin's Press LLC, 175 Fifth Avenue, New York, NY 10010.

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ISBN 978-0-230-29192-8 hardback
ISBN 978-0-230-29193-5 paperback

This book is printed on paper suitable for recycling and made from fully managed and sustained forest sources. Logging, pulping and manufacturing processes are expected to conform to the environmental regulations of the country of origin.

A catalogue record for this book is available from the British Library.

A catalog record for this book is available from the Library of Congress.

10 9 8 7 6 5 4 3 2 1
22 21 20 19 18 17 16 15 14 13

Printed in China

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Preface

The purpose of this book is embodied in the title. First, it seeks to provide a rich description of the institution of Parliament. It is a distinct and institutionalized body, with its own members, practices and procedures. Though many claim to have an interest in politics, few admit to knowing a great deal about Parliament and how it works. This book provides an introduction to the workings of Parliament in the twenty-first century.

Second, it explains how Parliament serves as key body within British politics. Parliament does not exist in a vacuum. From serving as a largely closed institution, with little opportunity for people to observe or to influence, in a relatively small political community, it has become a much more open institution in what is becoming an increasingly crowded political environment. It has a relationship with a number of bodies that are responsible for making decisions that impact upon the lives of citizens. The principal and most enduring relationship is with government. Much of the literature on Parliament focuses on that relationship. This work encompasses that relationship but goes beyond it. Parliament has a long but increasingly close and demanding relationship with the citizen. My earlier work, *Does Parliament Matter?*, published in 1993, examined how Parliament related both to government and the people. This work extends that study, putting it not only in a more explicit theoretical framework but also within the context of what has been termed the hollowing out of the state.

The determination of public policy is no longer confined to the core executive in the United Kingdom, in other words to the Prime Minister and Cabinet in London. Policy-making powers have become more dispersed, some passing to the institutions of the European Community, now the European Union, some to devolved institutions in Scotland, Wales and Northern Ireland, and some in effect to the courts. This fragmentation of policy-making has created significant challenges for Parliament. This volume seeks to locate Parliament's place within the British polity in the light of what is a dynamic constitutional milieu and to identify how it has responded to the challenges posed by these developments.

The challenges are not confined to those deriving from constitutional change. Parliament has had to cope with a growing volume of legislation and more demands made of Members of Parliament by constituents. Since the first edition of this book was published in 2005, it has had to contend with public opprobrium as a result of the expenses' scandal. The unauthorized publication in 2009 of MPs' expense claim forms revealed inappropriate and in some cases illegal claims; the House of Lords also faced a similar scandal over peers' expenses claims. This came in an era of mistrust and lingering public perceptions of MPs serving not the public interest, but their own.

Parliament has variously sought to adapt to the demands made of it and the changing constitutional and political landscape. It has sought to strengthen itself in its relationship with government, exhibiting a continuing tension between the needs of government to get its business done and the need for members to call government to account. It has attempted to mould its procedures to enable it to respond to the fragmentation of policy-making power, not least in relation to membership of the EU, to devolution, and to the incorporation into UK law of most provisions of the European Convention on Human Rights. The courts have begun to occupy territory that was previously the principal or exclusive preserve of Parliament.

Parliament has undergone significant changes as a result. The first edition sought to draw out those changes. This edition has proved necessary, not least because of what has happened since its publication. The extent of change is significant, but is often not seen beyond the confines of Westminster and Whitehall. It is masked to some degree by the continuing ceremony that retains symbolic importance, such as the State Opening of Parliament. Stories about the House of Lords are regularly accompanied by pictures of peers in robes at State Opening, an abiding image for many but one that conveys nothing about the work of the House as an integral part of Parliament. Both Houses are among the busiest legislative chambers in the world, but few appreciate how each works and its role in the polity.

This volume, then, seeks to make sense of where Parliament is today within the nation's constitutional and political framework and how it got to where it is. It concludes by looking at the debate as to where it should be going, or rather where each House should be going. Parliament is one legal entity, but comprises of two distinct Houses. It thus distinguishes the role of each.

In writing this new edition, I have retained the basic framework of the original, but adapted it to take account of recent changes. In particular,

greater space and emphasis is given to how Parliament has sought to adapt to the hollowing out of the state. I have utilized a mix of quantitative and qualitative sources and drawn as far as possible on the most recently available data. I have also utilized my position as a participant-observer to inform the analysis. I have tried to ensure that, within the overall coherence of the work, each chapter is as self-contained as possible in order to enhance the utility of the work, enabling readers to look independently at particular aspects of Parliament and students to utilize chapters as appropriate for class assignments.

In preparing this new edition, I have incurred various debts, not least to Steven Kennedy of Palgrave Macmillan, whose gentle reminders that a new edition was necessary ensured that the work was completed. I have benefited greatly, as will be apparent from the text, from the data produced by Parliament, not least the library of each House. I have also appreciated greatly the willingness of parliamentary colleagues – both members and officials – to share with me their knowledge and experience.

As always, responsibility for any errors, omissions or distorted interpretations rests solely with me. I am always pleased to receive comments from readers. My work has variously been informed by feedback from my students and from less captive audiences.

PHILIP NORTON

University of Hull

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Parliament in Perspective

It is common for a country to have a legislature – a body created to approve measures that will form the law of the land. Legislatures exist under a variety of names, of which National Assembly is the most popular (Loewenberg 2011, p. 18). Some use the term Congress, Parliament or Legislative Assembly. Others use terms specific to their language. In the United Kingdom, and in Commonwealth countries influenced by British experience, Parliament is preferred.

Two assumptions inform contemporary perceptions of legislatures (Norton 1990a, pp. 3–5). One is long-standing: that is, that legislatures exist to make law. The second, deriving from the late nineteenth century, is that legislatures are in decline.

The first perception derives from the very name *legislature*. *Legis* is the genitive of *lex*, meaning law; *lator* means carrier or proposer. A *legislator* was therefore someone who carried law. Legislatures have thus, by definition, been treated as bodies for carrying, or making, law. ‘The legislative’ declared John Locke in his *Second Treatise on Government* in 1689, ‘is no otherwise legislative of the society but by the right it has to make laws for all parts and for every member of society, prescribing rules for their actions, and giving power of execution where they are transgressed’ (Locke 1960). Baron de Montesquieu, in *The Spirit of Laws* published in 1748, a work that was to have a powerful influence in America, similarly defined legislative power as that of enacting temporary or perpetual laws, and the amending or abrogating of those already made (Montesquieu 1949). Law was thus created by legislatures. It was the very task that gave them their name and justified their existence.

The second assumption has existed for more than a century. Various nineteenth-century scholars, such as the English journalist Walter Bagehot (1867) and the American academic A. Lawrence Lowell (1896), identified the likely consequences for legislatures of the growth of party. However, it was to be a twentieth-century work by the scholar-statesman Lord Bryce that popularized the perception of decline. In *Modern*

Democracies, published in 1921, Bryce titled Chapter 58 'The Decline of Legislatures'. In the following chapter, he identified five 'chronic ailments' that had undermined representative assemblies, with party as the principal ailment. Though Bryce qualified his assertion, the notion of decline became associated with his work. It is one that has found a resonance in the subsequent study of legislatures.

The decline of legislatures

That there should be a perception of decline is not surprising. In the nineteenth century, legislatures grew in number and political significance. This growth in significance was not uniform, however; some countries, such as Germany, witnessed no 'golden age' of parliament. However, such countries were exceptional. Parliamentaryism was a feature of the century (Sontheimer 1984). Yet no sooner had this condition been reached than it began to deteriorate. Legislatures were unable to withstand the various pressures favouring executive dominance in the formulation and determination of public policy.

Industrialization generated an increasingly urban population with no political voice. Pressure for such a voice was to result in the widening of the franchise and the growth of political parties. In Britain, for example, the 1867 Reform Act – which increased the size of the electorate by almost 90 per cent – spurred the creation of mass-membership parties. Parties served to aggregate the demands of an electorate that lacked the willingness and the sophistication to consider the merits of individual candidates. Parties were beholden to electors for their success, and successful candidates owed their position to the party label. Continued party success came to depend on parties being able to implement promises made to the electorate. Implementation of such promises depended on party loyalty in the legislature. Scope for independent action by the elected members was squeezed out.

The party thus came to dominate the electoral and parliamentary processes. The party chose the candidates, raised the money to fight elections, and set the agenda. Party leaders occupied the central positions of government and decided what measures were to be laid before the legislature for approval. Party thus ensured that the site of policy-making – of crafting coherent measures of public policy – was the executive, not the legislature.

Industrialization had a further effect. Not only did it generate a mass franchise, it also resulted in a more specialized society. Interests became