Populism or Pluralism? New Labour and the Constitution

Mishcon Lecture

by David Marquand

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The accursed power that stands on Privilege,
(And goes with Women, and Champagne, and Bridge)
Broke - and Democracy resumed her reign:
(Which goes with Bridge, and Women and Champagne).

Two years after the second greatest centre-left electoral victory in twentieth century British history it seems appropriate to recall Hilaire

it on goes

The implications are stark. The old constitution was never the crystalline monolith

vision of the end in view, or set out an ideal of good government, or political health
or civic virtue which the changes are held to promote or alternatively to undermine.

The silence is especially deafening in the case of the Government whose agenda this
is. Ministers have focused on means and ignored ends. They have made no attempt
to link their constitutional measures with the rest of their so-called project. Their
ruthlessly centralist approach to the management of their own party and to me-23.49 -1.14Tj a to 775 0 Td

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public in a way that punched huge holes in the fundamental doctrine of ministerial accountability. By signing the Single European Act they also did more to water down the sovereignty of the British state than any previous British Government. But these changes were not the products of caprice or even of ideology. They too were the work of sleepwalkers. They were made because responsible party government was no longer delivering the goods; because the Westminster Model was becoming, at one and the same time, less legitimate and less effective; and because the governments of the time were trying to improvise their way out of the consequences.

New Labour's constitutional agenda can be understood only against that background. It is a response to a creeping crisis of legitimacy which has been in progress for thirty years. The sources of this creeping crisis are manifold, but one stands out. The old constitution was the constitution of a pre-democratic ancien regime on which democratic flesh had been grafted. It was also an imperial constitution, embodying an imperial identity. The end of empire fatally undermined it. But the obvious question, 'What is to replace it?', went unanswered. As a result, the experiments of the 1960s and 1970s were half-hearted, makeshift and transitory, while the changes brought by the Thatcher Revolution still further eroded the moral , foundations of the institutions through which they were procured. So the grand question for the twenty-first century is this: What should succeed the busted flush of the ancien regime? It goes without saying that it must be a democratic constitution, close enough to the traditions of this particular political community to command assent, yet appropriate to a medium-sized Member State of a federalising European Union. But democracy comes in many guises. My question therefore implies another: What sort of democracy?

At this point, I return to my opening dichotomy of pluralism and populism. I do so by way of two intriguing comments by Professor Robert Hazell, of this College. The first is The
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uniformity and sceptical about theories - Marxism, economic liberalism, globalisation - that presuppose uniformity. The notion that it is possible to strip away the accretions of history and locality that clothe real people in real societies, in order to lay bare an essential human nature from which universally valid laws of behaviour can be derived, seems to them misconceived and dangerous. The accretions of history and locality are what make us human. Pluralists know that people are not all the same; and believe that life would be less rich and satisfying if they were. They like the clash and clang of argument, and would detest a world where everyone agreed with them. The monochrome sameness of the big battalions horrifies them, and so does the sugary conformism of the politically correct. Instinctively, they are for the 'little platoons' that Edmund Burke saw as the nurseries of 'public affections', and they want to protect them from the homogenising pressures of state, market and opinion. They don't want all groups to have the same values or to live the same lives. For them, a good society is a mosaic of various and vibrant smaller collectivities - trade unions, universities, business associations, cricket clubs, local authorities, miners' welfares, churches, mosques, Women's Institutes, ,ties,

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That leads on to the second reason why checks and balances matter to pluralists. It was put best by the founding fathers of American federalism more than 200 years ago. 'Ambition', said James Madison, 'must be made to counter ambition'. The best defence against the arrogance and self-aggrandisement of power is power. No rulers, not even the most virtuous, not even those chosen by and in theory representative of the 'sovereign people' can be trusted not to abuse their positions. Power is addictive. It is a magnet for toadies. It

In when the Suez crisis broke, there was Gaitskell on television

and

in the House of Commons criticising Eden,

have to come to terms with this awkward fact. Characteristically, they do so by laying claim to a special, intuitive, supra-rational understanding of the people and of their true values and beliefs. Charles de Gaulle, Enoch Powell, Adolf Hitler, Margaret Thatcher, Joe McCarthy, David Lloyd George did not need to find out what the people thought. They knew. They knew because their heart-beats chimed with the people's. Sometimes the results are ludicrous, as when Tony Benn demanded and got a referendum on European Community membership, only to see his side of the argument crushingly defeated. Sometimes they are evil, as with Hitler. Sometimes they are magnificent, as with de Gaulle. For the purposes of this lecture, however, what matters is the psychic mechanism through which the results are achieved. Populist leaders believe that they embody the popular will, that they have a private line to that will, that they can and should appeal to it directly without going through intermediaries. Buoyed up by that belief, they offer certainty, security, glamour in place of the drab and confusing greys of the ordinary politician. While the magic lasts, the rewards are great. The German socialist, Egon Wertheimer, once described Ramsay MacDonald, in his day a heroic figure, as 'the focus for the mute hopes of a class.' Substitute 'people' for 'class' and that is the essence of populist leadership.

What has this to do with New Labour's constitutional revolution? Simply this. Ours is a populist age - resentful of excellence and hostile to any suggestion that the voice of the people may not always be the voice of God. To be sure, it is also a hyper-individualistic age. But despite appearances to the contrary, populism and hyper-individualism go together. A mass of disaggregated individuals, in a society where intermediate institutions have been crippled or hollowed out, is more likely to respond to a populist appeal than to any other. Populist languages make no demands on their listeners; they flatter the emotions; they promise the isolated and alienated the warm glow of membership of a greater whole; they place the burdens of freedom on someone else's shoulders. For the present Government, they have other attractions as well. When institutions are in disarray, when norms point in different directions, when the old constitution has become a messy jumble of bits and pieces and there is no coherent alternative in sight, the easiest way to cut through the resulting contradictions is to appeal directly to the sovereign people, over the heads of such intermediaries as remain, having first found out what the people want to hear.

But the attractions are outweighed by the dangers. Populists speak of 'the people', but who are the 'people'? The current reconstruction of the territorial constitution makes this question painfully urgent. Are the Scots part of the uncorrupted, monolithic and homogeneous British people, to whom, in the populist vision, sovereignty should now be made over? Or are they a different people, also uncorrupted, homogeneous and monolithic, and also sovereign? If the former, then how can there be a populist justification for devolution? But if the latter, what is wrong with the SNP's conclusion that the sovereign Scottish people deserve a state of their own? In practice, the case for devolution has been argued in populist language, but only with reference to Scotland. No one has answered the embarrassing questions, 'What about the English?' 'Are they also a people?' I don't claim that populists cannot answer those questions. Plainly, they can. The trouble is

that their answers point unmistakably towards a Balkanised Britain. The pluralist case for devolution, by contrast, has nothing to do with popular sovereignty. It is that, in a country of Britain's size, the power of the central state should, as a matter
of principle, be checked with elected sub-national assemblies - not only in Scotland
and Wales, but in the English regions. The obvious conclusion is that the emerging
new territorial constitution is likely to unravel unless it is advocated, justified and understood in pluralist terms.

That leads on to a more general point. The reconstruction of the British state raises
two questions, not one: not just, 'Who are the people?' but 'Can I ut r e ut