

The slow death of the 'Efficient Secret'

*The rise of MP independence,
its causes and its implications*

Scott Kelly

THE
CONSTITUTION
SOCIETY



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AND ITS IMPLICATIONS*

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About the author

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Executive summary

In 1865 the growing dominance of the party system in Parliament prompted Walter Bagehot to proclaim that a 'nearly complete fusion of executive and legislative powers' was the 'efficient secret' of the English constitution. Today, the growing rebelliousness of MPs has now reached a point where even a Government with a secure parliamentary majority can face defeat in a Commons vote.

While the trend of growing rebellious amongst MP from all the main parties has been thoroughly analysed, the reasons behind it have not. What has rarely been examined is how the 'professionalisation' of the job of MP and, in particular, the growing focus on constituency work, has impacted on how MPs perceive their role and their relationship to their party.

It is clear that the growth in constituency work has increased the incumbency advantage enjoyed by sitting MPs and that this, together with the rise in the number of 'safe' seats, means that there is no reason for the great majority of MPs to believe that their fortunes are inextricably linked to that of their party. Moreover, there is some evidence that MPs no longer neatly compartmentalise national policy considerations and constituency work and local concerns can impact on the policy positions taken at Westminster.

These developments have implications for constitutional principles, in particular that of ministerial accountability. As MPs come under increasing pressure to make policy commitments

to their constituents, it is becoming more difficult for them to reconcile these commitments with the requirement to take responsibility for all the policies and actions of the Government when they are appointed as a Minister. A formal process by which Ministerial appointments were approved by Select Committee would help to address this issue. Select Committee hearings would provide a forum in which newly appointed Ministers could address the question of how their appointment affects previous commitments they may have made to their electorate.

The weakening of the party system and the rise of MP independence is also making it increasingly difficult to reconcile the dual functions of a vote cast at a general election – to choose an MP and a Party of Government. The result is a growing accountability gap. Reforms designed to give constituents greater involvement in the selection and, equally importantly, the reselection of candidates through open primaries would give electors an opportunity to pass judgement on their representatives in a way that is distinguished from their vote at a general election.

Introduction

In March 2009 I witnessed a powerful if rather bizarre example of the stranglehold that the party of Government can hold over Parliament. At the beginning of the fifteenth sitting of the Bill Committee scrutinising the Apprenticeship, Skills, Children and Learning Bill, on the morning of 26th of March, something unusual happened. Some Labour members, including a Minister, were late arriving at the Committee, and as a result the Conservative and Liberal Democrats enjoyed a temporary majority. Presented with an opportunity to embarrass the Government, the opposition defeated three Government amendments to the Bill.¹ All the amendments were of a technical nature and could easily be reintroduced at a later stage of the Bill proceedings. However, this didn't prevent a late coming Government Minister and the Government Whip on the Committee from receiving a public dressing down from a senior Labour Whip in the Committee Corridor. As an apparent punishment for their negligence, the length of the sixteenth and, in the event, final sitting of the Committee was greatly extended. The Committee resumed their considerations at 1pm only to conclude them nearly 24 hours later – at 12.15 pm on the 27th of March.

The all-night sitting of the Bill Committee was a graphic demonstration of the power of the Government to force its legislative agenda through Parliament. Even the most minor setback can result in the Whips Office administering harsh

1 Public Bill Committee Debate, 26/3/09 c.607–9.

punishment on unfortunate MPs. But although the British Parliament remains characterised by party control, some commentators have begun to notice cracks emerging in the exercise of this power.

Over the last forty years there has been a rise in the number of occasions MPs have been willing to defy the Party Whips and vote against the Government. This trend, which has its origins in the turbulent decade of the 1970s, has now become a significant factor in understanding the relationship between the executive and Parliament. Under the current coalition government and its immediate Labour predecessor, parliamentary rebellion has not only chipped away at the authority of the Cabinet, it has also limited the government's ability to deliver its legislative agenda, something which has not been the case since the formalisation of the party system in the 19th century.

It was in the wake of the Great Reform Act of 1832 that general elections became perceived primarily as choices between competing prospective governments, rather than as a way of selecting local representatives, campaigning for election on their individual merits. This change can be seen in the way voting behaviour was transformed through the mid-19th century. The rise in party-orientated voting can be discerned in the declining frequency with which voters split their votes in the double-member districts that existed at the time. According to analysis by Gary W. Cox, while a quarter of all electors split their votes between the main parties in the double-member districts in 1847, by 1868, the year after the Second Reform Act, only 5.5% did so.²

2 Gary W. Cox, *The Efficient Secret: The Cabinet and the Development of Political Parties in Victorian England*. Cambridge, Cambridge University Press, 2005.

In the eighteenth century the Cabinet was principally an executive body, with Ministers responsible for the administration of government and for legislative measures, chiefly concerning revenue and tax, necessary to conduct these duties. Legislative initiatives regarding general public policy were seen as a matter for Parliament as a whole and normally introduced by private members. The rules of parliamentary procedure gave little preference to Ministers. It was the growing power of party that enabled the Cabinet to gain control of the legislative agenda. By 1865 Walter Bagehot was able to confidently proclaim that the 'nearly complete fusion of executive and legislative powers' in the Cabinet was the 'efficient secret' of the English constitution.³

While the trend in the growing rebelliousness of MPs has been well analysed, the forces that drive this phenomenon have not. A fuller understanding of the rise of MP independence points to it having constitutional implications that are likely to grow in significance over time.

3 Ibid.

The rise of parliamentary rebellion

In the immediate post-war era, Back-bench rebellion was rare to the point of being almost non-existent. There were two sessions in the 1950s when no Conservative MP defied the Whips and voted against the Government.⁴ Yet by the beginning of the 21st century, Whips could no longer rely on the compliance of MPs. In the 2001–05 Parliament Labour MPs defied their Whips on 259 occasions. The vote on the Iraq war in March 2003 saw the biggest single rebellion with 139 MPs voting against the Whip.⁵

Since 2005 rebellion has had an even greater impact, not just exposing divisions within the ranks of back-benchers, but submitting Governments to embarrassing and damaging defeats. In November 2005 the Labour Government was subjected to two defeats at the Report Stage of the Terrorism Bill. Since then what was once hardly thinkable has become an accepted part of the political landscape – that Government's with secure parliamentary majorities can be defeated in Commons votes.

In the first three years of the current coalition Government there were rebellions by Government supporting MPs in 39% of divisions, a rate that beats the previous post-war high of

4 Philip Norton, *Dissension in the House of Commons: Intra-party Dissent in the House of Commons Division Lobbies, 1945–74*, Basingstoke, Palgrave Macmillan, 1975.

5 Philip Cowley 'Making Parliament Matter?' in Dunleavy, Heffernan, Cowley and Hay *Developments in British Politics 8*, Basingstoke, Palgrave Macmillan, 2006.

28% in the 2005 Parliament.⁶ Rebellion has also caused the coalition to make fundamental changes to its policy agenda. A rebellion by Conservative MPs forced the coalition to drop its plans to for House of Lords reform. Two significant rebellions by Conservative MPs in October 2011 and October 2012 played probably a decisive role in forcing David Cameron to commit to a referendum on Britain's membership of the EU if the Conservatives form the next government alone.

However, the most significant rebellion to date occurred in August 2013 when 61 Conservative MPs refused to vote for a Government motion supporting the principle of an airstrike on Syria. The motion was defeated by 285 votes to 272. The Government was forced to back down, triggering a chain of events that lead to the American administration abandoning plans to intervene in the Syrian Civil War.

It would be tempting to attribute the recent spate of Parliamentary rebellions to the inherent tensions in a coalition government or to the non-collegiate and 'presidential' nature of the Blair administration. But the roots of rebelliousness go back further, to the 1970s, first the Conservative Government of Edward Heath and then the two periods of minority government (1974 and 1976–79) which produced more defeats for the Government than had happened since the beginning of the modern party system in the 1860s.⁷ It was during this turbulent decade that MPs became increasingly aware of their power to inflict defeat on the government and became less deferential in their attitude towards the Whips.

6 Philip Cowley and Mark Stuart, *Cambo Chained: Dissension Amongst the Coalition's Parliamentary Parties, 2012–13*, The University of Nottingham, 2013.

7 Philip Norton and David M. Wood, *Back from Westminster: British Members of Parliament and Their Constituents*, Kentucky, the University of Kentucky Press, 1993.

Beyond the particular circumstances of the time, explanations of the growing independence of MPs in the 1970s have focused on either the changing class backgrounds of MP, or on the 'poor leadership' of Prime Ministers, particularly of Edward Heath, who was seen as remote figure, rarely taking the time to listen to the concerns of his Conservative colleagues in the tea-room.⁸

What has rarely been examined is how the growing constituency role of MPs and the increasing 'professionalisation' of the job of being an MP has impacted on how MPs see their role, particularly its relationship with their party. This lack of consideration is surprising, given that these changes date from precisely the same period as the rise of MP independence, the 1970s.

8 Norton, Op. Cit.

The professionalization of politics

In his book 'The Triumph of the Political Class' Peter Osborne articulates what is perhaps the view of many when he writes that 'turning politics into a specialised profession... has cut the House of Commons off from the British People.'⁹ Yet, by any objective measure, the opposite is true. The emergence of the professional politician from the 1960s onwards has actually facilitated a process by which MPs have become much more engaged with their constituents than was ever previously the case. By the 1970s the traditional view of an MP as a remote figure, who would only visit their constituency on rare occasions, was becoming increasingly out of date.

Given how much time an MP now typically devotes to constituency work it is notable that this is a relatively recent phenomenon. A study by Dowse in 1963 found that only 37% of responding MPs held a surgery in their constituency on a regular basis, with a fifth of MPs holding no surgeries whatsoever. 16 years later, an updated study found that only 'a corporal's guard' did not hold surgeries on a regular basis. In 1963 only one third of MPs held surgeries at least every two weeks, whereas well over half of respondents in 1979 did so.¹⁰

9 Peter Osborne, *The Triumph of the Political Class*, London, Simon & Schuster Ltd, 2007.

10 Cain, Ferejohn and Fiorina, 'The Constituency Service Basis of the Personal Vote for U.S. Representatives and British Members of Parliament', *The American Political Science Review*, Vol. 78, No. 1, March 1984, pp. 110–125.

Today, MPs are likely to live in their constituencies and to maintain a staffed office there. A survey in 2004 found that MPs on average spend 14.7 hours a week on case work.¹¹ In addition, many MPs attend events in their constituencies on a weekly basis and make a point of being seen around and about in their 'patch'. Most MPs spend at least three days a week in their constituencies, sometimes more. Parliament is virtually an 'MP free zone' on Fridays, even when the House is sitting, and many MPs only arrive back in London on Monday evenings, just in time for any divisions.

The volume of correspondence from constituents received by MPs has also grown enormously. A study in the 1950s, found that MPs received around 12–20 letters a week, by 1967 this figure had risen to 25–75. By 2003, Philip Norton found that MPs received 15,000 actual letters a year. This annual figure equates to 288 letters a week, and this does not include email correspondence or social media, the use of which has grown rapidly.¹² Younger MPs are often seen wondering the corridors of Westminster with their heads down, staring at emails or their twitter feed on their smart phone.

11 Oonagh Gay, 'MPs Go Back to Their Constituencies', *The Political Quarterly*, 2005, pp. 57–66.

12 Philip Norton, *Parliament in British Politics*, Basingstoke, Palgrave Macmillan, 2005; Philip Cowley 'Making Parliament Matter?' *Op. Cit.*

The rise of the incumbency factor

Studies focused on the growing constituency role of the MP have noted that MPs have come to see constituency service as the most important aspect of their job. A survey of MPs elected in the 1997 election found that 86% ranked 'being a good constituency member' as their most important role. This compares with just 13% who thought 'checking the executive' was most important.¹³ One significant reason for this focus on the constituency is that MPs have increasingly come to believe that that they receive an electoral reward for the service they provide. This advantage is often termed as a 'personal vote' but it is more accurately described as an 'incumbency factor' as it describes the possible advantage accrued by any sitting MP as a result of active service.

Back in 1963 only 32% of respondents to Rowse's survey believed that constituency service resulted in an electoral payoff. By the time of a similar survey in 1979, 83% (53 of 63 respondents) thought that it definitely had a positive effect. In fact, in 1979 all but one MP believed that constituency work had at least a limited effect. As the authors of the study note 'this response distribution is virtually the same as that for Members of [the US] Congress.'¹⁴

The evidence also suggests that MPs are right in thinking that their constituency work can make a difference at the ballot box. Prior to the rise of the constituency-focused MP in the 1970s, most studies of the incumbency factor in the UK estimated that

13 Philip Cowley Ibid.

14 Cain et al. Op. Cit.

the effect was small, typically around 0.5% of the vote.¹⁵ By the end of the decade the Nuffield General Election studies were noting that the incumbency factor was increasing. The 1979 Nuffield Election study estimated that Labour MPs had enjoyed an incumbency advantage that equated to 1.5% of the vote, with between seven and ten Labour MPs being saved from defeat as a result.¹⁶

But, rather than either of the two main parties, it is the Liberal Democrats who have gained most from incumbency, reflecting the success of a strategy that has focused on constituency work and local connections, often referred to as 'grass-roots' politics. Timothy Hallam Smith has calculated that Liberal Democrats have enjoyed an incumbency advantage of up to 15% of the vote. As he notes 'in several of the elections in the 1980s and the 1990s, it would indeed have been easier to have defeated a US member of Congress, where the incumbency advantage is an accepted fact of political life, than an incumbent Liberal Democrat MP.'¹⁷ This huge advantage garnered by the Liberal Democrats appears to have shrunk slightly in recent elections, perhaps reflecting the way the two main parties have caught up with Liberal Democrat practice.

Of the two main parties, Labour incumbents have enjoyed greater advantages than Conservatives, with Labour MPs enjoying an advantage in most elections of up to 2.5%. By contrast Conservatives enjoyed an advantage no greater than 1% in elections up to and including 1997. This possibly reflects a

15 Timothy Hallam Smith, 'Are you sitting comfortably? Estimating incumbency advantage in the UK: 1983–2010 – A Research Note', *Electoral Studies*, Vol. 32, No. 1, 2012, pp. 167–173.

16 David Butler and Dennis Kavanagh, *The British General Election of 1979*, Basingstoke, Macmillan, 1980.

17 Timothy Hallam Smith, *Op. Cit.*

greater reluctance in the past on the part of many Conservatives MPs to devote more time to constituency work. There is some evidence that this was the case. A study by Barker and Rose in 1970 found that Labour members were more likely to emphasise their 'welfare officer' role than their Conservative colleagues, particularly the older ones. Since 1997 the performance of Conservative incumbents has improved, suggesting that they are catching-up with Labour and the Liberal Democrats. In the last three elections Conservatives have enjoyed an incumbency advantage of up to 1.8%.

In spite of this improvement, it is possible to conclude that the Conservatives have paid an electoral price for not being sufficiently focused on constituency work in the past and that this is at least a contributing factor to the electoral disadvantage they now face. Whether or not this is the case, the incumbency effect is now strong enough to make an impact on the result of a General Election and is likely to continue to be so unless there is a significant realignment of votes. Hallam Smith has calculated that without the incumbency effect the Conservatives might have won a net extra eleven seats in 2010, leaving the party within touching distance of an overall majority.¹⁸

18 Ibid.

The impact on policy of the constituency-facing MP

Although there is strong evidence that, thanks to the incumbency effect, an MP's fortunes are less tied to that of their national party than in the past, there has so far been little investigation of how this tendency may impact on their behaviour in Westminster. The most substantial study so far, by Norton and Wood, was published in the early 1990s and concluded that the growth in constituency work has had little impact on MPs' behaviour on the national stage. The authors determined that the modern MP is a 'two-faced professional', writing that 'the representative must to a considerable extent compartmentalise the national and constituency-based concerns and even be prepared to act within the two spheres in ways that are mutually contradictory.' Whereas the modern MP's strategy for 'climbing the greasy pole' in Westminster may be policy-based, building their reputation as a constituency representative is founded on being a good service provider, primarily through casework.¹⁹

Norton and Wood argue that there is little intermingling between the constituency and Westminster roles of MP, with these roles remaining tightly compartmentalised. In reaching this conclusion they studied interview data from 1983–84 to see if there was evidence to suggest that MPs' views on macroeconomic and microeconomic policy differed. In other words, if the specific needs of their constituency meant that MPs tended to take a view

19 Philip Norton and David M. Wood, Op. Cit.

on policy towards specific industries that differed from their national economic stance.

The analysis Norton and Wood present suggests that there is little impact of local concerns on microeconomic policy perspectives of MPs from the two main parties, although they do conclude that for Labour MPs 'there is more of a tug-of-war going on between universalistic macroeconomic perspectives and particularistic constituency-oriented perspectives in determining from what standpoint MPs will approach microeconomic policy issues.'²⁰ Norton and Wood suggest that this may be because the Labour Party was in a period of transition at the time and that its macroeconomic policy stance was shifting. However, it may also result from Labour MPs being ahead of Conservatives in their understanding of the political importance of constituency representation. The evidence on the extent of the personal vote strongly suggests that it is the Conservatives who have been slowest to build a significant local differential, and have paid an electoral price as a result.

But the role of ideology in enabling MPs to present a consistent stance on issues should not be underestimated. As Norton and Wood note, the Conservative MPs held consistent macroeconomic and microeconomic positions in the early 1980s because they 'had developed a spectrum of relatively coherent policy stances in the process. These could be help with sufficient conviction that Conservative MPs need not be troubled by seeing inconsistencies between their approaches to their jobs at Westminster and the needs of their constituencies.'²¹

Much has changed in the twenty years since Norton and Wood published their study. Not only has the importance of the

20 Ibid.

21 Ibid.

constituency role continued to grow but opposing candidates in key seats often also spend a considerable time 'working' a seat before an election. The Conservatives deliberately selected candidates in winnable seats early in the 2005 parliament. As a result the new Conservative MPs elected in 2010 are more rooted in their constituencies than their predecessors, a factor that may help to explain why the new intake has been more rebellious and less beholden to the Party machine.²² Of the 148 Conservative rebels in the first three years sessions of the current parliament, 90 – six in ten – are from the 2010 intake.²³

Another significant change is that ideology has come to play a much less prominent role in British politics. National campaigns have become increasingly focused on the factors of leadership and general competence rather than on broad policy objectives linked to ideological stances. In political science terms, there has been a shift from 'position' politics based on a choice between stark alternatives on issues such as nationalisation and retention of nuclear weapons, to 'valence' politics where fundamental aims, such as the retention of the NHS are agreed, but politicians disagree about the best way to manage and get the most out of these services.²⁴

While it would be wrong to write off the significance of ideology in present day politics – it has arguably made something of a comeback since the financial crisis – it does not provide the robust organising framework it once did. Norton and Wood based their conclusions on analysis of research conducted in the early 1980s, a time when the ideological division between the

22 The Economist, 'Why Backbench MPs are becoming so much harder to control, 27/10/12.

23 Cowley and Stuart, Op. Cit.

24 Vernon Bogdanor, *The New British Constitution*, Oxford, Hart Publishing, 2009.

two main parties were perhaps at their greatest. For anyone who remembers the heightened political atmosphere of the time, it is possible to imagine that policy stances were held with sufficient conviction to override all other considerations. Subsequently, it could well be that the weakening of the ideological divide between the two main parties has allowed other factors, such as local concerns, to become of greater significance in national debates.

Although updating Norton and Wood's research is beyond the scope of this study, there is some evidence, at least in national politics, of a growing divergence of macroeconomic and microeconomic policy objectives, reflecting a growing recognition of the importance of local concerns in determining electoral outcomes.

One of the alleged benefits of party control in the Westminster system is that there is little scope for 'pork barrel politics' in which government spending is directed at a representative's constituency in return for their political support. Although British politics remains refreshingly free of this type of horse-trading, there have been allegations that both the current coalition government and its immediate predecessor have channelled spending to particular areas in order to garner support from voters, if not local MPs.

Recently, the Chief Secretary of the Treasury, Danny Alexander, has been accused of using public funds to fight off the challenge from Labour and the Scottish Nationalists in his Inverness constituency. He has approved funding for a tourist railway in the Cairngorms, ski lifts in the same area and a bail-out for the London to Scotland sleep train.²⁵

25 Financial Times, 14/7/14.

However, the Liberal Democrats have also accused the Conservatives of a similar strategy after the Prime Minister and the Chancellor pledged £2 million to rebuild Eastbourne Pier, less than a week after it was partially destroyed by fire. Eastbourne is a marginal Liberal Democrat seat that they won from the Conservatives in the 2010 election. David Cameron and George Osborne were accompanied by the Conservative candidate for Eastbourne when they made the announcement.²⁶

Allegations of Ministers approving spending because it is of political benefit has implications for collective responsibility, a subject that will be turned to in the next section. Despite being Chief Secretary and responsible for overseeing public spending, Danny Alexander reportedly did not know of the plan to pledge money to rebuild Eastbourne pier.²⁷ It also suggests a growing distinction between macroeconomic and microeconomic political objectives in the minds of politicians that may also be observable at the level of the individual MP. Recent pledges for support for specific projects that could be seen as politically beneficial have been made against a backdrop of macroeconomic policy focused on retrenchment and spending cuts.

Another significant change since Norton and Wood conducted their research has been the growing impact of communication by email and social media on the relationship between MPs and constituents. The immediacy of modern communication makes it more difficult for MPs to compartmentalise their constituency and Westminster roles effectively. It was notable that in the days running up to the vote on intervention in Syria in August 2013 MPs were inundated with phone calls and messages from constituents opposing any action. Several MPs, in particular

²⁶ Financial Times, 1/8/14.

²⁷ Ibid.

those who opposed intervention, mentioned the views of their constituents in the debate.

One independently minded Conservative MP, Zac Goldsmith, tweeted the day before the vote that he was 'Grateful for all the emails I'm receiving from constituents about Syria. Unlike so many cut-and-paste jobs, they are authentic and heart-felt.'²⁸ It is also a growing practice amongst MPs to survey their constituents' views on important issues of public policy as a way of gauging the balance of opinion in their area. At least one MP contacted constituents who had written to him about Syria, to ask if they supported or opposed intervention.

28 The New Yorker, 29/8/14.

The rise of safe seats

While MPs in marginal constituencies may feel under increasing pressure to respond to the policy demands of their constituents, at the opposite end of the spectrum there is also a growing band of MPs who feel so secure in their position that they do not fear the party whips. An important explanatory factor behind the rise of MPs independence is that number of safe seats has risen significantly. Over the last forty years there has been a regional polarisation of support for the two main parties in Britain. The Labour areas have become more Labour and the Conservative areas more Conservative. There are many factors that help to explain this phenomenon and the incumbency factor may well be part of the explanation. As a result, the number of seats liable to change hands between the two main parties has fallen considerably. According to Curtice, Fisher and Ford, up until the February 1974 election there were routinely 150 seats that could be classed as marginal. This was almost enough to ensure that 3% of seats would change hands on a 1% swing. However, by 2010 this figure had fallen to just 85 seats, meaning that only about 1.5% of seats would change hands on a 1% swing.²⁹

The most obvious impact of this change in electoral arithmetic is that it makes hung Parliaments and coalition government much more likely than in the past. But it also means that individual MPs no longer have good reason to believe that their own electoral fortunes are inextricably bound to that of their parties.

29 Dennis Kavanagh and Philip Cowley, *The British General Election of 2010*, Basingstoke, Palgrave Macmillan, 2010.

Whereas once a small national swing against a party could have a devastating impact on the electoral fortunes of a significant percentage of MPs, this is not currently the case. As a result, an appeal to unity by leaders is less likely to have an impact than in the past as most MPs do not perceive their own position to be in peril.

The decline in marginal seats in Britain resembles the trend in America where there has also been a decline in what are known as 'swing districts.' Although the US Congress has long been far more independent of the executive than the British Parliament some commentators have argued that the decline in swing seats helps to explain why compromise has gone from being merely difficult to nearly impossible in the US. Legislators simply do not have an electoral motivation to compromise, and many fear reprisals if they do.³⁰

In the UK, it can be seen that there is an increasing 'hard core' of MPs, particularly visible on the right of the Conservative Party, that are immune from party control. Of the ten most rebellious MPs in the current parliament, nine are Conservatives, headed by a group of three – Philip Hollobone, David Nuttall and Philip Davies – who have all rebelled more than 100 times in three years. Both Hollobone and Davies are well established MPs, and all three are uninterested in preferment and therefore beyond the control of the party whips. It has been claimed that an awareness of the potential problem of an unruly group of backbenchers was a motivation behind David Cameron's decision to seek a full Coalition with the Liberal Democrats, rather than try to form a minority Government. Essentially, Cameron may have wanted a counter-weight in Parliament to his own intractable right-wing.

30 Nate Silver, 'As Swing States Dwindle Can a House Divided Stand?', New York Times Blog, 27/12/12.

However, as the experiences of the Blair and Brown Governments testify, this phenomenon of a growing hard core of rebels is not confined to one party. Leaders of both major Parties are faced with the problem that an increasing number of their backbenchers cannot be 'bought off' with the promise or enticement of advancement or easily removed from their seats.

The constitutional impact of the rise of MP Independence

The above discussion has clearly shown that the established view of a fusion of powers between the executive and Parliament is out of date. Clearly, the Cabinet cannot dictate to Parliament or take support for its legislative agenda for granted. However, as Vernon Bogdanor has argued, Bagehot's notion of a complete fusion of powers was always overstated, neglecting the distinct roles that the executive and Parliament play in the making of public policy. While the executive formulates legislation, Parliament has a distinct role in scrutinising it, retaining the power to reject or amend legislation if it so chooses. MP independence has not transformed but rather intensified this pre-existing separation of powers between government and Parliament.³¹ The exercise of renewed Parliamentary strength has not been founded on the establishment of new powers; rather it has been based on the more active use of powers that were already at its disposal.

However, it should not be concluded that the rise of MP independence is of little or no constitutional significance. If the growth in independence were simply the result of a loosening of the grip of party control, then it would be possible to argue that it represented a redistribution of power within an established system. But the rise in MP independence is much more than shift in the balance of power within the political elite. MPs are increasingly responding to pressure from their constituents

31 Vernon Bogdanor, *Op. Cit.*

to challenge Government policy. The changing nature of the relationship between MP's and their constituents has implications for important constitutional principles, the impact of which is likely to grow over time.

While Bagehot may have overstated the extent of the fusion between the executive and legislative branches, a fusion between a vote for an individual candidate and the party they represent has been a fact of political life since the late 19th century. By the mid-twentieth century it could be confidently written that an individual candidate was almost completely dependent on the fortunes of the national party for their success or failure.³² However, since the 1970s, MPs have come to increasingly believe that their success is based on their own, rather than their party's, performance. As a result the impact on them from 'pressure from above' – from the national party as exerted via the Whips Office – has decreased, while 'pressure from below' – from constituents – becomes more significant.

As has been examined, there are good reasons to conclude that this pressure extends beyond that to be a good constituency worker. First, MPs are being exposed to greater pressure from constituents to vote a certain way in important divisions. Secondly, though constituents may not be aware of the individual voting record of their MP, they are often aware of their representatives stance on the issues they consider most important, either because they have a disproportionate impact on the locality (e.g. airport expansion, HS2, fracking etc) or because there are concentrated levels of 'ideological' concern that may be linked to particular social factors such as class, age, and religion (e.g. Europe, Immigration, equal marriage, the situation in Gaza etc). MPs can find themselves caught in a tug-of-war between their party

32 R.T. Mckenzie, *British Political Parties*, London, Heinemann, 1958.

on one hand and their constituency on the other, a tug-of-war in which the constituency increasingly has the greater pulling power.

When a vote is cast in a general election the voter is essentially using one vote to make two choices – which individual candidate should be their local constituency representative in Parliament and who should lead the next government, a choice which is also increasingly presented by the main parties as the choice between individual party leaders. Throughout most of the twentieth century this duality was not seen as presenting much of a problem because people were assumed to be make a choice between political parties. It was the party that fused these two choices into one. But the party was more than just the glue that connects the individual candidate to the party leader; it was a corporate body of which these two individuals were only a part.

It is clear that the role of the political party has declined and continues to do so. Much of the analysis of this decline has focused on the impact on party leadership, and the rise of the charismatic leader, epitomised by Tony Blair. The result, it is argued, has been a 'British Presidency' where Prime Ministers increasingly act as if they had a personal mandate to govern. This argument assumes that what is most significant about the decline in corporate party identities is that it has made a general election a choice between party leaders.³³ While there is evidence to support the rise of 'presidentialism', the decline of parties and the individualisation of politics is having an equally profound, if not greater impact on how individual MPs perceive their role.

While these changes may well still be in their infancy we can already see how they are putting pressure on established

33 Michael Foley, *The Rise of the British Presidency*, Manchester, Manchester University Press, 1993.

constitutional principles, particularly the convention of collective responsibility. The convention requires all government ministers to take responsibility for the politics and action of the government and to defend them in public. This principle of unanimity has clearly come under strain as a result of the formation of a coalition government in 2010. While the coalition agreement expressly allowed Liberal Dem MPs to abstain on any vote to increase university tuition fees, in practice 21 Liberal Democrats actually voted against the measure. The Liberal Democrats have also sought to claim outright responsibility for particular coalition policies such as the Pupil Premium and the raising of the personal income tax allowance.

But the convention is also under no less significant pressure from ministers who have refused to publically back specific policies because they have a disproportionate impact on their constituency. For example, the Europe Minister David Lidington has threatened to resign over the plans for High Speed 2 that would pass through his constituency. Although he managed to be away on official business during a key vote in April 2014, Lidington told his local newspaper that he had 'decided to abstain, but I have been and remain opposed to HS2', a statement that is a flagrant breach of collective responsibility.³⁴

Justine Greening faced a similarly tricky situation in 2012 when the Government was reportedly contemplating reversing its pledge to not build a third runway at Heathrow, a decision that would have directly impacted on her Putney seat. In an interview Greening, who was then Transport Secretary, admitted that it would be 'difficult' for her to remain in the government if it conducted a U-turn on the policy.³⁵

34 Telegraph, 28/4/14.

35 The Economist, 31/8/12.

The plight of Greening, Lidington and of many Liberal Democrat MPs over tuition fees reflects an important development in local campaigns that many MPs and candidates, either willingly or under duress, increasingly sign pledges or make commitments on specific issues during elections. Many Liberal Democrats signed pledges during the 2010 election that they would oppose any increase in tuition fees; whilst Justin Greening and other Conservatives in West London constituencies ran campaigns focused on opposing a third runway at Heathrow.

Another principle with constitutional significance that has come under pressure as a result of the formation of a coalition in 2010 is the idea that a government has a mandate to implement its manifesto. It is questionable whether the coalition agreement between the Conservatives and the Liberal Democrats has the power of a mandate as, unlike a manifesto, it was written after the election.³⁶

However, even if the present coalition turns out to be an anomaly rather than the precursor of a trend, the independence of MPs and the growing incumbency factor also brings the idea of a mandate into question. If incumbency is a significant factor in explaining the outcome of a general election then it raises doubts about the authority of any collective statement of intent issued by a winning party, in much the same way as the rise of incumbency and the lessening of the 'coat tails' effect of successful Presidential candidates in the US has made it more difficult for Presidents to implement their election platform.

In constitutional terms, the most palpable impact of this change would be to the Salisbury-Addison convention of 1945. Under the convention the House of Lords shall not vote down legislation

36 Thomas Quinn, *Mandates, Manifestos and Coalitions, UK Party Politics after 2010*, The Constitution Society, 2014.

foreshadowed in the party of government's election manifesto as the Government has a mandate to implement such proposals.³⁷ The convention has its origins in the doctrine of a mandate developed by an earlier Lord Salisbury, the Third Marquis, in the late 1880s. It was not Salisbury's intention to make the Lords compliant to the Commons but rather to protect its role by making its agreement dependent on the will of the people. As Salisbury explained in a letter at the time, the 'nation is our Master, though the House of Commons is not,' consequently the Lords should 'yield our opinion only when the judgement of the nation has been challenged at the polls and decidedly expressed,' something he expected to be the exception rather than the rule.³⁸

While the weakening of the party system is one of several factors bringing into question whether the judgement of the nation has been 'decidedly expressed' at an election, the extent to which this erosion will further embolden the House of Lords is likely to be determined by practical considerations. It is already notable that as independence in the Commons has grown, cooperation between MPs and members of the Lords has become a factor in challenging and changing Government policy.³⁹ Given that the House of Commons retains the upper hand, whether this process of cooperation continues to develop is perhaps dependent on the extent to which MPs themselves continue to feel less bound by their party and the supposed authority of a mandate.

What is already apparent is that as the importance of the constituency link grows, MP feel increasingly bound by a growing number of specific pledges made to voters at election

37 Report, Joint Committee on Conventions, 31/10/06.

38 Quoted in Gary W. Cox Op. Cit.

39 Meg Russell and Jeffrey Johns, 'Bicameral Parliamentary Scrutiny of Government Bills: A Case Study of the Identity Cards Bill', paper presented to the Political Studies Association Conference, April, 2007.

time. Although political parties often advise candidates against making pledges on divisive issues, such as Britain's continued membership of the EU, this trend is likely to continue, detracting from the mandatory authority of the collective party manifesto.

Addressing the accountability gap

The weakening of the party system makes it more difficult to reconcile the dual functions of a vote cast at a general election, effectively creating an accountability gap. A simple if radical solution would be to split the choice of constituency representative and government into two separate votes. Such a reform would entail a formal separation of the legislative and executive branches of government. At least one parliamentarian, Graham Allen, has advocated such a formal separation as a way of curtailing the powers of the Prime Minister.⁴⁰ Yet, such a radical reform remains improbable, and if implemented, liable to raise at least as many fresh issues as those it addresses.

A more pragmatic solution would be to look at ways of giving voters opportunities to pass judgement on their local representative that go beyond a single vote at a general election. There are a number of reasons for believing increasing the accountability of MPs to their constituents may improve representation and help to reinvigorate politics.

Introducing fresh mechanisms of accountability would potentially act as a counterweight to what can be seen as the increasingly 'privileged' position of a sitting MP. While MPs have come to believe they have a significant 'personal vote', such an advantage is often gained by the provision of services that only a sitting MP can deliver. MPs are in the privileged position of

40 Graham Allen, *The Last Prime Minister: Being Honest About the UK Presidency*, Revised Second Edition, Imprint Academic, 2003.

having the resources, the staff and the authority to act on behalf of their constituents. It would be reasonable to conclude that any Member of Parliament who took a professional approach to their responsibilities would be able to gain a significant incumbency advantage from constituency work.

Yet while constituents have benefited from more attentive MPs, it is highly unlikely that they have had any real say in deciding who the provider of these services actually is. Candidates for election are usually chosen by a small and unrepresentative group of party members and reselected before subsequent elections by an even smaller gathering. Most voters in most seats have no real say in deciding who their member of parliament happens to be.

Secondly, while all MPs have been affected by the process whereby party pressure has lessened and constituency pressure grown, it is possible that these forces are in effect creating two classes of MP. While MPs in marginal constituencies may feel that a focus on constituency work and, increasingly, responding to the policy concerns of their voters is vital to their future electoral prospects, MPs in safe seats are more insulated from these pressures. On one hand this may mean that they focus less on constituency work. Research by Pippa Norris in the 1990s found that there was a relationship between the level of constituency work and the marginality of the MP's seat.⁴¹ But it may also mean that these MPs are able to deal with such pressures on their own terms, disregarding lobbying from constituents on issues of public policy where it does not correspond to their own views.

Moreover, where MPs in safe seats are serial rebels, voters currently lack a way of differentiating between the MP and the party they represent in Parliament. Where an individual voter

41 Pippa Norris, 'The Puzzle of Constituency Service', *Journal of Legislative Studies*, Vol.3 No. 2, 1997.

actually favours the party line on issues where their MP is opposed they cannot register this without also withdrawing their support from the party.

One way of addressing these various concerns would be to change the system of election from First Past the Post to one that gave voters more choice between candidates from the same political party, such as is the case under Single Transferable Vote. However, while a discussion of the merits of electoral reform is beyond the scope of this essay it is worth noting that the impact of such a change would go well beyond the problems raised by the growing disconnect between MP and party.

However, there are other potential reforms that would give voters more of a say in the choice of their representative. One would be to throw open the process of candidate selection and reselection through the introduction of open primaries. Prior to the 2010 election Dr Sarah Wollaston was chosen by the first-ever open primary organised by the Conservatives in the Totnes constituency. In total 16,497 postal votes were cast by constituents, representing a turnout of 24.6%.⁴² Subsequently, the Coalition Agreement in 2010 acknowledged that open primaries offer a mechanism for giving voters greater choice in safe seats, promising funding for '200 all-postal primaries over this Parliament, targeted at seats which have not changed hands for many years.' Yet in June 2013 a Downing Street source told the Telegraph that there had been 'zero debate' about open primaries in government since 2010, although some Conservative candidates have been selected by open meetings that have been described as open primaries. Wollaston herself told the Telegraph that she believed the idea had been shelved over fears that the process favours 'outspoken candidates'.⁴³

42 BBC News Online, 4/8/09.

43 Telegraph, 16/6/13.

But while party leaders may well have good reason to fear that open primaries mean losing control of backbenchers, this is a prospect they face with or without reforming selection procedures. A growing number of backbenchers clearly already believe that they have a personal mandate either as a result of their service to their constituents or simply because they sit on huge majorities.

The extent to which rebellious MP really do speak for their constituents could be put to the test if MPs were open to challenge in a primarily during reselection. As the widespread use of open primaries during every election cycle is well beyond the resources currently available to British political parties, open reselection meetings would be a more viable way of proceeding.

It is also possible to envisage pragmatic reforms that could at least help to differentiate the local and national functions of MPs, an issue that is most acute for Ministers. Until the 1920s it was established practice that when an MP was appointed as a Minister they would have to stand for re-election. The practice had its origins in the seventeenth century when, after the restoration of the monarchy, King Charles II sought to control Parliament through the distribution of paid offices. Parliament retaliated by making the holding of such offices incompatible with membership of the House of Commons under the Act of Succession 1701. After Parliament determined that this restriction was unworkable it passed the Crown Act in 1707, requiring that paid offices could only be accepted if membership of the house was tested at an election.⁴⁴

44 Victor Isaacs, 'The Case of the Missing Premier: A Strange Parliamentary Practice', *Australian Parliamentary Review*, Vol. 20, No. 1, autumn 2005, pp. 34–53.

By the beginning of the twentieth century governments were keen to end this practice of confirmation by by-election, finally persuading Parliament to abolish it in 1926. Yet, while it had become an unwieldy to implement, the practice had given voters an opportunity to the pass judgement on whether or not they wanted their MP to hold executive office.

In recent years Collective Responsibility has come under strain as Ministers find it harder to reconcile their duty to publically defend Government policy with specific commitments they have made to their own electors. If new Ministers had to face their electorate again it would force them to publically deal with the question of how their appointment affected any commitments they had made to electors in the past. While it is difficult to envisage any government agreeing to a reform that would vastly increase the number of by-elections, it does point to a potential benefit of introducing formal checks on ministerial appointments. If the appointment of a new Minister had to be formally approved following, for example, a hearing of the relevant Select Committee, then this would also potentially force a new Minister to confront the same issues. Such a reform may also make Prime Ministers think more carefully about the possible ramifications of particular appointments.

Conclusion

The growth in backbench rebellion has been subject to much analysis and comment ever since Tony Blair's second term as Prime Minister. But while this trend is now well established, its causes and consequences have yet to be subject similar levels of examination or debate.

This paper has put forward the argument that the 'professionalisation' of politics and the growing importance of the relationship between MPs and constituents are largely responsible for weakening party ties in Parliament. While there is plenty of circumstantial and anecdotal evidence to support this proposition, there does not appear to have been much detailed primary research into how the growth of constituency work has impacted on MPs perception of their role. The most detailed study of this subject was published by Norton and Wood in 1993 and on survey evidence from the 1980's. It is surely time to go back to the questions raised by Norton and Wood to see if thirty years have transformed MPs from being 'two-face professionals' to ones who are increasingly unable or unwilling to keep their Westminster and constituency roles separate.

Whatever evidence future research uncovers, it is clear that the rise of rebelliousness amongst MPs is likely to continue. Mass political parties emerged in an age when a national infrastructure was vital to communicating with an expanding electorate. The age of the internet and the rise of social media are reducing the costs of political communication. It is now both easier for

MPs to communicate directly with their constituents and for a constituent to lobby their representative. The changing dynamic in the relationship between MPs, parties and constituents is emerging as one of the defining themes of present day politics. Douglas Carswell's defection from the Conservatives to UKIP is only the latest illustration of the increasing difficulty Parties have in controlling their MPs; that he chose to force a by-election is illustrative of the importance that some of the new generation of MPs place on their relationship with their electors.

Parties are responding to this challenge by increasing the amount of time and attention given to backbench relations. It is notable that the role of Chief Whip has become an increasingly prominent job, with Michael Gove, one of the Prime Ministers closest allies, appointed to the role in July 2014. David Cameron has also created alternative mechanisms of parliamentary support, appointing John Hayes as 'Parliamentary Adviser', outside the Whips Office, in March 2013.

But more time and manpower may not be enough to cope with a body of backbenchers who are becoming more independently minded and focused on their own electorate. Responding to Douglas Carswell's defection on the Conservative Home website, former Conservative MP Paul Goodman wrote that the new generation of MPs were more conviction-led and also more accessible 'that's to say, they are part of the tranche of MPs who go straight on to Twitter and engage with voters more directly'.⁴⁵

There is little that political parties can do to counteract the growth in direct political communication. The only sustainable solution is for parties to embrace change and accept that the time when executive and legislative power could be said to be fused

45 Paul Goodman, 'We name the next Carswells' Conservative Home, 29/8/14.

together is rapidly coming to an end. As the American system demonstrates, the result may not be efficient, but it is increasingly what people demand.

The slow death of the 'Efficient Secret'

The rise of MP independence, its causes and its implications

Scott Kelly

In recent years, MPs from the main political parties have become increasingly rebellious, defying their Whips on a regular basis. While this trend has been thoroughly analysed, the reasons behind it and the consequences of it have not received comparable attention. This pamphlet assesses the causes and constitutional implications of this dramatic development in the workings of UK political institutions.

The author concludes that the growth in rebellion, more usefully described as the rise of MP independence, coincides with the 'professionalisation' of the job of being an MP and, in particular, the increasing amount of time MPs devote to constituency work. In the tug-of-war between the national party and the local constituency for an MP's attention, it is the constituency that is gaining greater pulling power. The pull of the constituency has important implications for constitutional principles such as Collective Responsibility, that lies at the heart of accountable government in the UK. Furthermore, the weakening party system makes it difficult to reconcile the dual functions of a vote cast at a general election. Is its purpose more to choose an MP, or a party of government? Finally, the paper proposes a number of reforms that respond to the challenges raised by the rise of MP independence.

This pamphlet presents the personal views of the author and not those of The Constitution Society, which publishes it as a contribution to debate on this important subject.

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