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PARLIAMENT IN BRITISH POLITICS

Philip Norton

**2ND
EDITION**



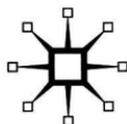
Parliament in British Politics

Second Edition

Philip Norton



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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

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Contents

<i>List of Figures and Tables</i>	x
<i>Preface</i>	xii
1 Parliament in Perspective	1
The Decline of Legislatures	2
The Paradox of Legislatures	4
The Power of Legislatures	5
The Functions of Legislatures	7
Explaining Parliament in Britain	12
Parliament and government	12
Beyond Whitehall	13
Parliament and citizen	14
The issue of reform	14
2 The Development of Parliament	16
The House of Commons	17
Origins	17
Early functions	18
Sixteenth to eighteenth centuries	19
The nineteenth century	20
The twentieth century	22
Recent changes	23
The House of Lords	36
Reform: powers	37
Reform: composition	38
The changing nature of the House	40
The Changing Constitutional Environment	45
Conclusion	46

PART 1 PARLIAMENT AND GOVERNMENT

3 Recruiting Ministers	51
Ministers in Parliament	51
The Shift to the Commons	52
Growth in Numbers	54
Consequences for Ministers	55
Ministerial recruitment	55
A training ground	58
Wider consequences	60
Parliament	61
Career attractiveness	61
Stability in membership	62
Proximity to ministers	62
Socialization	63
Government	64
Control	64
Ministerial selection	65
Legitimation	66
Conclusion	67
4 The Making of Public Policy	69
The Policy-Making Process	70
Initiation	72
Formulation	75
The Impact of Parliament: Decision-Making	77
Agenda setting	77
Initiating legislation	78
Pre-legislative scrutiny	82
The Impact of Parliament: Anticipated Reaction	84
The Impact of Parliament: Institutional Constraints	86
Conclusion	87
5 Legislation	89
Legislative Process	89
The House of Commons	89
House of Lords	94
Private members' bills	96
Private legislation	97
Secondary legislation	98
Post-legislative scrutiny	100

The Effect of Parliament?	101
Saying no to government	101
Persuading the government	105
Institutional constraints	108
Conclusion	109
6 The Administration of Government	111
Inside the Chamber	111
Debates in the Commons	111
Debates in the Lords	119
Question Time	121
Outside the Chamber	126
Select committees	126
House of Lords	134
Back-bench and all-party groups	136
Meetings and correspondence	138
Impact?	139
Limitations	139
Strengths	142
Conclusion	147
PART II BEYOND WHITEHALL	
7 Parliament and the European Union	151
Membership	152
The House of Commons	153
European Scrutiny Committee	153
European committees	155
Floor of the House	156
Select committees	157
The House of Lords	157
The European Union Committee	157
The floor of the House	160
External Links	160
Lisbon Treaty and the Yellow Card Procedure	161
Parliamentary Adaptation	162
Conclusion	165
8 Parliament and Devolution	167
Whitehall and Westminster	169
Scrutiny	171

Inter-Parliamentary Contact	174
Parliamentary Adaptation	175
Internal challenges	176
The West Lothian Question	177
Conclusion	180
9 Parliament and the Courts	182
Human Rights Act	184
The Joint Committee on Human Rights	187
Parliamentary Adaptation	192
Conclusion	194
PART III PARLIAMENT AND CITIZEN	
10 Representing the People	199
Acting on Behalf of Some Individual or Group	200
Freely Elected	206
Socially Typical	211
Symbolic	215
The Challenge to Legitimacy	216
11 The Voice of Constituents	219
The Changing Nature of Constituency Demands	219
MPs' Responsiveness	224
Effects	227
Government	227
MPs	228
Constituents	233
Conclusion	237
12 Speaking for Different Interests	240
The Role of Party	240
The Impact of Groups	243
Explanations of Change	246
Interest groups	246
Government	250
Parliament	251
Consequences	253
Benefits	253
Limitations	256
Conclusion	259

13 Reaching the Public	263
Lack of Contact	264
Developing Links	265
More openness	265
Specialization	268
Use of the Internet	269
Consequences	273
The positive impact	273
Limitations	275
Conclusion	278
14 The Reform of Parliament	280
Explaining Reform	281
Reforming the Commons	283
Reforming the Lords	285
Reforming Parliament	288
Conclusion	294
<i>Further Reading</i>	295
<i>Bibliography</i>	299
<i>Index</i>	323

List of Figures and Tables

Figures

4.1	The policy-making process	72
11.1	Satisfaction with Parliament and MPs	235
11.2	Trust in MPs	235
14.1	The functions of the UK Parliament	289

Tables

1.1	Packenham's legislative functions	10
2.1	The changing membership of the House of Lords, 1999–2012	40
3.1	Number of government ministers in Parliament, 1 August 2012	55
4.1	Types of legislatures	69
4.2	Private Members' Bills, 2005–10	80
4.3	Private members' bills passed, 2009–10 session	80
4.4	Draft bills subject to parliamentary scrutiny, 2010–12 session	83
5.1	Legislative stages in Parliament	90
5.2	Government bills, 2005–10	102
5.3	Government defeats in the House of Lords, 1999–2012	104
6.1	Opposition days, 2008–9	113
6.2	Estimates days, 2008–10	114
6.3	Sittings in Westminster Hall, 18 April 2012	116
6.4	Government substantive motions, 2008–10	118
6.5	Number of questions tabled, House of Commons, 2005–10	124
6.6	Number of questions tabled, House of Lords, 2005–10	125
6.7	Departmental select committees, 2010–12	127
6.8	Subjects covered by selected select committees, 2010–12	128
6.9	Number of departmental select committee reports, 2005–10	130
6.10	Non-departmental investigative select committees, 2010–12	131

6.11	Investigative select committees in the House of Lords, 2012–13	135
7.1	European Committees, House of Commons	156
7.2	Sub-committees of the House of Lords European Union Committee 2012–13	158
8.1	Reports by the Scottish, Welsh and Northern Ireland Affairs Select Committees 2010–12	173
9.1	Members of the Joint Committee on Human Rights, Session 2012–13	188
9.2	Reports from the Joint Committee on Human Rights, Session 2010–12	189
11.1	Influences on MPs' roles as representatives: MPs' evaluations	230
11.2	The most important role of MPs: MPs' evaluations	231
11.3	Evaluations of local MPs	234

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