

Does bryce's
assertion of 'the
decline of
legislatures' remain
valid?



Does Bryce's assertion of 'the decline of legislatures' remain valid?

Lord Bryce extensively researched a number of legislatures and parliaments to determine whether legislatures as a whole were in decline. Bryce placed many of his general conclusions, findings and observations in his book *Modern Democracies*. Lord Bryce through his works looked to find "What are the ills to which legislatures are subject and which cause them to go into decline?". It is a very difficult question to answer, but it is necessary to make some attempt at it. It is helpful in discussing whether or not legislatures have declined to ask in what respect it is asserted that they have or have not declined. Is it a decline in power? Or is it a decline in efficiency? The two do not necessarily go together and are not necessarily a result of each other. Legislatures in parliamentary systems tend to be viewed as relatively weak. A legislature may be performing too many legislative functions, thus may not have the time or the capacity to perform them effectively. The "fusion" of the executive and legislative branch and dependence by ministers on legislative confidence lead to concerns that while the legislature notionally controls the executive, the relationship often in practice works the other way around (Olson, 1994).

Through out the 19th Century legislatures grew in number and political significance (Norton, 2013). According to the Inter Parliamentary Union by 2011 there were 189 countries that had national parliaments meaning out of the 193 nation states recognised by The United Nations only a small handful did not have a legislature of some sort. As colonialism ended, military regimes came to an end and the toppling of the USSR, the numbers of democratic legislatures and government bodies has significantly increased

<https://assignbuster.com/does-bryces-assertion-of-the-decline-of-legislatures-remain-valid/>

and currently shows no signs of diminishing. As the Soviet Union fell its influence over its neighbours and former member states, particularly those in the eastern block, significantly decreased. Such states such as Poland have now quickly and successfully transitioned to a democratic legislature, even going as far as joining the European Union. The classic comparative view, maintained in many contemporary analyses, is that "the U. S. Congress and the British Parliament serve as the emblematic examples of a strong Congress and weak parliament respectively" (Kreppel, 1999).

This essay taking examples from Westminster Style Legislative models will aim to answer the above questions, analysing the performance of several lawmaking bodies and specific legislative models such as those evident in the United Kingdom and Canada as well as comparing these factors to the more Presidential systems that utilise two chambers over a set of checks and balances like the USA and Brazil.

It is claimed that we reached the "golden age of parliaments" in the 19th Century (The Economist, 1998). With the predeceasing system of crown patronage and jobbery coming to an end, and the modern party system just beginning to emerge, parliament was still master and the most supreme lawmaking body in Britain. No Government between 1783 and 1830 was forced to resign due to a parliamentary vote of no confidence (En. wikipedia. org, n. d.), and only one has done so in the past 50 years, excluding Mays self inflicted vote of no confidence in 2017 (En. wikipedia. org, n. d.). Yet some critics argue sooner had this condition been reached that it began to deteriorate.

The shift since then in the balance of power has been marked by a sharp increase in the numbers of MPs who are ministers, whips or parliamentary private secretaries. In other words members of the house of commons/the legislature who are also members of the Her Majesty Government/ the executive. This means that a large portion of the legislature and the executive are all part of the same payroll vote.

At the dawn of the 20th Century, there were a total of 33 cabinet ministers out of then 670 MPs who were salaried. Cabinet members are always expected to vote with the government. There are now provisions set out by the Ministerial and other Salaries Act 1975 for a maximum of 109 paid ministers (Ministerial and other Salaries Act 1975). In total a government may have 180 minister across the roles of; cabinet ministers, junior ministers, whips, law officers and minister of state across 650 MPs (Devine, 2019). As the Prime Minister by convention is (on the invite of the Crown) the Prime Minister and that most Ministers are recruited from and sit in the House of Commons the two branches of government ie the Legislative and Executive become interlinked and intertwined. Both then have shared interest and it could be claimed that the executive becomes the tail wagging the dog.

Another factor, if not the most significant factor which has played to the decline of legislatures is the widening of the franchise and therefore the growth of political parties as a vehicle for mobilisation of ideas and debate. Currently in Britain according to the electoral commission there are 351 registered political parties (Commission, n. d.). Each organised party has its own set of views, policies, aims and objectives in their own respective

<https://assignbuster.com/does-bryces-assertion-of-the-decline-of-legislatures-remain-valid/>

manifestos. A party chooses its own candidates, raises its own funds and as mentioned sets its own legislative agenda. There are currently 11 parties represented in the UK Parliament, with a total of 16 independent MPs (UK Parliament, n. d.). Party leaders often occupy the central positions of government and therefore both directly and indirectly influence what is placed in front of their respective legislatures for approval. Party leaders and their followers are in a relationship of mutual dependence, as discussed above with the reference to the tail wagging the dog. Party leaders, sitting MPs and prospective parliamentary candidates greatly rely upon their own party supporters, something that has become an inherent feature of western democracies. In order to function effectively and efficiently parties require their supporters to act as their first port of call for campaigning, funding and policy creation. Activists are a party's public image. They often influence the rhetoric and tone of debate, its broad policy direction and even sometimes its stance on specific issues. Take for example the Labour Party, whom at its annual conference operates a delegate system where each Constituency Labour Party or (CLP) is entitled to send at least one member to its party's annual conference to vote and shape the party's policy platform. Parties in the UK and Europe are often very factional and have many disagreements amongst themselves when it comes to policy making.

Membership of the conservative party peaked at 2.8 million during the 1950s, before levelling off to around 1.2 million in the immediate preceding decades. Membership of the conservative party in Britain now sits at around 180,000 members. Labour's individual membership peaked at over 1 million during the 1950s, and like its Conservative counterpart its numbers

diminished in the following decades. However, it should be noted that the British Labour Party, as of 2018, is now the largest mass membership political party in all of Europe totalling 512, 000 in February 2019 (Audickas et al., 2019). Until the 1980s it was fair to label Britains two party system as one dominated by mass parties. Conservative party membership continued to drop in the 1980s through out Margret Thatchers lengthy reign of power. When the iron lady took office party membership stood at 1. 2 million, by the 1990s it had halved, and by the mid 2010s the Conservative party had a membership of roughly 150, 000. A fall of almost 90% in the post war era.

British politics has long been seen as a two party system. Dominated by two big parties, namely the Conservatives and the Labour Party. Each party has a core block of loyal supporters and voting demo-graphs, with a small number of “ floating” voters between them, however the numbers of these floating voters is increasing.

Contrastingly, this two-party domination began to weaken from the from as early as the late 1950s. The two party domination began to weaken as third parties grew in strength, a noticeable trend that has continued ever since. Additionally, turnout has fell as fewer people were enthused by the main parties and political apathy has increased. The growth of this pool of unattached electors has given rise to a number of parties across the political spectrum focused on a number of issues splintering the voting model, rendering the traditional idea of the working class voting Labour and the upper classes voting Conservative no longer valid. Parties representing nationalist movements in Scotland and Wales, liberalism and

environmentalism like the Green party and populist forces such as UKIP and more recently the Brexit Party have begun to emerge.

However, the slow deterioration of two-party domination has been somewhat obscured by the first-past-the-post voting system, with changes in voting not fully reflected in parliament; because of this there have been a number of calls for a more representative proportional voting system. Certainly, the fall in turnout, and in electoral registration, has had no apparent political impact. But most people are no longer loyal Labour or Tory voters. The traditional sources of loyalty to these two parties, as mentioned above, based partly on social class, are now not the main motivation in voting.

Another factor which has aided to the decline of legislatures is the emergence of supranational governance like that evident in institutions such as the European Union. The very existence of the European Union, in the view of eurosceptics all across the Europe challenges their respective nations legislative sovereignty and in the case of Britain our parliamentary sovereignty. Prior to becoming Prime Minister Boris Johnson described the EU and its expanding bureaucracy (further to be discussed) as "a slow and invisible process of legal colonisation" that infiltrates "every area of public policy". Brexiteers backbench MPs such as Jacob Rees-Moog have long argued this to be the case stating more and more laws are being superseded from Brussels each and every day, many of which don't require parliament approval as they don't require new legislation to be implemented. According to the BBC if "you count all EU regulations, EU-related Acts of Parliament, and EU-related Statutory Instruments, about 62% of laws introduced

between 1993 and 2014 that apply in the UK implemented EU

<https://assignbuster.com/does-bryces-assertion-of-the-decline-of-legislatures-remain-valid/>

obligations”(BBC, 2016). However, as there's no single definition of 'UK law', with constitutional functions such as rules made by judges having the force of law, for example, counting all laws created is probably impossible (FullFact, n. d.). Those on the opposite side of the debate would argue that the implementation of EU laws and directives is fair as the United Kingdom and Northern Ireland have representatives in the European Parliament, however this particular stance doesn't account for the EU's ever expansionist nature, the unelected increasingly bureaucratic commission, the European Court and the fact that the UK only has 8% of votes in the Council of Ministers and holds less than 10% of the votes in the European Parliament. Campaign groups such as Vote Leave would suggest “politicians have surrendered the UK's power to veto laws we disagree with, so if the EU decides to introduce a law that will be bad for Britain there is nothing we can do to stop it” (except leave which we now are) (Vote Leave, 2016).

In contrast, backbench MPs are as powerful as ever. King (1976) pointed out that backbench MPs most obviously hold the key to influence at Westminster, as government needs their votes to retain its parliamentary majority, and in recent times particularly from 2010 where we've had smaller and smaller sitting majorities from the governing parties including the Lib Dem-Conservative coalition, this has become an increasingly more important factor. Government backbenchers are therefore what termed “pivotal voters” at Westminster, as the executive constantly relies on their support to pass their agenda (Krehbiel, Keith, 2000).

Rebellion increased noticeably during the 1970s, dropping slightly during the Conservative premierships of Margaret Thatcher and John Major (Cowley and <https://assignbuster.com/does-bryces-assertion-of-the-decline-of-legislatures-remain-valid/>

Norton, 1999). After 1997, it again increased significantly, from rebellions in 8% of divisions in 1997–2001 to a postwar record of 28% in 2005–2010 (Cowley 2005) subsequently surpassed by a new record of 39% under the Conservative/Liberal Democrat coalition government 2010–2014 (Cowley and Stuart, 2014).

Although most such rebellions are small scale, some recent ones have been very sizable. The biggest rebellions over the Iraq war—one of which saw 139 Labour MPs vote against their whip in March 2003—exceeded those by MPs of any governing party on any type of policy since modern British party politics began (Cowley, 2005). The Lib Dem-Conservative coalition elected in 2010 had also seen several record-breaking rebellions, including the largest postwar revolt at a bill's second reading. In recent months there have been many rebellions in relation to the issue of Brexit on both sides of the house. Outgoing Prime Minister Theresa May experienced the largest single parliamentary defeat in 95 years (Penny and Hutton, 2019).

Commons defeats remain relatively rare (Dunleavy (2006). In fact it took eight years for the Blair government to suffer a single actual defeat in the Commons. Studies have long documented the extent to which governments are willing to do deals with their backbenchers. They obviously do so to avoid defeat, but also in order to minimise backbench discontent even when ministers know they can win a vote. Some negotiation takes place through the parties' formal structures—such as the Parliamentary Labour Party and the Conservatives' 1922 committee—but much also occurs through informal ad hoc contact.

Additionally it could be claimed legislatures have improved not declined, select committees which are made up solely of members of the legislature, shadow the work of every civil service department and offer a great level of scrutiny. In the past, the issue of reconstituting committees after a general election has sometimes been delayed, and until 2010 the party whips in the Commons 'fixed' who would chair which committee. Following the 'Wright' reforms made after 2009, committee chairs are elected by MPs. The select committee system now provides one committee scrutinising each Whitehall department's executive actions and implementation processes in detail. Select committee members build up worthwhile expertise in that area and a more effective 'corporate' spirit than in the past. Attendance at committee sessions has increased and there is more of a premium on effective engagement by members.

Since 2007 select committees have had the capability to review major ministerial appointments to government agencies. These pre-appointment hearings have now begun to help shape how ministers and other top officials make these appointments., causing them to more carefully consider their nominations. Out of a set of 59 hearings to 2017, appointments have divided committees or been rejected 13 times (Democratic Audit, 2018). MPs on the Education Committee initially rejected the government's proposed head of Ofsted after a lacklustre performance at their hearing (UK Parliament, 2015), as well as a candidate for Bank of England Deputy Governor resigning in 2017 after the Treasury Select Committee criticised incomplete answers that she had given them (BBC NEWS, 2017). On the other hand select committees' have brought some negatives one of these been that they only

work 100% effectively when they operate in a bipartisan manner. Select committees require MPs from different sides of the committee to endorse the same report. Creating this environment of cooperation creates difficult and biases the topics that committee chairs investigate; often because they are anxious to secure wide agreement, therefore, as a result, critical issues dividing the parties may not be examined as they are considered to difficult to find compromise on.

In conclusion I do not think all of Bryces assertions made in relation to the decline of legislatures to be true. Based of the case of the UK and our Westminster model it would a fair claim to say the executive now dominates most of the legislative process as it determines the timetable as well as its respective members serving from the other, however on the same hand the power of the legislature has increased through and via the expansion of select committees, standing committees, Westminster hall debates and more frequent private members bills. As Brexit occurs, especially now with Boris Johnson as Prime Minister and a hard Brexit looking more likely, legislative functions that have caused the Westminster parliament to decline as discussed above will be returned to the HoC.

Bibliography

- Audickas, L., Dempsey, N., Keen, R. and Loft, P. (2019). Membership of UK political parties. [online] Researchbriefings. parliament. uk.
Available at: <https://researchbriefings.parliament.uk/ResearchBriefing/Summary/SN05125> [Accessed 29 Jul. 2019].

- BBC (2016). How much UK law comes from the EU?. [online] BBC News. Available at: <https://www.bbc.co.uk/news/uk-politics-eu-referendum-36473105> [Accessed 29 Jul. 2019].
- BBC NEWS (2017). Hogg resignation: 'A regrettable business'. [online] BBC News. Available at: <https://www.bbc.co.uk/news/av/uk-politics-39271221/treasury-chair-on-the-resignation-of-bank-of-england-s-deputy> [Accessed 4 Aug. 2019].
- Commission, E. (n. d.). Registered Parties Search - The Electoral Commission. [online] Search. electoralcommission.org.uk. Available at: <http://search.electoralcommission.org.uk/Search/Registrations?currentPage=1&rows=30&sort=RegulatedEntityNamevder=asc&open=filter&et=pp&et=ppm@ister=gb@Status=registered&optCols=EntityStatusName> [Accessed 29 Jul. 2019].
- Cowely, P. and Stuart, M. (2014). The four year itch. 1st ed. [ebook] Nottingham: University of Nottingham. Available at: http://revolts.co.uk/wp-content/uploads/2014/06/Four-year-itch_cover_full.pdf [Accessed 29 Jul. 2019].
- Cowley, P. (2005). The rebels. London: Politico's.
- Cowley, P. and Norton, P. (1999). Rebels and Rebellions: Conservative MPs in the 1992 Parliament. *The British Journal of Politics and International Relations*, 1(1), pp. 84-105.
- Democratic Audit (2018). Select Committee pre-appointment hearings have helped rebalance the relationship between the government and parliament - but have also created unintended consequences. [online] Democratic Audit. Available at: [http://www.democraticaudit.com/2015/09/19/select-committee-pre-appointment-hearings-have-](http://www.democraticaudit.com/2015/09/19/select-committee-pre-appointment-hearings-have-https://assignbuster.com/does-bryces-assertion-of-the-decline-of-legislatures-remain-valid/)

<https://assignbuster.com/does-bryces-assertion-of-the-decline-of-legislatures-remain-valid/>

helped-rebalance-the-relationship-between-the-government-and-parliament-but-have-also-created-unintended-consequences/
[Accessed 4 Aug. 2019].

- FullFact (n. d.). UK law: What proportion is influenced by the EU?. [online] Full Fact. Available at: <https://fullfact.org/europe/uk-law-what-proportion-influenced-eu/> [Accessed 29 Jul. 2019].
- Devine, D. (2019). Government ministers. [online] The Institute for Government. Available at: <https://www.instituteforgovernment.org.uk/explainers/government-ministers> [Accessed 29 Jul. 2019].
- En. wikipedia.org. (n. d.). List of votes of no confidence in British governments. [online] Available at: https://en.wikipedia.org/wiki/List_of_votes_of_no_confidence_in_British_governments [Accessed 29 Jul. 2019].
- Kreppel, A. (1999). What Affects the European Parliament's Legislative Influence? An Analysis of the Success of EP Amendments. *JCMS: Journal of Common Market Studies*, 37(3), pp. 521-537.
- Kreppel, A. (1999). What Affects the European Parliament's Legislative Influence? An Analysis of the Success of EP Amendments. *JCMS: Journal of Common Market Studies*, 37(3), pp. 521-537.
- Ministerial and other Salaries Act 1975.
- Norton, P. (2013). *Parliament in British politics*. 2nd ed.
- Olson, D. (1994). *Democratic legislative institutions*. 1st ed. p. 77.
- Penny, T. and Hutton, R. (2019). May Faces Worst Government Defeat in 95 Years in Brexit Vote. [online] Bloomberg.com. Available at: <https://www.bloomberg.com/news/articles/2019-01-14/may-faces->

worst-government-defeat-in-95-years-in-key-brexite-vote [Accessed 29 Jul. 2019].

- The Economist (1998). The golden age of the Commons. [online] The Economist. Available at: <https://www.economist.com/britain/1998/01/08/the-golden-age-of-the-commons> [Accessed 25 Jul. 2019].
- UK Parliament (n. d.). Current State of the Parties. [online] UK Parliament. Available at: <https://www.parliament.uk/mps-lords-and-offices/mps/current-state-of-the-parties/> [Accessed 23 Jul. 2019].
- UK Parliament (2015). Ofsted Chief Inspector candidate rejected by Committee - News from Parliament. [online] UK Parliament. Available at: <https://www.parliament.uk/business/committees/committees-a-z/commons-select/education-committee/news-parliament-2015/ofsted-pre-appointment-report-published-16-17/> [Accessed 4 Aug. 2019].
- Vote Leave (2016). [online] Available at: http://www.voteleavetakecontrol.org/briefing_control.html [Accessed 29 Jul. 2019].