

# The speaker, government and parliament: do two wrongs make a right?

Blog post by Adviser Tom King, 10 January 2019

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Sovereignty is a tricky word. It's misused or abused almost as often as it's used - and it's been used far more since the UK's EU referendum date was set almost three years ago. Despite its nebulous character, it gets at the heart of something every human cares about: Who governs me? Who represents me? Who is in control?

Yesterday there was a clash between different forms of control. In the UK's system, the government is used to having the power to set the terms and timings of parliamentary business. But that power was challenged directly by John Bercow, the Speaker of the House of Commons, who clearly saw an opportunity to redress the balance in favour of MPs.

Was Bercow right? In my personal view, certainly not, in a technical sense. His unilateral action ignored the letter and spirit of motions and law previously agreed by the whole House of Commons. As a show of the chair's power, it was bold to say the least.

There are two things to say in mitigation, though. Firstly, Bercow was correct in his assessment of parliamentary views: Dominic Grieve's lawyerly amendment passed by a majority of 11 without debate. This means that MPs' views were more accurately reflected and represented through his decision to select the amendment.

Secondly, the government and government-aligned media's disapprobation of the decision rings decidedly hollow when set against their track record of parliamentary behaviour. This is after all a minority government that has stacked public bill committees to give itself a majority; paid a small fringe party £1 bn in public money to shore up its support; misled parliament over sectoral analyses; broken the pairing agreements that allow MPs to miss votes; and refused to publish legal advice, leading to being found in contempt of parliament.

Most notably of all, yesterday's shenanigans wouldn't even have happened had Theresa May gone through with the meaningful vote on 11th December, rather than choosing to run the Brexit clock down.

It is therefore difficult to believe that those expressing such anger yesterday were acting purely out of a concern for parliamentary procedure and respect for British democracy.

Usually, two wrongs don't make a right - but in this case they might. Bercow's decision could have deep implications for future parliamentary business; it may mean backbench MPs can now tinker with government activity on a regular basis. This could be a serious expansion of parliament's powers to monkey around with ministers' calendars.

This all sheds light on a deeper question: what kind of parliament works best? What we call a legislature varies widely in different countries. In the UK, elected and appointed representatives are almost always law editors rather than law makers.

In other systems, such assemblies - whether parliaments or senates - are often more proactive. Compared to their counterparts elsewhere, UK MPs are often relatively toothless. It is the British executive that drives law and policy, helped along by its substantial payroll vote (currently around 20% of the House of Commons) and

other forms of patronage. For all that the US system is presidential, British prime ministers often behave more presidentially.

All of this is ironic in the light of criticism levelled at the European Parliament during the referendum campaign. During that debate, a regular cry went up that MEPs did not have the power to introduce legislation, making the parliament undemocratic. But is the UK parliament much better? UK parliamentarians may certainly introduce legislation, and do: a stonking 2,301 private members' bills were tabled between 1997 and 2017. But only 117 gained Royal Assent, or a total of 5%.

Whatever your views on Bercow's fateful decision yesterday, the incident makes clear that the tension between the UK's government and parliament is not likely to be solved by ad hoc decisions from unaccountable places. A decade ago, the House of Commons recognised this, and set up a special committee to improve the procedures and relevance of parliament.

That committee, chaired by Tony Wright, made many recommendations. But the main one was that the House should democratically control its own agenda. As we have seen, even a minority government typically has as much control over parliamentary time as a majority government - rogue speakers notwithstanding. Wright's committee proposed instead a House Business Committee that would enable the agenda of the House to become 'votable'. These proposals were accepted in full by the coalition government, but that key change was left unimplemented.

If you're still with me, congratulations. This is both technical and nerdy. But it brings us back to sovereignty. If the UK political class wishes to avoid further clashes like yesterday's, a long-term answer to the question of what kind of parliament they want - and who should define how British MPs spend their time - is required. Perhaps two wrongs should make a Wright.