Political Thinking Meeting Report No 40

Chiltern U3A 'Political Thinking'

Meeting No 40 Monday 30th Sept 2019

Topic for discussion.

Brexit

The Supreme Court ruling that the prorogation of Parliament was of no effect is important. The ruling was about the unwritten constitution, not directly about Brexit, but there are political consequences as well as constitutional.

Is the interpretation by the Court that established political convention acquire what amounts to a legally enforceable status a welcome development? Or is there now a need for a written constitution as in other democracies?

In the context of Brexit the political effect of the decision appears to be to reinforce the concept of Parliamentary Sovereignty, in the context of Brexit, that is that the referendum result is not to be considered as binding on Parliament.

Should Parliament now continue to oppose Brexit ? Is so how can the referendum result be recognised or otherwise resolved?

Summary

There was agreement that the decision of the Supreme Court made it more likely that Parliament would eventually succeed in its view.

Discussion

There was general agreement that the recent Supreme Court decision had the constitutional effect of reinforcing the supremacy of Parliament both over the Executive branch of government and over alternative expressions of the democratic will of the people; this confirmation and clarification of where power actually lies is probably to be welcomed. There was little support for the view that a written constitution would be a benefit or an improvement.

The view that the judges were not impartial, all being remainers and therefore biassed, did not find support. The question of whether the change from the House of Lords to a distinct Supreme

Court as the highest court made the court more or less political was raised, without conclusion. There was some concern over the role of the Opposition; both recent Supreme Court rulings were as a result of actions brought privately; is not the role of the Opposition to oppose, if necessary by Court action? Should not the Opposition have been involved?

In the context of Brexit, it has long been pointed out by Brexiteers that “the problem is that Parliament is for Remain.” The Supreme Court judgement would seem to make it more likely that Parliament would get its way eventually, and this can be viewed as confirmation that the system of representative government as it exists is functioning tolerably well.

What to do about the referendum result? There has long been an adage that no Parliament can bind its successors, the implication being that laws made in the past can be changed. Another implication of this is that no Parliament can be held responsible for the actions of its predecessor Parliaments. Once there is a new Parliament, which will be the consequence of prorogation and a new Queen’s Speech, then the new Parliament is not responsible for the actions of the old. Failure to execute the result of a referendum it had itself arranged would be the responsibility of the old Parliament, not of the new. Though constitutionally sound this view would leave considerable dissatisfaction.

Topic for discussion:- What will happen in the next month to October 31st?.

There seem to be four possible outcomes within the time period.

Agreement with EU accepted by Parliament, no change of government, termination of membership

No agreement with EU, no change of UK government, further extension of membership.

No agreement with EU, change of UK government, further extension of membership.

No agreement with EU, change of UK government, no further extension of membership.

Shall we speculate as to which will occur?

Discussion.
After a lively speculative discussion, exploring the ramifications extending well beyond the deadline date of Oct 31st, each member was asked to predict as to which one of the four possibilities outlined above would occur. The question was not about preference, but about prediction, in a totally uncertain situation.

There was a strong prediction for the third possibility, that is no agreement with the EU, a change of government and further extension of membership beyond 31st Oct. No predictions were made about possible events after 31st Oct, ie General Election and further referendum.