

A right royal mess

# Brexit could cause a crisis that drags in even the queen

*A constitution based on convention is being pushed to its limits*



Print edition | Britain >

Aug 17th 2019



**B**RITAIN FAMOUSLY lacks a written constitution, relying a lot on convention instead. Analysts pore over documents such as the ministerial code and the cabinet manual for guidance. Boris Johnson's threat of a no-deal Brexit could test this informal system to destruction.

Consider the queen's prerogative powers. In fact, she takes advice from her prime minister, whose government commands a majority of MPs. Yet a clash between Parliament and prime minister over a no-deal Brexit could break the cabinet manual's rule that the queen "should not be drawn into party politics".

If MPs vote no confidence in the government, the Fixed-term Parliaments Act allows 14 days for an alternative to be found. Mr Johnson would remain prime minister and could seek to thwart this. Other advisers, notably the queen's private secretary, Edward Young, the cabinet secretary, Sir Mark Sedwill, and the principal private secretary in Downing Street, Peter Hill, may counteract this, but only if it is clear that somebody else can win a Commons majority.

Mr Johnson could also advise the queen to hold an election after a no-deal Brexit on October 31st. The cabinet manual says it is "customary" during an election to defer the "taking or announcing of major policy decisions". Robert Hazell of the UCL constitution unit thinks this custom implies not letting an irreversible no-deal Brexit happen. But as this is the default option under current law, no-dealers fervently disagree.

More problems may come if an election produces another hung parliament. In 2010 the cabinet secretary, Gus O'Donnell, facilitated talks between David Cameron and Nick Clegg. In 2017 Theresa May spent days negotiating with the Northern Irish Democratic Unionists, delaying the Queen's Speech (at the risk of making the monarch late for the Royal Ascot horse races).

Mr Johnson's government also plans to stop MPs legislating to demand another extension of the Brexit deadline. Yet the Speaker, John Bercow, says that Parliament must be heard before a no-deal Brexit. He too is bound by conventions, in this case set out in "Erskine May", the bible of Commons procedure (available free online since July). But in January he overruled precedent, and his own clerks, to allow an amendment from Remainers to a motion that would normally be unamendable. Nobody can challenge the Speaker's rulings.

Vernon Bogdanor of King's College London thinks Brexit is pushing the constitution to its limits, especially on citizens' rights and devolution. It might even lead to a written constitution and more judicial oversight—just as Brexiteers crow over sovereignty regained. ■