

Constitutional reform under the Coalition



In an earlier issue of Crossbow (Autumn 2004), I drew attention to the fact that the Conservative Party had yet to determine its approach to constitutional reform in preparation for a return to government. I pointed out that it could take a reactionary approach (seeking to put the constitution back to what it had been before Labour undertook its extensive but disparate changes); a conservative approach (accepting what existed at the time it returned to power); or a radical approach (deciding that the Westminster model was now so disfigured as to require a replacement). I omitted a fourth approach: implementing changes proposed by other parties.

The creation of a Coalition Government has resulted in particular problems in respect of constitutional change. The Conservative Party after 1997 may not have thought through what approach it would take when returned to office, but its manifesto commitments in 1997 were very much geared to its embrace of the Westminster model of government. Though the political parties were often accused of being too similar, there was one area where there was a clear divide, especially between the Conservatives and the Liberal Democrats, and that was on the constitution. The Liberal Democrats embraced one philosophical stance and the Conservative Party another. There was greater affinity between Labour and the Liberal Democrats, as witnessed by the

creation of a Cabinet Committee to bring leading Liberal Democrats and Labour ministers together to discuss constitutional reform. Paddy Ashdown sought to entice Tony Blair into an alliance.

The divide between the Conservative and Liberal Democrats created particular difficulties for those negotiating the formation of the Coalition following the uncertain outcome of the 2010 general election. It was constitutional issues that created the principal sticking point. The Liberal Democrats wanted something on electoral reform. The Conservatives did not. The talks looked like ending in failure. It was only discussions between the two party leaders that resulted in the Conservatives offering a referendum on the Alternative Vote (AV). The result of the negotiations was a Coalition Agreement that was distinctive for three reasons.

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The first and most obvious was that what it embodied was not a Conservative programme. As Ruth Fox observed, “Overall, the Conservatives got the better of the deal in the economic arena, and the Liberal Democrats the political and constitutional reform agenda”. The agreement was based on the Liberal Democrat belief that the political system is broken. The Conservative view is that it is fundamentally sound. The measures involved either a compromise (as on the referendum on AV) or conceding a position (as on fixed-term parliaments). The lead measures were manifesto commitments, but manifesto commitments of the Labour Party and/or Liberal Democratic Party. The principal concession to the Conservatives was the commitment to equalise constituency boundaries. All three party manifestos embodied some commitment to reform

of the House of Lords (albeit in different terms), though it is unlikely that a Conservative Government would have brought forward a Bill in the first session or indeed the first Parliament, David Cameron having described it as a ‘third-term issue’.

The second was that the Agreement was rushed. It was drawn up by negotiators who had no grounding in constitutional matters. This showed in some of the proposals, such as the commitment to introduce a ‘binding motion’ in the House of Commons for the holding of the next general election in 2015. It was only subsequently realised that there was no one to be ‘bound’ by such a motion. The commitments on the AV referendum and fixed-term parliaments were seen as creating the glue for the Coalition and so were introduced quickly. Parliament thus had to deal with legislation that was essentially rushed.

The third and related point was that there was no clear link between the intention to restore trust in the political system and the measures that were introduced. The referendum on AV offered electors a limited choice. Electors were not asked their opinion on whether a Parliament should last four of five years. As the House of Lords Constitution Committee observed of the Fixed-term Parliaments Bill, “We take the view that the origins and content of this Bill owe more to short-term considerations than to a mature assessment of enduring constitutional principles or sustained public demand”.

The Coalition Agreement as it affects the constitution has thus given rise to tensions, primarily within the Conservative Party rather than between parties. These tensions may decline as other issues come to the fore and the constitution ceases to dominate the parliamentary agenda. However, the prospect for continuing tension remains, not least if the Government proceeds with its declared proposals for abolishing the House of Lords and replacing it with an elected House. That will not be a measure to unite the Conservative Party.



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