

Preface

It has long puzzled me that the members of the commentariat still appear to take our debauched political arrangements seriously. Seemingly intelligent individuals like the BBC's political editor Nick Robinson stand outside the door of No.10 Downing Street commenting on the latest speech from the prime minister, in the full knowledge that the words bear little or no relation to real events. Or perhaps it's all a fake – as in the 1978 NASA conspiracy movie *Capricorn One* – the famous front door is a cardboard replica and Mr. Robinson, himself a party to the joke, is pinching himself to stop laughing.

For it's a strange paradox that the real workings – or as Walter Bagehot famously put it, the 'efficient *secret*'¹ – of the British state are better understood by political journalists² like Mr Robinson rather than academics. This is because our unwritten constitution is largely a matter of the shifting conventions of day-to-day usage (the bread and butter of the journalistic trade), whereas academics tend to focus more on formal constitutional structures and archival research in dusty tomes. As a journalist, Bagehot understood that as early as 1867 the 'dignified' apparatus of state – from the monarchy right through to the House of Commons – was a façade concealing the 'efficient' exercise of power by a secret (cabinet) committee. By contrast, J.S. Mill's erudite and scholarly analysis *didn't contain a single mention of the cabinet* (as the cabinet had no formal constitutional role to play).

Professor Vernon Bogdanor, J.S. Mill's modern equivalent, usually pops up on Newsnight whenever a constitutional expert is required, yet his magisterial volume *The British Constitution in the Twentieth Century* (2004) contains a chapter on the cabinet but none on the media, even though the cabinet now only serves a 'purely presentational function, with meetings always ending just in time to feed the lunch-time news bulletins' (Seldon, 2004).

[1] Bagehot, 1963, p.11, my emphasis.

[2] But kept under wraps, so as not to frighten the horses.

If you want to understand how the media has grabbed power from the cabinet then Bagehot's modern counterpart is the political journalist Peter Osborne. In his 1999 book on the rise of the 'Media Class', Osborne savaged the hand that feeds him so ferociously that it's hard to understand why editors are still so keen to employ him (he was recently poached from the *Spectator* by Paul Dacre at the *Mail*).

In his new book, *The Triumph of the Political Class* (2007) Osborne redirects his ire to the 'Political Class' (although he is still just as contemptuous of his own trade). His concept of the Political Class owes more to the Italian social theorist Gaetano Mosca than to Karl Marx. Whereas Marx viewed class as referring to large-scale economic entities (bourgeoisie, proletariat etc.), Mosca's analysis (derived in part from Hippolyte Taine's study of the French Revolution) focused on the abyss separating the small governing elite from the wider population. While Marx argued that politicians represent the interests of their own (broader) economic class, Mosca's Political Class only looks after itself.

And the numbers involved are very small indeed – Osborne's claim being that our own Political Class consists of approximately 5,000 souls. As the Political Class no longer represents wider interests in the Marxian sense, this leaves the rest of us effectively disenfranchised – *worse off than before the Great Reform Act of 1832*. The real divide is no longer between the main political parties (which used to take it in turns to represent one broad social class or another), but between the Political Class and everyone else.

Osborne turns to Roger Scruton's *Dictionary of Political Thought* for an update of Mosca's concept:

Political Class: The class, increasingly important in modern democratic politics, of people who have made a career in political and administrative institutions, but who have not had any experience of the ordinary workplace.

The puzzling thing is that the contraction and hegemony of the Political Class is happening just at the same time as every other social class metric is moving in the opposite direction. The old 'Establishment' was described by its biographer Anthony Sampson as:

but a ring of Establishments. The frictions and balances between the different circles are the supreme safeguard of democracy. No one man can stand in the centre, for there is none' (Sampson, 1962).

But with nearly fifty percent of the age cohort now attending university (it was only five percent when Sampson wrote the *Anatomy of Britain*) the political class should be *expanding*, not contracting (5,000 at the time of Osborne's countdown). What is it about our political arrangements that are so out of step with every other modern social trend? A generation ago, parliament represented a wide variety of trades, professions and occupa-

tional backgrounds but nowadays, judging by Brown's cabinet, if you don't have an Oxford PPE, then don't bother to apply. Why does parliament no longer represent the nation as, in the words of John Adams, one of the US founders, an 'exact portrait, in miniature'? Twenty-first century politicians lack what Denis Healey called 'hinterland' – although the PC lobby is advancing the cause of gender and ethnic quotas, diversity of occupational background has all but disappeared.

Critics might argue that this is placing too much emphasis on the *persona* of the representative and too little on the system of core values and beliefs that the party 'stands for'. Quite, but when Healey said he was going to 'tax the rich until the pips squeak'³ it was much easier to discern what core Labour values were. Margaret Thatcher was similarly up-front about her core convictions – love her or hate her, you certainly knew where you stood. (I knew her sister, Muriel, and she was one of the rudest people I have ever met, so it would appear that calling a spade a spade was the norm in the Roberts family.)

But eighteen years in the wilderness led to the creation of New Labour, born to appeal, by hook or by crook, to as wide a constituency as possible, and David Cameron's postmodern 'Conservative' Party followed the example. The trouble with this is that there is no way of discerning what a party really 'stands for' as the message is carefully crafted by PR and media consultants to appeal to a tiny number of swing voters in crucial marginal constituencies. That's the only way to win elections in our post-ideological age and winning elections is what political parties are meant for.

Therein lies the problem. **The thesis of this book is that our system of representation – based on the rusty Victorian ballot box and the archaic political party – is no longer fit for purpose, and nothing short of a constitutional revolution will resolve the problems just outlined.**

For a wonderful illustration of the malign irrelevance of the political party we need look no further than the extraordinary events surrounding the passage of the counter terrorism bill through the Commons in June 2008. Labour's plan to extend the period of detention without charge to forty-two days was inspired by the Liberal Democrat Lord Carlile (the Government's reviewer of terrorist legislation). Nevertheless Brown's prime motivation was to *appear* tough on terrorism – in order to outflank the Tories and to please Rupert Murdoch and the readers of his *Sun* newspaper. Most Labour MPs reluctantly voted for the bill (while holding their noses), in order not to do any further damage to their party leader and their own prospects of retaining their seats, parliamentary allowances

[3] This was in fact a journalistic gloss. His actual words were 'I warn you that there are going to be howls of anguish from those rich enough to pay over 75% on their last slice of earnings'.

and pensions. The only serious advocates for the bill were the police (unlike Sir Ken Macdonald, the Director of Public Prosecutions, who argued that the bill was unnecessary and would not find favour with the judges: 'in our experience, the 28-day limit works well.')

The bill only obtained a second reading with the assistance of DUP votes. How much taxpayers' money was used to bribe the Unionists remains unclear – they claimed to be voting 'on the strength of the arguments', but were seen emerging from the PM's Commons office a couple of minutes before the division bell sounded. Needless to say the Unionists didn't attend the debate, so would have been supremely unaware of the 'arguments' (in fact only around fifty MPs were present in the chamber throughout the debate).

The Conservative position remains, characteristically, unclear: although they opposed the bill, Cameron would not commit to repealing it at a later date, so it would appear the need to seem to be tough on terrorism was outweighed on this occasion by the immediate political advantages to be gained from giving Gordon Brown a bloody nose. This ambivalence (combined with the total lack of serious debate in the Commons) led the Shadow Home Secretary, David Davis, to resign and fight a by-election on the issue. No doubt the (Tory) Davis's resignation was a homage to his (Labour) hero Tony Benn, who famously resigned his seat 'in order to devote more time to politics'.

Davis's decision clearly infuriated his boss David Cameron, especially as Davis informed the Liberal Democrats of his plans before his own party leader. The Lib Dems (along with the BNP) were Davis's principal cheerleader during the by-election campaign, whereas the Tories merely went through the motions, declining even to offer Davis financial support. Labour refused to defend the principles behind the bill⁴ by contesting the seat; this was to be left to the Murdoch party candidate, Kelvin MacKenzie, defending the *Sun* manifesto commitment to extend detention without trial to 420 days. In fact MacKenzie withdrew at the eleventh hour after Murdoch executives calculated that their interests would not be well served by bankrolling a candidate who was almost certain to lose. Instead, Mackenzie urged *Sun* readers to vote for Northampton market trader Eamonn Fitzpatrick. At the time of writing it was unclear who was financing Mr. Fitzpatrick. Voters were left to choose between David 'Who-Dares-Wins' Davis (backed by the Liberals and the BNP) and twenty-five other candidates, including the *Sun*-sponsored market trader, a beauty queen and a Mad Cow-Girl from the Monster Raving

[4] The Labour candidate at the general election repeatedly answered 'no comment' to Newsnight's attempt to ascertain if he supported the bill. Given that the Labour Party lost its deposit in the previous by-election (Henley-on-Thames) and is some £24,000,000 in the red (June 2008), perhaps the bank manager just refused to lend them the money.

Loony party, standing on an indefinite-detention platform (combined with a quote based on Douglas Adams' *Hitchhiker's Guide to the Galaxy*: 'The answer is 42! Now we just need to figure out the real question!').

Meanwhile the real debate was taking place in the House of Lords with Lord Carlile (Lib Dem) defending the (Labour) Government against the attacks of Blair's Lord Chancellor, Charlie Falconer, and Attorney General, Lord Goldsmith (Labour) – who has expressed his alarm that terrorism legislation has become a 'symbol of political virility'.

Labour has calculated all along that the Lords will throw the bill out as peers of *all* parties – including the previous head of MI5 – are opposed. Then Labour will be able to look tough all over again by facing down the wooly liberals and Tory toffs in the unelected Lords who don't have to travel by tube or live next to a Muslim enclave blah, blah, blah. No doubt this was one of the inducements that Gordon Brown used to win over some of the Labour rebels – they could vote for the bill safe in the knowledge that it will be thrown out by the Lords. Veteran Grimsby MP Austin Mitchell blogged in a way that was typical of the backbench mood – he only voted for the bill in order to save Brown from 'crashing on his first take off', citing Jon Cruddas's view that 'it's a load of rubbish which will be useless but [we] might as well vote for it because it won't work'.

Other inducements to Labour rebels included an 'appropriate reward' (rumoured to be a peerage or a knighthood) to Keith Vaz, chair of the Commons Home Affairs Select Committee for his volte face from vocal opposition to enthusiastic support. Mr Vaz made a major speech during the debate on the proposals which is thought to have won over some backbench MPs. Other sweeteners allegedly ranged from British support for a relaxation of the embargo against Cuba to additional compensation for sick coal miners.

In sum, an issue of vital concern to the country – both from the perspective of ancient civil liberties and the defence of the realm – has been used as a party-political PR football. Most MPs didn't even bother turning up for the debate, knowing that they can safely leave the serious arguments to the Lords, the true forum for the intelligent conversation of the nation. If your Commons speech is going to have no effect on the final vote, then why bother to take the time to study the issue? If you stand no chance of holding the government to account, then you might as well stay in your office answering your constituency mail.

Although Bagehot would have been loath to use the word 'dignified' to describe these sordid party machinations, nevertheless it is the correct term to describe ineffective parts of our constitutional apparatus, whose sole purpose is to 'excite and preserve the reverence of the population'. Dignity in the age of the *Big Brother* house is not how it was in 1867, when *The English Constitution* was first published.

The Party's Over

The central thesis of this book—that our system of party democracy is obsolete and should be replaced with a system of jury-style representation derived from Athenian democracy, was originally proposed in my 2004 book, *The Party's Over: Blueprint for a Very English Revolution*. Although this book is a linear development of that argument it merits a new title for two reasons. First of all, I am embarrassed to confess that at the time of writing the original proposal I was ignorant of most of the extensive literature—both theoretical and experimental—on sortition and deliberative democracy. I'm greatly encouraged to learn that I've merely been reinventing the wheel, so chapters two and three of the new book outline (and critique) this literature. The parallel with James Harrington's *Commonwealth of Oceana*, only pointed out to me by Mark Garnett at the proof stage of the 2004 book, is also fleshed out in much greater detail in the current work.

More fundamentally though, a study of Hannah Pitkin's 1967 distinction between descriptive representation and the representation of interests has led me to acknowledge, albeit with a heavy heart, that there is an ongoing need for political parties (representation of interests) alongside political juries (descriptive representation).⁵ This means that the title of the book had to change.

Nevertheless, those who have already read *The Party's Over* might well choose to skim some of the chapters: the introduction is mostly new, chapters two, three and seven are completely new and the appendix contains replies to the critical reviews of the first book. All the other chapters have been modified and/or updated.

The Emperor's New Clothes

It might well be asked what right I have to produce this book. After all we already have our Constitution Units and Democratic Audits, our Butlers and Bogdanors, so why do we need a provincial scribbler like myself to opine on such matters?

Like Ferdinand Mount's *The British Constitution Now* (1992) this book is a heady *compote* of history, political science, philosophy and polemic (plus a pinch or two of Trinitarian theology for seasoning). Obviously no single author can be an expert in all these fields—one of the best recent multi-disciplinary works, *The British Constitution in the Twentieth Century* (Bogdanor, 2004), required nineteen authors and 800 pages. But sometimes it helps if one is not too bogged down in the details. As we saw earlier, Mill wrote a comprehensive analysis of the British constitution (Mill, 1991) without a single mention of the cabinet, even though it had already

[5] I am grateful to Peter Stone and Dean Machin for pointing out this distinction..

become the most important body in the 'efficient' government. Dicey claimed that the absolute nature of parliamentary sovereignty has its origins in the 'undisputed supremacy throughout the whole country of the central government . . . at all times since the Norman Conquest' (Dicey, 1885, pp. 183–4). Clearly he was unaware that the right of feudal kings prevailed in a decidedly patchy manner. And Bagehot and Low didn't even mention the constitutional function of the judiciary.

The lack of a chapter on the fourth estate – the quintessence of modern political power⁶ – from Bogdanor's collection is not unlike these earlier omissions. This is especially the case in the light of Anthony Seldon's argument (Seldon, 2004), that the prime function of the cabinet under Thatcher and Blair was presentation and media management.⁷ Excessive disciplinary specialization often leads to the inability to see the wood for the trees. On top of this many of the specialist think tanks writing on constitutional reform are so keen to influence public policy decisions that they tend to gloss over historical, theoretical and philosophical issues.

So there is still a role for the non-specialist *dilettante*. (It took a naive young child to notice that the emperor wasn't wearing any clothes.) After all, the tentacles of government have now extended themselves into all aspects of our lives, so the rules whereby our government functions are no longer just of concern to constitutional lawyers and academic specialists.

Although the title of this book – *The People's Parliament* – has a slightly Maoist flavour there is nothing proposed herein that is alien to our ancient tradition of public affairs – the book certainly owes more to Aristotle than Paine (and certainly nothing to Chairman Mao). If anything is a modern and alien invention, it is the political party – the bastard grandson of one of the darkest and most bloody periods of British history.⁸ The proposals con-



[6] Remember it's the *Sun* 'wot won it' for Labour in 1997.

[7] No doubt jurists will claim that the media plays no *formal* role in our constitution, but then neither does the cabinet or the Trades Union Congress. If Sir Ivor Jennings were to prepare a new edition of his *Law and the Constitution*, I'm sure the media, just like the TUC, would be revealed as one of the most significant sources of effective 'clout' in our 'efficient' constitution. See chapter eight, below.

[8] Or, to put the case more mildly, the British party system is 'the result neither of the wishes of the British people nor the foresight of British statesmen. Like Tristram Shandy it was

tained in this book presage radical reform rather than revolution.⁹ Luther, after all, saw his role as no more than the removal of modern corruptions from a body that he revered.

Things have come to such a pretty pass since 1774, when Burke wrote his *Speech to the Electors of Bristol* that it's hard to imagine how independence of means and (consequently) minds might be re-introduced in such a way as to re-establish Burke's ideal of parliamentary representation (see p.93, below). There comes a time when those of a conservative disposition, like myself, have to awake from their dogmatic slumbers and realize that the ratchet has turned so far that there is precious little of value left to conserve. Radical thought is called for, even though, like Burke, one shudders at the Jacobin overtones.

If there is merit to be found in the arguments presented in this book then it is down to others with more experience of the mechanics of public administration to flesh out the details. My aim is simply to dust down my bugle and sound the *reveille*.¹⁰ Thirty years ago Nevil Johnson lamented the 'retreat from constitutional thinking'; now is the time to mount the cavalry charge.

A Note on Style

If I were going to be rude about my own book I would describe it as a 'rant with footnotes'. That was basically the message of the reviewer of *The Party's Over* in the journal *Contemporary Political Theory*:

This is a political essay in the best tradition – shrewd, erudite, polemical, partisan (sometimes), mischievous (frequently) and highly topical. It is provoking, annoying and seductive by turns.

The trouble with my writing style is that although it was commonplace in the seventeenth century, it doesn't really fit in to the modern distinction between 'academic' and 'trade' books (hence my appellation 'rant with footnotes'). Scholars require carefully-nuanced arguments, whereas ordinary chaps like Harry Truman prefer one-armed economists.¹¹ Unfortunately the modern fashion for 'trade' books is to dumb it all down and to hide all the scholarly apparatus at the back. Personally I get really irri-

begotten in a fit of absence of mind' (Gilmour, 1971, p. 33). It was not until the Political Parties, Elections and Referendums Act 2000 that political parties were finally recognized in law as part of the constitution (Bogdanor, 2004, p. 691).

- [9] The subtitle: 'a very English revolution' is a reference to the Glorious Revolution, as opposed to anything alien to the British political tradition.
- [10] Notwithstanding Vernon Bogdanor's assertion (2004, p. 720) that 'there are signs that Britain is coming to develop, once again, a constitutional sense', one of his reviewers retorted that 'we are only just rubbing the sleep out of our eyes' (Mount, 2004, p. 4).
- [11] The president claimed he was sick of hearing from advisors of that trade who would tell him, 'On the one hand...but on the other hand...'

tated when I have to keep looking things up at the back of the book. I was tempted to produce a dumbed-down edition, following all the rules for the sensibilities of the modern public but would prefer to advise readers outside the scholarly community to a) ignore the bracketed references and most of the footnotes and b) go and buy a dictionary (or else use Wiki). Reading does sometimes involve a bit of hard work (Freddie Forsyth wrote to tell me that he had to read *The Party's Over* twice), but that's life. I'm not a scholar, I'm a scribbler and a printer (hence my affinity with seventeenth-century pamphleteers) so if I can understand this sort of stuff then surely any educated reader can.¹² I suppose I might have overdone the citations a bit, but that's the problem with autodidacts [sorry – self-taught]: we never have the confidence to just say something, always feeling the need to back it up by citing the appropriate authority.

Acknowledgements¹³

My thanks are owed to Jeremy Black, Anthony Freeman, Mark Garnett, Anne Glyn-Jones, Trevor Hamilton, John Harris, Nevil Johnson, Ivo Mosley, Efraim Podoksik and Mary Quicke for their comments on my original essay (Sutherland, 2004), although I have to confess there was more agreement with my analysis of the problem than with the remedies proposed. For criticisms of all or part of the current volume I am indebted to series editor Barbara Goodwin, Oliver Dowlen, Derek Hall, Erich Kofmel, Dean Machin and the other participants in the panel on 'anti-democratic thought' at the 2007 MMU Workshops in Political Theory; Peter McLaverty and the panel on deliberative and participatory democracy at the 2008 PSA Conference; Steve Moxon, Peter Nicholson, Peter Stone and Barry Spivack.

My prime intellectual debt, again like Mount (1992), is to the philosopher Michael Oakeshott. It is ironic that two works on the British constitution have been inspired by a philosopher who thought he had nothing whatsoever to contribute to practical politics.

[12] Just compare the erudite complexity of the first (1948) Reith lecture (by Bertrand Russell) with the dumbed-down soundbites sixty years later. The original lectures were intended for a wide audience and were reprinted in full in the *Listener*, which was on a par with a modern scholarly journal (except that it was intended to be read, rather than just to gain Brownie Points in the Research Assessment Exercise).

[13] This essay has its remote origins in a short magazine article published in *Right Now!* (Sutherland, 2001), a magazine, now defunct, that was anathematized by a modernizing Conservative Party for the crime of living up to its name.