

The British Ancien Regime

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No unbiased observer, who derives pleasure from the welfare of his species, can fail to consider the long and uninterruptedly increasing prosperity of England as the most beautiful phenomenon in the history of mankind. Climates more propitious may impart more largely the mere enjoyments of existence, but in no other region have the benefits that political institutions can confer been diffused over so extended a population; nor have the people so well reconciled the discordant elements of wealth, order and liberty.

Henry Hallam (1827)

Britain has often been regarded as different, set apart from its neighbours in Europe not just geographically but also socially, politically, and culturally. British idiosyncrasy and British exceptionalism are well-established themes in the literature on British political and economic development. An obvious feature of this exceptionalism is the survival of medieval customs and institutions which have long disappeared elsewhere. But its deeper manifestation is the often encountered view that Britain is different from other modern countries because it does not possess either a state or a constitution.

In one sense such claims are absurd. State and constitution are constitutive, not optional elements of a modern polity. What is being asserted is not that Britain does not have a state or a constitution but that it lacks some of the crucial defining features of states and constitutions in other political systems.

The issue is often seen as one of modernisation. Although Britain was once regarded as the pioneer of modernisation, many now consider that its modernisation was incomplete, and

that this explains the survival of so many pre-modern institutions in Britain. Viewed from the rest of Europe Britain sometimes seems to be the continent's last ancien regime. No other European country has preserved so many ancient rituals, institutions, and titles. The many peculiarities of British constitutional arrangements include the prerogative powers of the sovereign (including the power to ratify treaties like the Maastricht Treaty), the absence of a formal codified constitutional document, the doctrine of the unlimited sovereignty of Parliament, and a second legislative Chamber whose membership is determined by a mixture of hereditary right and political appointment.

In the modern era there have been two main reactions to the persistence of English constitutional eccentricities. Some have followed Walter Bagehot (1867) in arguing that they represent no more than the dignified part of the constitution, and have no serious impact on the efficiency with which British government is conducted. Medieval customs and procedures are simply a shell which has been hollowed out by successive reforms, so that in functional terms British government and British democracy are very similar to government and democracy elsewhere. The reason why Britain has retained so many customs from the past is ascribed to the continuity of Britain's institutions, the comparative absence of the kind of upheaval or rupture that defeat in war and revolution created for all other regimes. In constitutional terms Britain has never been able, and has never needed, to make a fresh start.

From this standpoint there is nothing particularly surprising or alarming about Britain's failure to conform to the model of a modern democratic polity, with a codified constitution and strict delineation of the powers of the different organs of government and the rights of citizens. Britain's constitution is a mixture of the accumulated precedents and customs from the past that are embodied in common law, parliamentary statutes, and conventions. There can be no definitive statement of what the constitution is or what it permits. The balance of power within it can shift quite radically, even within a short space of time. Over longer periods the changes have been immense. The outward forms can remain the same but the relative power of the different organs of the constitution have altered markedly.

The other view which has been steadily gaining ground in the last twenty years is that the uncoded constitution is at the heart of the present ills of the British polity. The fundamental problem of contemporary British politics is what should be the legitimate role

for the state. A definition of some kind was supplied so long as the two main parties accepted broadly the same parameters for government. Once that broke down in the 1970s the unsatisfactory and confusing character of British constitutional arrangements was exposed.

From a public law perspective a constitution consists of "sets of understandings regarding the boundaries of the public and private realms and establishing principles to which public action must adhere if it is to be legitimate" (Graham and Prosser 1988: 3). The problem in Britain is that there is no developed system of public law, and no coherent concept of the state as an entity defined and legitimated by law. As a result the distinction between state and government is blurred. Any action by government is also an action of the state, and in this way new policies can be introduced and new agencies established or existing ones abolished, e.g. the Metropolitan Councils in 1986, without any consideration of the constitutional implications that may be involved. Decisions that in other political systems would be regarded as altering the constitution and therefore requiring special rules and a special procedure can in the British system be taken just like any other decision, by simple majority vote in Parliament. The lack of safeguards in such a system is particularly evident when the party commanding a majority of the parliamentary seats is well short of a majority of electoral votes, as has been the case at every election since 1970.

In his influential recent account of the British constitution Ferdinand Mount describes the "thinning of the British constitution". What began as "King and Parliament" was gradually transformed into "Parliament in the King" and then into "King in Parliament" (Mount 1992). The prerogative powers of the sovereign came to be exercised by the leaders of the party that controlled Parliament. Parliament itself which was once composed of two Chambers with equal powers except in the matter of finance, has become in effect a single Chamber, because the House of Lords has been progressively stripped of its powers to block legislation passed by the Commons. It can delay but it cannot veto.

Checks and balances offered by other institutions such as local government have been gravely undermined by the encroachment of the centre. The experience of the last twenty years has shown that the intermediate institutions in Britain have few defences against a determined Government armed with the doctrine of parliamentary sovereignty. They cannot claim any constitutional right to exist. The British Constitution is revealed as comprising

two doctrines - unlimited parliamentary sovereignty (which means in practice rule by the party that has a parliamentary majority); and the unitary state (which means that local government and the various arrangements for governing Wales, Scotland and Northern Ireland exist only so long as the majority party at Westminster endorses them).

The Westminster Model

Despite the mounting disquiet over its deficiencies, the existing constitution has never lacked defenders, from many different political persuasions. Three writers on the constitution, whom Mount calls the three great simplifiers, Bagehot, Dicey, and Jennings, - the first a Liberal, the second a Unionist, the third a Fabian - have contributed to the emergence of a dominant interpretation of the British political system and its constitution over the last hundred and fifty years which has become known as the liberal/Whig constitutional view or, more simply, the Westminster model (Bagehot 1867; Dicey 1885; Jennings 1933). This view treats British history as the history of liberty, the process by which the structures of royal and clerical absolutism were gradually modified, permitting the emergence of representative and responsible government. The key dates of this evolution in the last two hundred years are 1832, 1867, 1885, 1911, 1918, and 1928; the dates which mark the successive stages in the widening of the franchise, and the establishment of the political supremacy of the House of Commons, its legitimacy based on its ability to express the popular will.

The comparative political stability and continuity of British politics in the last two hundred years have invested British institutions with great authority, and made the British model seem enviable and close to perfection, with its balanced and flexible constitution ensuring both accountability and effectiveness. The secret of British political success was often ascribed precisely to the fact that the constitution was not fixed and immutable. Defenders of the British model argue that incremental change is often desirable, and frequently occurs. But they also believe that the basic elements of the British constitution do not need to change (Norton 1982).

The nineteenth century saw frequent bursts of agitation over constitutional issues, particularly over the extension of the franchise. Between 1880 and 1930 the British state

faced a series of major challenges and underwent some radical changes. The campaign for women's suffrage, the struggle over Irish Home Rule and eventual separation, the rise of the Labour movement, and the extension of the role and functions of the state, caused acute conflicts. The way in which these were resolved shaped the main institutions and the balance of power in the state for the next fifty years (Hall and Schwarz 1985). The successful incorporation of the Labour movement into the structures of the state and into the two-party system was seen as evidence of the basic strength and flexibility of the Westminster model, and its ability to adapt to changing circumstances. This was the background against which British institutions were celebrated in the 1950s. A mood of congratulation and complacency, and condescension to less favoured lands was strongly in evidence.

In the last thirty years, however, there has been a marked revival in concern about the constitution and the appearance of pressure groups on both left and right campaigning for radical constitutional reform. The sea-change in intellectual opinion has been striking. Among political leaders it is less marked, but still substantial. Constitutional issues in the 1990s are significant in a way which was unthinkable in the 1950s. Incremental change still remains rather more likely than radical change, but some of the incremental changes that are now under serious discussion - such as electoral reform, or Scottish Home Rule - would have unpredictable consequences for the way in which the constitution develops.

Critics of the Constitution

Critics of the Westminster model became numerous in the 1960s and 1970s, but they tended to focus their criticism on specific policies and institutions and how to reform them. Few challenged or saw the need to challenge the Westminster model itself. The changes they wanted could be accommodated within the tradition of incremental reform which the Westminster model explicitly endorses.

Others believe, however, that Britain's constitutional problem is much more deepseated and that it will be resolved if it is resolved at all not by incremental consensual change, but by a decisive rupture which will destroy the old system and bring in a new order. The reason is that at the heart of the ancien regime are a set of institutions and a set of practices which

predispose the actors in this system actively to resist modernisation and change. They create in Tom Nairn's phrase "a consensus against modernisation" (Nairn 1979 and 1981). But as the supports for this ancien regime continue to weaken, the difficulty of maintaining it increases. The possibility of a breakdown and a fundamental break in the continuity of British development is no longer unthinkable.

The conception of Britain as an ancien regime has been put forward at different times by Gramscian Marxists in *New Left Review*, by High Tories at Peterhouse¹, and by Hayekian liberals from the Thatcherite think tanks. They differ in their attachment to the ancien regime (the High Tories are nostalgic for it while the Gramscians and the Hayekians want to escape from it), but they all acknowledge its reality and disagree sharply with the Whig-liberal view of British constitutional development. All share in some form the view that the process of modernisation in Britain has been incomplete, and that the nature of the British state and its constitution is at the very heart of the problems that have preoccupied British Governments during the last thirty years. The first of these problems is the legitimacy of government, which includes both the threat to the Union created by the revival of nationalism, and the fairness of the electoral system. The second concerns the effectiveness of government, in particular the repeated failures of governments to reverse British economic decline.

Each has its own version of the ancien regime thesis. The first is the famous account of British history set out by Perry Anderson and Tom Nairn in a series of articles in *New Left Review* during the 1960s and 1970s, and recently restated in revised form by Perry Anderson (Anderson and Nairn 1964; Nairn 1981; Anderson 1987). Anderson and Nairn accept the traditional Marxist interpretation of the English civil war as a bourgeois revolution, but they argue that it was an incomplete and in some respects premature bourgeois revolution, which had very important consequences for the character of British modernisation. The outcome of the civil war cleared away the obstacles to the development of capitalism in Britain but ensured that the form of state would remain in many respects premodern, and that it would be staffed by an aristocratic rather than a bourgeois elite. This old constitutional state has survived up to the present partly through the skill of the

1 The Peterhouse Right takes its name from Peterhouse College, Cambridge. The key figure in the group is the historian Maurice Cowling, and those associated with it include Peregrine Worsthorne, Shirley Letwin, Roger Scruton, Jonathan Clark, and Michael Portillo, the current Chief Secretary to the Treasury.

traditional aristocracy in co-opting and incorporating new social classes and movements, partly through the failure of those classes to challenge the hegemony of the old ruling class, and partly because of the material support provided by domestic industrialisation and external expansion.

The loss of Britain's economic lead and the withdrawal from empire and the diminution of its great power status has removed in the twentieth century the two major external props for this state. Anderson and Nairn interpreted the 1960s modernisation debate as an expression of the crisis of this ancien regime, and argued that there was an opportunity for a successful modernising project to overcome the retarded character of British civil society and the British state and to create a new social and economic dynamism. The premodern state form was the expression of a hegemony which could no longer be sustained. What was required was the creation of a counter hegemonic project to fashion a new state.

Anderson and Nairn expected that this new hegemonic project would come from the Left, but the Left failed the challenge in the 1960s and fell apart in the 1970s and 1980s. The only successful attempt to forge a new modernising hegemonic project came from the Right (Jessop 1988). But the radicalism of the Thatcher project did not extend to the constitution. Although a key objective of the Thatcher Government was to reshape the existing state in order to limit the powers of government, it used the full powers of this state in order to carry through its agenda. Many neo-liberals while welcoming many of the specific policy reforms of Thatcherism were perturbed by the way in which many of these reforms were introduced and the precedents for unrestrained state intervention which they set.

Hayek had long viewed the English doctrine of unlimited parliamentary sovereignty as the great calamity of modern development, because it meant that the English were never willing to entrench their system of liberties through a codified constitution, trusting in the good sense of rulers to use their discretionary power wisely (Hayek 1960). For Hayekians the British political order is an ancien regime because it has never accepted liberal constitutional doctrines or the need for formal limits on the powers of government. It therefore turned out to be an ideal instrument for the extended state of twentieth century collectivism, as well as for the project of rolling back the state under Thatcherism. The problem for Hayekians is that both are unprincipled. The role of the state depends on the political balance of the time, which can change.

The High Tories of Peterhouse provide a nostalgic celebration of the British ancien regime, which they believe reached its peak between 1660 and 1832, and whose essence was unrevolutionary monarchical absolutism, and a composite state which made possible the rule of England over the whole territory of the British Isles. Jonathan Clark argues that although the 1832 Reform Bill sounded the death knell of this ancien regime its life has been prolonged for one hundred and fifty years first by liberalism, then by imperialism and finally by socialism (Clark 1990). The different elites which promulgated these doctrines found it convenient to endorse and to utilise the political structures of the unitary state which the ancien regime had established. In this way the life of the ancien regime was prolonged into the twentieth century.

Clark argues that all three doctrines are now exhausted and that the strains in preserving the political structures of the unitary state are threatening to destroy it. Allegiance to the unitary state is steadily being eroded. Thatcherism is regarded by Clark and the Peterhouse Right as the recovery of the authentic English tradition, which they term authoritarian individualism (Letwin 1992; Gamble 1993). The age of Empire both overseas and within the British Isles is at an end. The imperial doctrines are all exhausted and it is time for the separate nations of the UK to rediscover their separate national identities, and to refashion their political systems. The English would retain their unitary state and their doctrine of the unlimited sovereignty of Parliament, but they would abandon attempts to preserve the composite state of the United Kingdom.

The Stages of the Constitutional Debate

The 1960s: Modernisation

Since the 1950s the constitutional debate in Britain has passed through three main stages. These may be labelled the debate on modernisation, the debate on ungovernability, and the debate on centralisation. The context of each debate is important for understanding the issues that were discussed and the reforms that were proposed. Three aspects of the context of each debate are worth highlighting: the economic, the territorial, and the political.

The questioning of the constitution that took place in the 1960s was closely tied to the wider debate on modernisation. The perception that the British economy was growing much more slowly in the first phase of the long post-war expansion triggered the "state of England" and "what's wrong with Britain" debates of the early 1960s. The widespread mood that British society and government were failing to keep up with innovations and new practices elsewhere was very strong. It infected the Macmillan Government, allowing Harold Macmillan to rediscover his youthful enthusiasms for intervention and corporatism, and it provided the backdrop for the Labour Party's "New Britain" programme of 1964. The broad analysis was one that came to be shared by all three political parties and by substantial sections of the opinion-forming elites. Britain needed to modernise its political, economic, and social institutions in order to match the economic performance of its European neighbours. What was understood by modernisation was a series of reforms modelled on successful institutions from other countries such as French indicative planning, Swedish incomes policies, or German industrial relations (Shonfield 1964).

The relative economic decline of the British economy in the 1950s was used in the internal political debate to argue that Britain needed to move swiftly to a post-imperial politics; "growth before grandeur", as the Liberal slogan put it. Britain needed to find a new role in the world, and to concentrate its energies on reshaping its domestic economy. The first application to join the EEC in 1961 was a powerful symbol of the entire modernisation programme, because it signalled the political will to accept Britain's absolute decline as a world power and to find a new role in Europe. What it also implied was that Britain needed to remodel its institutions and its economy along European lines. The necessity of that shift was not widely understood at the time, and not widely communicated by those who did understand it. Britain's later difficulties in coming to terms with EC membership can already be glimpsed here.

The territorial context of the constitutional debates in the 1960s was shaped by the re-emergence of nationalism as a significant factor in Scotland and Wales, and by the renewal of sectarian conflict in Northern Ireland. This process was aided by the attention paid to the new regional problem. Rapid economic growth had raised prosperity but not distributed it evenly. Various policies and reforms were canvassed to try and moderate regional inequalities, and the growing perception that such inequalities existed fuelled campaigns by nationalist parties. The territorial context assumed a new importance also because of the

rapid disappearance of the British Empire, and therefore the winding down of the common enterprise in which all the nations of the British Isles had been involved. The ending of the common enterprise focused attention more on what divided the nations of the United Kingdom rather than on what united them.

The domestic political context was relatively orderly and stable. The two major parties were still both winning more than 40 per cent of the vote at general elections and taking over 90 per cent of the vote between them. Although there was a flutter after Labour's third election defeat in 1959 that Labour might never win again, a small swing in 1964 brought Labour back into government, and appeared to confirm the effectiveness of the British two-party system in providing for alternation of the main parties in government. Third parties continued to be marginalised at general elections, although the Liberals and then the Nationalists had major successes at by-elections.

Against such a background it is hardly surprising that the constitutional debate centred on how to reform institutions so as to make them more responsive and more efficient. One of the biggest agitations among the intellectuals was for a reform of Parliament itself, to make the executive more responsive to backbench MPs, and to arrest the decline of Parliament that had been going on for seventy years (Crick 1967). The need to take account of the aspirations of the component nations of the UK was recognised with the creation of the Welsh Office in 1964, to parallel the Scottish Office, and by the decision to set up the Kilbrandon Commission (Royal Commission on the Constitution 1968-1973) to look at devolution. The general tenor of these debates, however, was for a set of reforms that accepted that the basic framework of British Government was sound, and that was required were some marginal adjustments in pursuit of some tangible but modest objectives.

The real thrust of the modernisation lay elsewhere, less in changing the constitution formally as in devising new programmes and agencies to transform the performance of the economy. In constitutional terms the most important changes that took place in the 1960s were the strengthening of the corporatist features of British governance, with the establishment of bodies like the NEDC, the NBPI, and the IRC. The attempt to modernise Britain by creating a much more explicit partnership between business, unions, and government, underlined the declining role of Parliament, by privileging an alternative set of institutional relationships for representation, policy formation, and even accountability.

Given the loose uncodified character of the British constitution the shifting balance of the constitution in the 1960s did not require formal constitutional amendment. If the new dispensation had succeeded in delivering economic success then it would no doubt have become permanent. But because the policies of the 1960s were widely perceived to have failed, what was unleashed instead was a much more searching and radical debate on the constitution.

The 1970s: Ungovernability

The 1970s have been the most turbulent recent decade in British political history, and with hindsight can now be seen as a watershed for the post-war party system and post-war policy regime in the UK. The policy failures of successive governments interacted with the changes in the world economic and political order to expose the fragility of economic and political management. The sense of crisis and decline was widespread and produced a marked polarisation of opinion within and between the political parties.

The economic aspect of the 1970s crisis was a key factor in prompting the new constitutional debates that developed. Repeated failure of policies of which so much had been expected created a deep disillusion with government and the political system. The attempts to remedy the British disease seemed to have exacerbated rather than cured it. The confidence which policymakers had come to place on post-war techniques of economic management was rudely shattered when inflation and unemployment began rising together, balance of payments and fiscal deficits ballooned, and output plunged.

The world economic crisis of the mid 1970s forced a radical restructuring of domestic economic and political institutions and policy regimes in states throughout the world system. States like the UK which had been performing relatively poorly over a long period were particularly exposed. The existing policy regimes cracked under the strain, and important realignments took place in the political parties. The Labour Party polarised (and eventually split apart in 1981), while the Conservative Party saw the emergence of Margaret Thatcher as leader in 1975, and the beginnings of a political project which repudiated many of the policies and commitments of post-war Conservatism.

The territorial context in the 1970s was no less dramatic. The escalation of violence and conflict in Northern Ireland led to the suspension of the Stormont Parliament in 1972 and the imposition of direct rule and draconian security measures to contain terrorism. The Irish Question returned to haunt Westminster, only this time in the very altered context of EC membership and a British state shorn of its world empire. Britain formally entered the EC in 1973, which potentially transformed the relationships between the centre and the regions. Even without the new perspectives which EC membership brought nationalism in other parts of the periphery, particularly Scotland, but also Wales, threatened to get out of hand, and the 1974-79 Labour Government in a bid to stem the tide attempted to introduce devolution for Scotland and Wales. By the middle of the decade the possibility of the breakup of Britain was being seriously considered.

The political context was shaped by the weakening of legitimacy brought about by the remorseless decline of Britain as an economic and as an imperial power and the apparent inability of its governments to do anything about it. It was hardly surprising that electoral volatility should have soared and the strength of attachment to parties should have waned. One of the most telling facts of these years is that between 1959 and 1983 no British Government after serving a full term was re-elected. This cycle of policy failure and electoral rejection proved corrosive of established loyalties and positions.

The constitutional debates that erupted in the 1970s no longer took for granted that the fundamental framework of British politics was sound. On the contrary many contributors to these debates now argued that radical changes in the way Britain was governed were now necessary, if legitimacy, order, and prosperity were to be restored. The most influential theses were those of governmental overload, adversary politics, and the politics of excess expectations (Johnson 1976; Finer 1975; Brittan 1977). Many of these critiques shared an assumption that government was doing too much, and that both the scale and scope of government programmes needed to be reduced. Numerous constitutional remedies were proposed to effect the changes, ranging from electoral reform to formal written constitutions and bills of rights.

Left and Right sought to take advantage of the disarray of the established party leaderships, but it was the Right that succeeded. Its new agenda for British politics had a very pronounced constitutional component. The rejection of Keynesianism and corporatism were

not simply about economic management but also sought to redress the balance in the constitution. Getting rid of the weak overloaded state of social democracy meant re-establishing the authority of the executive, and its relative autonomy from outside pressures. Monetarism was attractive to the political strategists of the New Right as much because it allowed government to scale down its commitments whether to full employment or to universal welfare provision and to cut itself loose from the special interests that had come to infest the policy-making processes under the policy regime of social democracy (Bulpitt 1985).

The New Right contributions to the constitutional debate in the 1970s urged a return to limited government, but few were prepared to embrace the kind of radical surgery urged within the very different political tradition of the United States involving the drawing up of constitutional guarantees to enforce balanced budgets and limit taxation. Rather surprisingly the most radical suggestions on the Right during the 1970s for constitutional change came from Lord Hailsham (Hailsham 1978).

The Thatcherites not only sought to restore the traditional powers of the British executive, but also were strongly opposed to any concessions to devolution of powers to Scotland and Wales. The ideal of a unitary state covering all the territory of the British Isles, apart from the Irish Republic, with its centre at Westminster was the constitutional ideal which the Conservatives promoted. The legitimacy conferred through the election of a party majority in the House of Commons was seen as the means to re-establish the authority of the executive as the basis for strong decisive government which could restore Britain's fortunes.

The 1980s: Elective Dictatorship

Britain has enjoyed fourteen years of this resolute approach. Old fears have been laid to rest. The constitution has been substantially rebalanced. Corporatist institutions of the 1960s and 1970s have been dismantled, and the power and influence of the trade unions has been substantially diminished. The authority of the executive has been reasserted, and the line has been held successfully against electoral reform and devolution. The iniquities of adversary politics cease to be of much concern when one party can stay uninterruptedly in government.

The economic context of the 1980s was dominated by the Thatcher experiment, which attempted to consolidate and extend the policy regime whose outlines first began to take shape in the mid-1970s. The recessions at the beginning and end of the 1980s were interrupted by the years of the Lawson boom (Nigel Lawson, Chancellor of the Exchequer, 1983-1988). For a brief period it was possible to believe that the Thatcherite economic policies had effected a lasting transformation in Britain's economic prospects. But few observers now believe that to be the case. The Thatcher Government eliminated some weaknesses but accentuated others, particularly the bias of the British economy towards finance and property.

Yet despite the puncturing of the triumphalism of 1987 when the Conservatives were presenting Britain as the new economic miracle of Europe, the economic policies of the Thatcher Government do mark an important change, the recognition that the era of national economic management is past. The acceptance of the constraints on national policy implied by the pace of international economic integration have truncated the domestic policy debate on economic management. The opposition parties have broadly accepted the reality of the new policy regime, including privatisation, and the reduction in the scope if not the scale of government involvement in the economy. In the 1960s and 1970s constitutional reform was often advocated as a means to secure better economic performance. This is much rarer in the 1980s. Belief in the possibility of a substantially improved British economic performance has largely disappeared.

The territorial context remained frozen through the 1980s. Northern Ireland remained in stalemate, although the Anglo-Irish Agreement (1985) was widely seen in the Unionist Community as marking the beginnings of British disengagement from Ireland, and the unwillingness of the British Government to defend the Union in the old way. Devolution for Scotland and Wales collapsed in 1979 and the Conservative Government froze any move towards constitutional change, despite the continuing erosion of the Conservatives' position in Scotland. Most significant in constitutional terms in the 1980s were not any changes in the periphery, but the changes within the EC. The signing of the Single European Act in 1986 gave new impetus to the process of integration and led to the negotiations which culminated in the Treaty of European Union at Maastricht in 1991. The constitutional implications of EC membership for national sovereignty created a deep rift within the British Conservatives, which remains unresolved (Baker et al. 1993).

The party context was also much more stable compared with the previous decade. The Conservatives ruled uninterruptedly and it became clear that a dominant-party system was beginning to emerge: although the Conservatives could still be defeated, such a possibility was becoming steadily less likely given the structure of the electorate and the distribution of its preferences. This analysis was confirmed by the Conservative victory at the 1992 election despite the depth of the recession when the election was fought.

The constitutional debate in the 1990s therefore took a different path than in the 1960s and 1970s. Attention came to focus on the arbitrary, unrepresentative, closed, and highly centralised character of British Government. Concerns about citizenship, the erosion of intermediate institutions, the lack of regional government, and threats to citizens' rights, came to predominate. The constitutional debate took on a new character with the formation of pressure groups like Charter 88 to press for reform, and the growing influence of the reform agenda amongst opinion formers, the think tanks and the opposition parties. The bulk of the activity was on the centre-left, but it is noticeable, too, how significant figures from the New Right, including Ferdinand Mount and the several key figures in the Institute for Economic Affairs (IEA), have set out their own constitutional reform agenda (Vibert 1991). The disillusion with the traditional form of British Government is felt quite keenly on the New Right because of the failure of the Thatcher Government to deliver the significant rolling back of the state which they sought. Entrenched constitutional safeguards are regarded by many from the liberal strand of the New Right as the only safeguard of limited Government (Gray 1989). Conservative politicians are no substitute.

Conclusion

In the 1990s Britain's constitution continues to be a focus for reforming energies, but the emphasis has shifted from promoting efficiency and restoring authority to protecting the rights of citizens and improving the quality of British democracy. Constitutional change is no longer primarily advocated as a way of improving economic performance, but rather as a way of turning Britain into a modern European democracy.

The prospects for radical constitutional change are frequently dismissed as slight. As an issue it has low salience for any section of the electorate beyond the professional middle

classes. It is often pointed out that the party in government derives such benefits from the monopoly of power which the present constitution in practice bestows on it that there is very little incentive to introduce radical changes. Inertia seems guaranteed by the lack of popular interest and the vested interest of the two leading parties.

The long period of Conservative dominance and the way in which the Conservatives have governed since 1979 may, however, have fatally undermined the support of the opposition for the continuation of the present system. The legitimacy of the electoral system, of unlimited parliamentary sovereignty, and of the unitary state depended on reasonable expectation of alternation of the parties in government, and on the observance by the ruling party of certain constitutional conventions, in particular the need to reach a broad consensus before the introduction of radical policies. The blatant disregard of the Conservatives for these conventions has been accompanied by a remarkable run of electoral success, but as a result they now risk running out of partners who are prepared to help them sustain the present constitution. The erosion of support for the Union in its present form in Scotland, the increasing estrangement of Northern Ireland, the weakening of the position of the monarchy, and the gradual acceptance by Labour of the political and intellectual case for electoral reform suggest that the days of the ancien regime may not last much longer. The Conservatives may soon be the only party committed to upholding the existing constitutional arrangements. This position is unsustainable, because even the Conservatives cannot expect to win elections indefinitely. If a future Parliament is elected with a non-Conservative majority it can pass legislation which could prove irreversible, because it would ensure that any future election would have to be contested under different electoral rules, and because it could introduce fundamental changes to the Union.

The British ancien regime may continue to be reformed through incremental change. But the possibility now exists that events will force a more sweeping and radical change. The Thatcher period stretched the British ancien regime to breaking point. It may not have much time left.

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