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Stretched but not Snapped: Constitutional Lessons from the 2010 Coalition Government in Britain

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**Abstract**

Taking as its point of departure, Felicity Matthews' (2011) article 'Constitutional stretching: coalition governance and the Westminster model' published in *Commonwealth & Comparative Politics*, this article draws on the experience of coalition government in Westminster to review, categorise and consider how power sharing has necessitated a rethink of what is the British constitution. Defining constitutional stretching as being about the sustained operation of two-party government within the Westminster Model, it shows that traditional practices around manifestos, collective responsibility and the prerogative have been adjusted since 2010 in order to facilitate functioning administration. The article observes that some stretching is not entirely novel with precedents to be found in earlier single party administrations. It further argues that while conventions have been strained, the Cameron/Clegg government survived, suggesting a need to adjust our understanding of constitutional concepts. Given the likelihood of future hung parliaments, this could mean more permanent constitutional change and the article makes some modest suggestions for updating guidance.

**Key words:** Coalition, Constitutional Reform, Westminster System, Majoritarian, Collective Responsibility.

 **Main Text**

The ‘constitutional stretching’ of the British majoritarian Westminster system emerging from the 2010 coalition remains under-explored by academics and is only recently being addressed by parliamentarians themselves (HoL, 2013). And yet with a general election approaching which could once again result in hung parliament[[1]](#endnote-2), there is a need to draw lessons from the novel experience of UK coalition government to better understand constitutional norms and practices under such conditions. When Felicity Matthews (2011) examined the topic in *Commonwealth & Comparative Politics*, the Conservative – Liberal Democrat coalition was still in its infancy. Despite this, she was able to explore the culture and assumptions of the Westminster model through the dynamics of coalition and to offer an early analysis of governance challenges. Others have since contributed to the wider analysis. Hazel and Yong (2012) for instance have studied how the coalition works; Bennister & Heffernan (2012) have examined how Prime Minister David Cameron and Deputy Prime Minister Nick Clegg operate together in Whitehall; Hayton (2014) has explored the strategic positioning of the Conservatives within coalition. Nonetheless, our understanding is far from complete in terms of how coalition has necessitated a rethink of what is the British constitution. This is the primary focus of this article.

Taking Matthews (2011) as its point of departure and responding to her ‘plea’ to scholars to help navigate the ‘unchartered terrain’ of British coalition politics, this article reviews, considers and categorises the constitutional impact of coalition given the experience of four years in office. Its further contribution is to analyse these developments through the conceptual lens of ‘constitutional stretching’. The methodological approach is to concentrate on what is judged to be the most significant areas – legitimacy, manifestos, coalition agreement, collective responsibility and the prerogative - to critique the real world changes to have taken place. Within these confines, the article suggests that areas of constitutional elasticity can relate to either the Westminster model or the sustainability of the administration itself. Here, it advances the view that questions of legitimacy, use of manifestos and the coalition agreement can more easily be categorised as stretching the Westminster model with collective responsibility and prerogative power straining the viability of the government itself. In doing so, the article shows that traditional assumptions, based around the Westminster model, have been stretched during the Cameron/Clegg coalition but observes that the survival of the government throughout these tests means that our conceptions of such norms need to be relaxed. In an effort to support future practice, it concludes with some modest recommendations. While the article concentrates exclusively on the experience in the United Kingdom, it too represents an invitation to international scholars to offer comparisons that might better develop the understanding of British coalition politics. The programme of legislative constitutional reform pursued by the government remains outside the scope of this article and consequently the analysis is interested in the impact of the practice of government rather than intentional reform.

**Constitutional Stretching**

A dimension adopted in Matthews (2011) and developed here is that of constitutional stretching. This section unpacks this concept so that it might be used to better understand how the operation of coalition has changed the British constitution; that is the institutionalised rules and practices by which the country is governed. In considering the elasticity of the constitution in adapting to new circumstances, it suggests constitutional ‘snapping’ to be the point at which structures can no longer maintain a functioning administration or that the principles underlining the Westminster Model, long a feature of the British system of parliamentary government, are changed fundamentally.

The elasticity of constitutional practices and precedents when ‘unusual’ arrangements are put in place is central to the understanding of change. That being so, all governments are coalitions of sorts, drawn from competing opinion (usually within a single party). The 2010 coalition has shown itself to be, in many ways, more ideologically comfortable than the divisions between the ‘wets’ and the ‘drys’ (and other categorisations) in the Thatcher and Major governments (Heppel, 2002) and more functional in their relationships than the tribal splits between the ‘Blairites' and the ‘Brownites’ of the Blair administration (Heffernan, 2011). While there have been some public rows between the parties in the Cameron/Clegg coalition, the more serious disagreements have not always been drawn on party lines but rather have been between the Treasury and spending departments (for example the MoD and Social Security) reflecting the tough public spending environment more than coalition.

Even though the first-past-the-post electoral system, has usually delivered majority governments on minority votes, the British constitution is flexible, accommodating and has supported previous multi-party coalitions. This relative elasticity needs to be considered since any definition of limitless adaptability makes the notion of stretching less conceptually useful. Indeed ‘standard accounts’ of the parliamentary system have already been ‘stretched to the breaking point’ (Urbinani & Warren, 2008, 390). And, in a practical sense, while ‘it must be sufficient to allow adaption to the pressures that arise naturally from the dynamic development of an organic state structure’ it must be ‘institutionalised’ and capable of preventing institutions from ‘acting improperly’ (Feldman, 2005, 338). Just where would tension mean constitutional snapping? Here the inability of existing structures to maintain a functioning government is an evident snapping point. And the observation that the 2010 coalition did not collapse means that where practices have differed, they must be considered to have changed the constitution.

But it is possible to be more subtle than this to consider snapping as a change in what might be termed constitutional typology. In Britain this means the Westminster model which continues to be explored in the literature (Bevir, 2008; Lijphart 1999; Matthews 2011; Norton, 2008) and is usually defined by scholars as majoritarian, tribal, oppositional and confrontational in organisation and practice. There is a paid Leader of the Opposition whose job it is to legitimately oppose the government and together with a shadow cabinet act as an alternative government. While all democratic political systems highlight their distinctive policies and values, the Westminster model is not only combative but also exaggerates differences between parties because of this concentration of power; facilitating the alternation of (usually) single party majority governments in office. This contrasts with more ‘consensus’ based systems around the democratic world which routinely form and maintain coalitions and are classified separately in the literature most notably by Lijphart (1999). The experience since 2010 has defied the tradition that 'policy overlap or convergence between political parties have never been emphasised in British politics' (Matthews, 2011, 505). Consequently the model has been stretched in accommodating two parties in office (following other reforms such as devolution) to what some scholars have referred to as ‘modified majoritarianism’ (Flinders, 2011; Matthews 2011). Viewed empirically, however, the Westminster model has perhaps proved more resilient than Matthews expected and this is explored further in the next section with a discussion around legitimacy and party manifestos. However, one other way to assess this is to consider the impact on the official opposition. Here the experience of coalition does not appear to have significantly altered the opposition Labour party’s approach. Indeed rather than being seen as more consensual, under Ed Miliband’s lead, Labour might be said to be oppositional, tribal and confrontational. A prominent example of this is its approach to economic policy where the party has strongly opposed the ‘austerity’ policies of government despite the programmatic closeness to its own actions in office before 2010 (Wickham-Jones, 2013; Heppell & Hill, 2012). Moreover, the approach of the governing Conservatives to this stance has been ‘to simultaneously divorce both Labour and Liberal Democrat progressives whilst also attributing the Blair/Brown premierships for the global economic downturn’ (Crines, 2012). Such behaviour is consistent with traditional ideas of the Westminster Model.

The conceptual lens through which constitutional change can be viewed is consequently within this notion of stretching by a government of two parties and within the Westminster model. This understanding will be all the more significant should changes prove to be more than transitory. While the 2010 election outcome was something of a novelty, the longitudinal data suggests that hung parliaments are likely to become a more regular feature of British politics even without electoral reform. It is noteworthy that if one goes back to the 1955 general election, which saw the winning party achieve the highest share of the vote at any time since the second world war, all but 3.9% of votes were cast for the Conservative or Labour parties and other than MPs belonging to those two, just 6 seats were won by the Liberals and 2 by Sinn Féin. Fifty years later in 2005 and a full 32% of the votes cast were for parties or candidates other than the ‘big two’. This has coincided with the rise of an increasingly credible third party, today in the form of the Liberal Democrats but the vote is broader than this encompassing minority parties and independents. Table 1 offers some comprehensive data for each of the 18 general elections between 1945-2010, from which there is undeniably a trend towards a sizeable vote for alternative parties and candidates. Indeed by the 2010 election which resulted in coalition, just 65% of the electorate voted for Conservative or Labour candidates. Despite the bias the electoral system has against candidates not supported by one of the main parties, the number of MPs not taking the Conservative or Labour Whip in the Commons has increased tenfold over fifty years making it that bit harder for leading parties to win a majority.

TABLE 1 ABOUT HERE

Furthermore, the reduction in the number of marginal seats as is noted by several scholars (Curtis, 2010; Hodgeson et al, 2012) could well mean that the 2005 and 2010 elections (where the vote for the leading party was in the mid 30% rather than above 40% as was the case 1979-2001) are not an aberration. Indeed, Paun (2011) has demonstrated that greater pluralism in party systems has delivered legislatures with no single party majority not only in Britain but also in 'Westminster family' parliaments of Canada, Australia and New Zealand.

Constitutional stretching can be understood to be elasticity in the practices and conventions of government and adjustments to the Westminster model. The remainder of this article will consider some principle changes to the British constitution as a result of the Cameron/Clegg government’s renegotiation of institutionalised practice. However, the contention is that while conventions have been stretched, they have not ‘snapped’ in the sense that the tribal and oppositional system has largely prevailed while the coalition has survived in office. Changes to the British constitution resulting from this stretching, categorised and identified here, could also become a more permanent feature should voting trends continue.

 **Legitimacy, Manifestos and Agreements**

When the House of Lords Constitution Select Committee chose to investigate the impact of coalition, its call for evidence (2013) suggested a question of parliamentary legitimacy ‘in that the Government’s right to exercise executive authority stems from the confidence of the House of Commons, which in turn is a recognition of popular acceptance of the governing party’s proposals as contained in its manifesto’. This question of legitimacy has been raised elsewhere since the formation of a government comprising two or more parties, post-election, means that the electorate did not consciously vote for that specific combination of personnel or policy (Bogdanor, 2011b). Indeed had the public known the outcome in advance, voting intentions might have changed. Such views contrast with the traditional understanding of parliamentary government in Britain where the vote share won by the party or parties is largely an irrelevance. Here governments can claim legitimacy where they command the confidence of the House of Commons. Consequently, questioning the legitimacy of the 2010 coalition must logically also mean questioning the model.

This section takes the legitimacy critique suggested by the Lords and assesses the stretched role of manifesto commitments as becoming the basis for Coalition Agreement. It argues that while arrangements since 2010 have strained the Westminster Model, it has proven resilient. What follows demonstrates that while power sharing has changed the practice of government, despite two parties occupying the government benches, traditional parliamentary arrangements and principles remain broadly recognizable. Indeed, Conservative and Liberal Democrat backbenchers have usually chosen to sit separately in the House.

Mathews (2011, 488) describes traditional Westminster arrangements as ‘hoarding of power within single party cabinets… adversarial, exclusive and with little emphasis on public participation’, as sometimes being seen as more legitimate than consensual power sharing. Indeed, criticism leveled at the Cameron/Clegg coalition from right (Hitchens, 2010) and left (Mayer, 2010) of the political spectrum as well as the question raised by the Lords Select Committee, show that it is power sharing that is usually at the heart of the case. These do not represent calls for greater popular sovereignty due to electoral changes that might be associated with Bogdanor (2011b) or constitutional reformers.

But by this measure, and comparing the experience of the 2005 and 2010 elections, it is difficult to maintain the argument that Tony Blair’s Labour party had a greater electoral mandate from its 35.2% of the vote in 2005 than David Cameron’s Conservatives on 36.1% five years later. And yet few questioned the legitimacy of Blair’s government when two thirds of the electorate had voted for parties other than the one which held office exclusively. While recognizing the limits of the arithmetic, the 2010 coalition represented a combined share of the vote of 59% (and the combined seats in the Commons being 306 plus 57 representing a proportional 58.4% of the House). Consequently, the formation of a coalition meant that Britain had a government which in some form represented more than half of votes cast at a general election for the first time in post-war history. But this has barely featured in support of the government’s legitimacy because parliamentary sovereignty remains the key measure. Indeed the case that coalitions are less legitimate overlooks conventions and practices that many critics wish to preserve.

The link between Members of Parliament and their constituencies is so valued that it invariably emerges as an objection to electoral reform (Norton, 1999). A long established principle is that Members hold the sovereign authority of their constituents for the duration of the parliament (Bagehot, 1867) and are free to vote against their government, resign the whip or even cross the floor without the need for a by-election (though practices have evolved even over the past century). In the Westminster system, a prime minister is able to form a government where he or she can command the confidence of Parliament and this is confirmed by votes of MPs notably in acceptance of the Queen’s speech which details a government’s proposed programme. Governments do not need to perpetually command the confidence of the electorate. Indeed the constitutional position of an MP is summed up in the famous address by Burke to his constituents when he told them: ‘Your Representative owes you, not his industry only, but his judgement; and he betrays, instead of serving you, if he sacrifices it to your opinion’. Consequently, Parliament can agree to the formation of whatever government it sees fit and vote for whatever legislation it decides is right. Members are held to account retrospectively at the ballot box at the subsequent election. Coalition has not changed this.

And yet, parties which form governments and manifestos which detail their commitments to the electorate are formalised parts of Westminster arrangements. Short and Cranborne money, that is financial assistance to opposition parties, for instance, is paid directly to parties rather than Members, though is intended to support the constitutional role of loyal opposition (Kelly, 2010). The Salisbury-Addison convention acknowledges the mandate given to a governing party by the electorate voting for policies detailed in a manifesto (Baldwin, 2007).

While it has no fundamental force, the Coalition Agreement becomes the basis of not only the policy programme – that is what is included and what is excluded – but is also the settlement from which collective responsibility is derived. While there is legitimate criticism that the electorate did not vote for the Coalition Agreement, party manifestos are naturally the basis for the government’s programme. This potentially stretches their nature from a list of pledges to a document for negotiation. Indeed, Matthews (2011) shows that 43.3% of policy statements detailed in the Coalition Agreement, *Programme for Government* (2010), were drawn from the Conservative party manifesto, 22.7% from the Liberal Democrat manifesto and 19.7% appeared in both (also demonstrating some programmatic overlap). Just 14.3% were in neither or can be said to be uncertain in some way. In a separate study, Quinn Battle and Bartle (2011) similarly concluded that both parties were able to secure gains on their own priority policies as detailed in their manifestos.

It should also be noted that there is nothing binding about a manifesto and many governments are accused of contradicting pledges made at the previous general election. Bara’s detailed study of manifesto implementation and trust concludes that parties ‘make too many promises which cannot easily be traced through to implementation and are open to manipulation and false claims of success’ (2005, 599). Furthermore, manifestos as a legislative programme suffer the same weakness as Coalition Agreements in that contexts change during the course of a (five year) Parliament and there is a need to refresh objectives mid-term.

There is little doubt that the increased prospect of coalition negotiations will incentivise mainstream parties to consider that possibility in drafting manifestos. As such manifestos now have a stretched role of representing a series of pledges to the electorate and act as a document for negotiating a programme of government with another party.

It is also worth considering that the distinction between manifestos and the Coalition Agreement might be partially responsible for an increased sense of independence of Parliamentarians since it weakens the powers of patronage enjoyed by a Prime Minister. It is perhaps no coincidence that the 2010 Parliament has been the most rebellious since 1945 (Cowley and Stuart, 2013) as government backbenchers can claim they were elected on their party manifestos not the Coalition Agreement against which they are being whipped. One might view this as positive stretching of backbench powers to hold the executive to account but also re-enforces the Westminster Model to some degree.

Having formed a government, the place of manifesto commitments continues to require constitutional stretching. The Salisbury–Addison convention which, since 1945 has come to mean that the House of Lords does not defeat the government on second or third reading of legislation pertaining to pledges made in a manifesto, is already severely strained (Russell, 2010). Its modern origins lay in Attlee’s landslide of 1945 and the under-representation of Labour peers in the Lords. However, since 1999 when all but 92 hereditary peers were removed from the Chamber and it can be seen that the House of Lords is actually more representative of votes cast at a general election than is the Commons (Barber, 2014), the purpose of the convention has waned. Peers would also reasonably question the convention when it comes to minority (or even majority) governments on minority shares of votes. After all, if only a third of the electorate has voted for a party with a particularly controversial manifesto commitment, there would not seem to be the same justification for the practice. In terms of a coalition, the context is further distorted since the settled programme is not contained in a single manifesto but rather in an agreement which the electorate has not directly approved. As such, the convention as is commonly understood is outdated and practice should perhaps revert to the original Salisbury convention of the nineteenth century when the Third Marquess argued that the Lords should intervene on contentious legislation where it believed the view of the Commons and the will of the people did not coincide. That being said, the programme of a coalition government which commands the confidence of the Commons is a legitimate programme and peers must accept the primacy of the lower house.

While there have been questions concerning the legitimacy of a government of two parties not specifically endorsed by the electorate, practices since 2010 have largely re-enforced traditional principles that governments need the confidence of parliament rather than popular support. The novelty of a Coalition Agreement has naturally stretched the role of manifestos meaning that in future they might be viewed as the basis for shared programmes as much as distinguishing parties from one another. Meanwhile, the Westminster model, stretched to accommodate power sharing, can be said to have survived.

**Stretching the Concept of Collective Responsibility**

The doctrine of collective responsibility whereby all ministers are *bound by the collective decision of Cabinet* is long debated and is essential for any government to operate with any degree of effectiveness or confidence. (Bagehot, 1867; Rhodes, 2006) After all, if the prime minister cannot command the votes of his own ministers, it is difficult to claim that he commands the confidence of Parliament and it is hard for Parliament to hold ministers to account if they do not speak for the government in a consistent fashion. This area of constitutional practice relates more firmly to the sustainability of the administration. This section will consider the degree to which the principle has been stretched since 2010 and, therefore, how constitutional practice can be said to have changed.

The concept of collective responsibility has been stretched during the 2010 coalition as the two parties accommodate differing views within the confines of office. However, it is important not to exaggerate practices here or indeed to overstate their novelty. One only has to recall how Tony Benn would disassociate himself from collective decisions in the Wilson/Callaghan administrations of 1974-79. Justifying his independent voice (notably over Europe) in 1974, Benn (1989, 207) simply put it that he was 'in favour of free speech'. Elsewhere there was open disagreement over industrial intervention policy and Europe in the Major government 1990-97 for instance between Peter Lilley and Michael Heseltine reflecting divisions in the parliamentary party (Heppell, 2002). Another example is Clare Short’s public opposition to the Iraq war while still a member of Blair’s Cabinet (Rhodes & Bevir, 2006). Consequently, it is not so much the doctrine which requires adjustment in the modern era than the mechanisms which support it. Here it is worth discussing what might constitute a breach of collective responsibility or where collective responsibility might be suspended given the experience of the Cameron/Clegg government and viewed through this conceptual lens of stretching.

It is important to distinguish between genuine breaches or suspensions of collective responsibility and party posturing to demonstrate independence as a political force. In respect of the 2010 coalition, there is a suspicion that there have not necessarily been more disagreements as time has passed but rather that the party leaderships have deliberately let more light shine on the process for political reasons. While there is some potential overlap here (confidentiality is a principle of collective responsibility), it is possible to determine areas which are subject to collective responsibility and areas which are not. After all, practically all governments allow Ministers to express independent views on certain issues, usually defined as matters of conscience but can be motivated by maintaining harmony. And government cannot be expected to hold a single view on an infinite array of subjects. Ministers appearing to disagree in public is not, therefore, necessarily a breach of collective responsibility. The Ministerial Code is also helpful here in connecting collective responsibility to ‘decisions’ made by government and the business of Cabinet and Cabinet Committees which would engage in ‘major issues of public policy because they are of critical importance to the public’ (Ministerial Code, 2010, 2.2). In coalition, there is a more explicit expression of differing views on a range of policy issues and these are detailed publicly in the respective party manifestos.

Consequently, it is impractical to expect collective responsibility to be maintained on a wide range of issues which do not ultimately result in Cabinet decisions since such an attempt could be much more farcical than some of the public disagreements to have taken place since 2010. Here the universe of collective responsibility must relate to the narrower programme of government and this is defined by the Coalition Agreement or other decisions which are subsequently brought to Cabinet to be taken collectively by Cabinet Ministers. For this reason, it is all the more essential that decisions made by individual Ministers which bind the government must be discussed collectively in cases of potential controversy. However, broader public expressions of disagreement do not necessarily stretch the concept.

One observation about coalitions is that there inevitably needs to be a degree of collectivism which should re-enforce collective responsibility. This contrasts, perhaps, with some assessments of the Thatcher and Blair administrations which are said to have been rather Presidential (the latter caricatured as ‘sofa government’), precluding collective discussion and decision making (Foley, 2000; Rhodes & Bevir, 2006; Jones & Blick, 2010; Heffernan, 2011). Potentially, therefore, coalitions can better support collective government and indications of the Cameron/Clegg administrations are that it has reasserted such decision making. This is also explicitly referred to in the (2012) Coalition Agreement for Stability and Reform which, in re-affirming collective responsibility, requires ‘an appropriate degree of consultation and discussion among Ministers to provide an opportunity to express their views frankly as decisions are reached’.

Before considering how coalition has changed the practice of suspending collective responsibility, it is worth differentiating some potential circumstances. At its most acute, collective responsibility manifests itself within Parliament where there is a vote on a piece of legislation resulting (usually) from a government decision. Alternatively, it exists where there is an issue of collective responsibility relating to some major policy issue debated in the country. When it comes to suspending that collective responsibility and to understand the extent of stretching, there is also a need to distinguish between strategic decisions intended to maintain functionality of a government (and therefore emerging from the leadership) and reactive or muddled suspensions in response to what looks like an inevitable parliamentary defeat or party split. In this sense too, one might distinguish between decisions to suspend collectivity made prior to the formation of a government and those which emerge during the course of a Parliament. After all, haphazard suspensions could undermine the functioning of government and mean constitutional snapping.

There are precedents for the suspension of collective responsibility, most recently under the (single party) government of Harold Wilson in 1975 when Cabinet Ministers were free to campaign on either side of the referendum on EEC membership and then again in 1977 under Callaghan in that same Parliament in respect of elections to the European Assembly. Before that, it is necessary to go back to the National Government when in 1932 Tariffs were the issue that required an agreement to differ. One might reasonably expect more suspensions from a coalition in order to facilitate a functioning government and the (2010) Coalition Agreement, written before the formation of the government, explicitly set out areas which might arise during the course of the parliament but where the partners ‘agreed to differ’. These included tuition fees, nuclear power and Trident. Most overtly was the plan to suspend collective responsibility during the referendum campaign on electoral reform, though legislating for that poll and the Alternative Vote system if approved, was a government decision which bound ministers collectively. Such concessions are described by Matthews (2011, 497) as ‘a form of “safety valve”… introduced into the coalition machinery, intended to reduce the pressure at certain junctures in order to protect the integrity [of the] Coalition’s governing capacity’. That is this deliberate stretching ensured that snapping did not occur.

There have been occasions during the 2010 coalition, however, where the suspension of collective responsibility was more haphazard. When David Cameron was unable or unwilling to deliver sufficient Parliamentary votes to achieve House of Lords reform, Nick Clegg instructed his MPs to vote against boundary changes drafted within the Electoral Registration and Administration Bill. Both of these had been collective policy decisions of government. Clegg’s justification was that the Conservatives had not honoured the agreement on bringing democracy to the Lords. While this is undoubtedly true as 116 Conservative MPs voted for the amendment, no Minister voted against Lords reform so it is only on the boundary change vote that collective responsibility was breeched (some Parliamentary Private Secretaries did vote for the amendment however meaning some minor stretching of convention). Instructively, the BBC reported the episode as ‘Conservatives lose boundary review vote’ when the legislation was one of the government’s as a whole. This reflects reality that coalitions are negotiated between parties but executives are formed by a more exclusive group. If Clegg’s interpretation were to be adopted, it would stretch the concept beyond which could be expected to sustain a government. While there appears to have been some late agreement here between the prime minister and the deputy prime minister on this matter of suspending collective responsibility, the episode still involved some Ministers voting against a previously agreed decision of the government and being directed to do so by the leader of the junior coalition partner.

It is not the only example. While less of a threat to the stability of the coalition and more about maintaining harmony within the Conservative party, the acquiescence by the Prime Minister to allow Ministers to vote ‘against’ provisions in the Queen’s Speech by way of an amendment regretting ‘that an EU referendum bill was not included’ (HC Deb 15/5/13, c749) is more serious. This is because historically the vote on the ‘Gracious Speech’ is considered a confidence motion in the government. For Ministers to, even tacitly, express no confidence in the government of which they are members but retain their seals of office is a curious state of affairs. The Coalition Agreement makes no exception here demanding that ‘in all circumstances, all members of both parties will be expected to support the Government on all matters of confidence’ (2010, 5.2) These episodes of constitutional stretching suggest a need to be clearer about the doctrine of collective responsibility in coalition and the process for setting it aside. A further instance, the separate responses of the Conservative and Liberal Democrat leaderships (as well as the Labour opposition) to the Leveson Report on media regulation, is at best an oddity given that the government collectively appointed the Commission but one might argue this represented another reassertion of the oppositional Westminster Model.

The fact remains, however, that these discrepancies happened and were allowed to happen without resignations while the government otherwise continued to function. It means conceptions of acceptable practice need to be stretched to accommodate the political realities of holding together a working coalition. After all, such difficulties did not fatally wound the coalition because they were relatively small elements of an overall programme and the government continued to command the confidence of Parliament.

It appears generally agreed that the decision to suspend collective responsibility rests with the Prime Minister but in coalition (where not part of a coalition agreement) it has to be a decision taken collectively by the government and with the authority of at least the Prime Minister and the leader(s) of the coalition party who it will be assumed here will hold office . Given the risk of snapping, collective responsibility cannot be suspended very frequently, impulsively or unilaterally. Such stretching implies that decisions to suspend collective responsibility must be made formally by the Prime Minister and his or her deputy, ahead of a vote or campaign and formal notice given to Parliament which should have the opportunity to debate. Indeed, the Coalition Agreement explicitly states that ‘they must be specifically agreed by the Coalition Committee and Cabinet.’ (2010, 5.1) Such observations lead the discussion to the prerogative.

**The Prerogative and Organisation of Government**

The British Prime Minister is able to exercise numerous prerogative powers including appointments, declarations of war and signing treaties (Heffernan, 2005). They are also given the first opportunity to form a government following a general election. Irrespective of traditional criticism of the Royal Prerogative by the Prime Minister (or on occasion other Ministers), such powers exercised independently are counterproductive to the operation of a functioning coalition and represents stretching of practice in order that government of two parties can be sustained. This section critiques the experience in respect of the 2010 coalition to better understand changed practice but starts with the formation of a coalition.

Previous peacetime occasions in the twentieth century where there has been a coalition followed agreement between parties made prior to the general election (1918, 1931). One might also consider the negotiations between Paddy Ashdown and Tony Blair prior to the 1997 election which might have led to a coalition had the parliamentary arithmetic been different. In part this latter potential pact was as the result of the Liberal Democrats abandoning its strategic position of equidistance (Barber, 2005), something which would appear to have been reinstated in 2010 and which has implications for this discussion. Here, Nick Clegg expressed the view that the largest party should have the first opportunity to attempt to form a government. It is an interesting point as to whether Clegg has articulated any sort of precedent here. The incumbent has historically enjoyed the first opportunity to attempt to form an administration (as was the case with Edward Heath in February 1974). Whether or not this is possible, they must remain in office until such a time as they can advise the monarch that they or another leader can form a government.

The principle here is that the country must have a government and the incumbent should remain in office while there is space for a successor government to be formed. This happened in 2010 when Gordon Brown remained in office (though not in London) despite some pressure to resign. There has been a suggestion that the Cabinet Office should publish guidance for any ‘caretaker’ government and this might well be helpful (HoL, 2011).

Part of the deal struck between the Conservatives and Liberal Democrats in 2010 was that Clegg became Cameron’s deputy. There is no permanent constitutional status of the office of Deputy Prime Minister in a coalition or any government. Indeed the leader of the minority party might take a different Cabinet post (Heath offered Thorpe the Home Office in 1974; Blair talked to Ashdown about being Foreign Secretary before 1997) or might even remain outside government (Ashdown, 2000). Nonetheless, the leader of the junior coalition partner is pivotal to the successful functioning of government and must have some strategic oversight of its programme, key decisions and day-to-day operation. In seeing traditional arrangements stretched, future governments might choose to embed that role within the core executive and future coalitions might find some organised structure useful. Interestingly earlier Deputy Prime Ministers in the shape of Willie Whitelaw, Michael Heseltine and John Prescott have helped facilitate smoother running of single party governments (Gay, 2006) which might similarly be described as coalitions of opinion but in two party coalition the power must be shared.

The exercise of Royal Prerogative powers by the Prime Minister is in many instances not conducive to a functioning coalition. It is inconceivable, to take an extreme example, that a Prime Minister could declare war independently and without agreement of a coalition partner (indeed it appears to have become practice to hold a parliamentary vote prior to military engagement). More routinely, while the Prime Minister retains ultimate power for appointing ministers, it can only be within the framework of what is agreed between the parties. Nick Clegg has enjoyed the right to consultation ahead of reshuffles and the ability to nominate potential Ministers from his own party (Quinn et all, 2011). The negotiations leading to a coalition, and informed by the relative strength of the parties, will have included the number of Cabinet and more junior ministers for the respective parties as well as the portfolios they occupy. Such portfolios, it would seem, are open to negotiation at periodic reshuffles though it is notable that, in the 2010 Parliament, none of the Cabinet jobs changed parties and that Cameron avoided the sort of routine reshuffle that bedevilled previous administrations (Heppell, 2014). Indeed when, in July 2014, the Prime Minister chose to engage in his first major reshuffle by way of preparation for the general election, it was only Conservative Ministers who were moved. Consequently not only did the Liberal Democrat faces remain static as Conservative personnel changed around them but so too were the portfolios they occupied ‘untouchable’. Clegg, it was reported (Murphy, 2014) would conduct his own reshuffle at a later date which would inevitably mean within the confines of previously agreed ministerial jobs.

Upon the formation of the government in May 2010, newly appointed ministers of both parties were met jointly by the Prime Minister and the Deputy Prime Minister. More tellingly, when Cabinet Minister Chris Huhne resigned in 2012, the announcement of his replacement was made by the Deputy Prime Minister from Whitehall suggesting that having negotiated portfolios, the respective party leaders were responsible for appointments from within their own parties. Nonetheless, the two Liberal Democrats who were forced to leave Cabinet because of personal circumstances (Huhne and David Laws) each tendered their resignation to the Prime Minister alone as is customary. Instructively, though, the one Liberal Democrat to lose his job following a reshuffle, in the shape of Scottish Secretary Michael Moore, wrote to the Deputy Prime Minister and it was Clegg who responded in official correspondence to thank his colleague for ‘the vital role you have played’ (Clegg, 2013; Barber, 2013).This represents an elasticity which has changed constitutional practice.

There is though a limit to this stretching. The balance of that power between parties and party leaders is inevitably uneven. Here, Bennister & Heffernan (2012) show that Cameron can be seen as the ‘resource rich’ actor in the 2010 coalition relationship. Indeed, where it comes to government construction, the larger party can engage in ‘gaming’ where say a Prime Minister, controlling a majority of posts, appoints Ministers of State known to be hostile to a junior partner’s Secretaries of State in the hope of impeding policy. It can be observed, however, that this is a potential state of affairs not exclusive to a coalition and there needs to be some substantive degree of cooperation for an administration to function. It is also possible to view such powers from the position of the junior coalition partner which is why Matthews (2011) describes constitutional ‘watchdog powers’ of the smaller party in government to moderate and block policy.

The idea of a coalition operating in a traditionally majoritarian system was certain to stretch constitutional practice but whether it would contrast with routine power sharing arrangements in more consensual systems was less clear. More work needs to be done here but early examination detects that while collective in its operation, the Cameron/Clegg coalition has not been consensus driven in terms of the search for lowest common denominator policies. Rather it has been characterised by a radicalism that might not have happened with a single party government bereft of the ‘veil of legitimacy’ provided by coalition. Here the leaders have traded-off and implemented their boldest plans while government has been able to source ideas from two parties (Ganesh, 2014).

**Conclusion**

Matthews (2011, 506) concludes with the view that 'the longstanding model of centralised majoritarian politics has been modified towards a more consociational form of governing' and ends with a plea for scholars to add to the relatively unchartered terrain of British constitutional politics. This article has built on that emerging body of work to categorise and discuss the principal areas of constitutional stretching to have occurred given the experience of coalition in Britain after 2010. By viewing events through the conceptual lens of constitutional stretching, related to either the Westminster Model or the sustainability of government, it has considered the extent to which British constitutional practice has changed as a result of coalition.

It has made the case that the tribal, oppositional Westminster Model as practiced in Parliament has proven relatively resilient though the emergence of Coalition Agreements has necessitated a more consensual approach by the parties forming a government and a new role for manifestos. Nonetheless, by rehearsing the arguments in favour of coalition legitimacy, it has shown that the principle that government must command the confidence of parliament has not been undermined by calls for a more popular sovereignty.

By concentrating on collective responsibility and prerogative powers, which relate to the sustainability of a functioning administration, it has demonstrated that many longstanding constitutional practices have been stretched by the Cameron/Clegg coalition. Nonetheless, it has made two broad observations. The first is that there are numerous precedents of comparable stretching in earlier single party governments and that coalition ultimately requires a return to the fundamentals of Cabinet decision making. This suggests caution should be exercised in proclaiming new breaches of convention. The second is that while traditional understanding of practices has been stretched, the constitution has not ‘snapped’. That is, however serious these episodes might be considered, they happened and the government did not collapse as a result nor did the Westminster Model dissolve. Consequently, long held views about acceptable constitutional practice need to be modified in light of experience.

Evidence suggests hung parliaments are now more likely meaning these changes to the British constitution could be more permanent. As such, there would seem to be an opportunity for political institutions to prepare more detailed guidance and structures likely to facilitate stable and legitimate coalitions in the future. Here, the concept of collective responsibility remains essential and the Ministerial Code could be updated to consider coalitions more explicitly in terms of embedding the junior coalition partner; maintenance of the principle of collective responsibility, procedure for suspension and communication in advance to Parliament. The continuity of government by the incumbent during coalition negotiations is also important; the Cabinet Office might publish guidance to ‘caretaker governments’ and communicate their importance. And then there is the Salisbury-Addison convention which has become outdated and should be replaced by a more contemporary understanding of the role of the House of Lords in respect of both coalitions and majority governments.

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| **Table 1: Erosion in Electoral Dominance for**  |
| **Conservative and Labour Parties** |  |
|  |  |  |  |
| **Election** | **% Vote for neither Cons or Lab** | **Seats not held by Cons or Lab** | **% Vote secured by winning party**  |
|  |  |  |  |
| 1945 | 16% | 50 (of 640)\* | 47.70% |
| 1950 | 14% | 28 (of 625)\* | 46.10% |
| 1951 | 3% | 9 (of 625) | 48.0%\*\* |
| 1955 | 4% | 8 (of 630) | 49.7% |
| 1959 | 7% | 7 (of 630) | 49.4% |
| 1964 | 12% | 9 (of 630)  | 44.1% |
| 1966 | 10% | 13 (of 630) | 48.0% |
| 1970 | 11% | 12 (of 630) | 46.40% |
| 1974 (F) | 25% | 37 (of 635) | 37.2%\*\* |
| 1974 (O) | 25% | 39 (of 635) | 39.2% |
| 1979 | 19% | 27 (of 635) | 43.9% |
| 1983 | 30% | 44 (of 650) | 42.4% |
| 1987 | 27% | 45 (of 650) | 42.2% |
| 1992 | 24% | 44 (of 651) | 41.9% |
| 1997 | 26% | 76 (of 659) | 43.2% |
| 2001 | 28% | 80 (of 659) | 40.7% |
| 2005 | 32% | 78 (of 646) | 35.2% |
| 2010 | 35% | 86 (of 650) | 36.1%\*\*\* |

\*This includes some Independent Labour, Independent Conservative and Liberal National the latter of whom are sometimes included with the Conservatives

\*\* Clement Attlee's Labour party won a marginally higher 48.8% percentage of the vote in 1951 but fewer seats; similarly Harold Wilson's Labour party won more seats and formed a minority government but the Conservatives won a marginally higher 37.9% of the vote

\*\*\* The government was formed in coalition with the Liberal Democrats who won 23% of the vote making a combined 59%

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1. Perhaps a point of pedantry but the term ‘hung’ parliament, which according to Stuart Wilks-Heeg (2010) emerged only in the 1970s, is probably derived from a hung jury which of course would be dismissed. After the 2010 poll, ‘balanced’ was being used to describe the make-up of parliament and in the circumstances this seemed appropriate since a coalition was formed. [↑](#endnote-ref-2)