

Constitutional Reform and the Contribution of the Political Parties since the Beginning of the 20th Century

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Abstract

Some of the most significant reforms to the British constitution have occurred since the turn of the 20th Century, either through political and economic necessity, or through an unpressured desire to improve the system of fundamental laws on which the governing of the UK is based. This article delves into the various constitutional reforms brought about by the different political parties (Labour, The Conservatives, Liberals and Liberal Democrats) since 1900, discussing which have been the most significant. It must be stressed that this article focuses on the degree of impact that the reforms had, rather than their merits and whether they were beneficial for the country. The importance of this article has been to try and decipher which political party has been the most influential in shaping the constitution in recent times. In terms of methodology, the issue is tackled party by party, rather than chronologically, focusing mainly on their key reforms, and omitting some of the more minor ones. After reviewing relevant literature and documents such as books, academic articles, legislation and reports, I concluded that despite the importance of the New Labour changes, the single most significant constitutional reform in the period discussed was the Conservatives joining the EEC. The implication of the conclusions formed is that, ironically, the most significant constitutional reforms can be brought about by the most unlikely party, due to the pressures of the time.

I. Introduction

The primary focus of this article is to assess the roles of the key British political parties in constitutional reform, from the beginning of the 20th Century to present day. There will be a particular focus on critically evaluating which party (or parties) has crafted the most significant constitutional reform(s). It must be emphasised that this article will concentrate purely on the *significance* of constitutional changes, and not the merits or limitations of

the changes. I will not be delving into the benefits of Labour's 1999 House of Lords reform, for example, just the impact it had.

Defining constitutional reform can be quite difficult and consequently there is a lot of potential material to discuss, some of which may only be mentioned briefly, and some may not be mentioned at all due to restricted space. (Specific examples of developments that I will not mention include the Regency Act 1937, the Freedom of Information Act 2000, and signing the UN Charter.) Nevertheless, one definition of constitutional reform is: the introduction of legislation to modify 'the rules and practices that determine the composition and functions of the organs of central and local government in a state.'¹

When analysing the main constitutional reforms across the period, they will be analysed party-by-party, dedicating a section to the Conservatives, Labour, and the Liberals (including the Liberal Democrats²). Without doubt, all three parties have brought about, or influenced, extremely significant reforms, but we must try and deduce the *most* significant. On initial reflection, the most noteworthy reforms in the 20th and 21st Centuries were perhaps the UK joining the European Economic Community (EEC) under Heath's Conservative government, and some of New Labour's constitutional reforms such as the Human Rights Act. However, in reality, it might be slightly optimistic to try and achieve a decisive conclusion on which party has played the most important role in constitutional reform, either through one event, or several.

¹ Jonathan Law and Elizabeth Martin, *Oxford Dictionary of Law* (7th edn OUP 2009) 124.

² Whilst they have a different title, they contain very similar values. The Liberals have also had much more influence in the Liberal Democrat direction than the Social Democrats.

II. The Conservative Party

As described perfectly by Charnley, the traditional philosophy of the Conservatives is ‘to conserve; it is the party of status quo.’³ The Conservatives will only typically reform the constitution when necessary, and will usually not devise ambitious proposals, unlike the Liberals. However, despite being traditionally averse to constitutional change, the Conservatives over the past century have passed some highly significant pieces of constitutional legislation. Johnson writes of how the Conservatives have found themselves at times in the ‘unusual role of protagonist of constitutional reform,’⁴ suggesting they have played a significant role in reform somewhat unintentionally; with the exception of their relatively recent commitment to an elected House of Lords and Bill of Rights. One must concur, it does seem that any constitutional reform engineered by the Conservatives has occurred because of the circumstances of the time, rather than the party actively seeking reforms that are not completely necessary for national stability, but nonetheless beneficial (as the Liberal Democrats might). Even joining the EEC was for economic benefits, rather than a party desire for constitutional reform.

A. Joining the European Economic Community

Nevertheless, an extremely important Conservative reform was the European Communities Act 1972, making Britain a member of the EEC, now the European Union (EU).⁵ This was a momentous constitutional change. Britain had failed on two previous attempts to join the EEC, once in 1961-3 under Macmillan (Conservative), and once under

3 John Charnley, *A History of Conservative Politics, 1900-1996* (Macmillan Press 1996) 1.

4 Nevil Johnson, ‘Constitutional Reform: Some Dilemmas for a Conservative Philosophy’ in Zig Layton-Henry (ed), *Conservative Party Politics* (Macmillan Press 1980) 126.

5 For more information on Britain’s history and membership in the EU see Anthony Bradley and Keith Ewing, *Constitutional and Administrative Law* (15th edn Pearson Education 2011) 117-143.

Wilson (Labour) in 1967, and was finally successful under Edward Heath, joining on 1 January 1973.

Community membership meant the UK was no longer in control of its own entity, having to answer to a more superior force, which completely reorganised the structure and hierarchy of our constitution. Lyon recognises the event as a ‘major constitutional change,’⁶ describing the 1972 Act as ‘a piece of legislation which in the years since has caused enormous controversy and exercised a great many judicial and academic minds.’⁷ This illustrates the sheer magnitude of the Act, being recognised as a key moment in constitutional history, attracting much debate. Lyon can be strongly agreed with; Britain’s entry into the EEC is immediately recognisable as one of the landmark constitutional developments of recent times.

However, the reason for joining was not constitutional. The Conservative government (as well as Labour) were more interested in the economic and trading benefits of the EEC. So perhaps they do not deserve endless praise for this reform. Nonetheless, whether the constitutional impact was the intentional focus or not, it was still a remarkable development in constitutional law.

Regardless of the positives or negatives, joining the EEC had an incredibly significant impact on Parliamentary sovereignty, with the 1972 Act binding future Parliaments. Since 1973, the British Parliament has had to respect European Regulations, implement Directives, and ensure that domestic legislation does not conflict with European law, all because of one piece of legislation passed in 1972. A Diceyan view of Parliamentary sovereignty is that ‘no person is recognised by the law of England as having a right to

6 Ann Lyon, *Constitutional History of the UK* (Cavendish Publishing 2003) 417; see also David Feldman, ‘None, One or Several? Perspectives on the UK’s Constitution(s)’ [2005] CLJ 329, 345.

7 *ibid* 418.

override or set aside the legislation of Parliament.’⁸ The Conservatives clearly undermined this fundamental principle in 1972 by giving such a right to the European institutions, demonstrating the sheer significance of the change.

William Wade accurately describes the effect the 1972 Act had on Parliamentary sovereignty as a ‘constitutional revolution,’⁹ highlighting its importance as a milestone in the history of British law. In relation to the Merchant Shipping Act 1988 and *Factortame* (mentioned later), Wade states that:

The Parliament of 1972 had succeeded in binding the Parliament of 1988 and restricting its sovereignty, something that was supposed to be constitutionally impossible. It is obvious that sovereignty belongs to the Parliament of the day and that if it could be fettered by earlier legislation, the Parliament of the day would cease to be sovereign.¹⁰

Here, Wade suggests the 1988 Parliament had a key constitutional right taken away from them, exemplifying the significance of the 1972 Act, producing a restrictive knock-on effect for future Parliaments. Wade’s opinion can be firmly endorsed, as this hindrance on legislative powers created a stranglehold over all future Parliaments, something which other constitutional reforms usually do not.

However, some academics argue, albeit rather weakly, that British EU membership is merely ‘contingent upon’¹¹ the 1972 Act, and the restrictive effects of the Act are easily reversible, as it can be repealed like any other statute. Bradley believes this ‘profound change in the operation of Parliamentary sovereignty is not necessarily permanent,

8 AV Dicey in Jeffrey Jowell & Dawn Oliver (eds), *The Changing Constitution* (OUP 2011) 53.

9 William Wade, ‘Sovereignty – Revolution or Evolution?’ [1996] LQR 568.

10 *ibid* 568.

11 F Nigel Forman, *Constitutional Change in the United Kingdom* (Routledge 2002) 351.

because the duty of British courts to apply EU law would not exist as a matter of UK law, but for the continued operation of the ECA 1972.¹² It can be inferred that EU membership is not embedded in UK law, and any European obligations could easily be removed by repealing the 1972 Act. But in reality, I believe the 1972 Act is no ordinary statute, and ‘was not subject to implied repeal.’¹³ There is almost an unspoken understanding that the Act will not be revoked, as joining/leaving the EU is not something that can be constantly altered depending on the government of the day. It would also be extremely difficult to obtain the support of the majority in Parliament, as most moderate politicians believe that leaving the EU would be catastrophic. So any arguments devaluing the significance of the 1972 Act can be seen as flawed, as repealing the Act would be much easier said than done.

Another way the 1972 Act was constitutionally important was through creating the doctrine of Supremacy, ensuring European law has primacy over UK law. As Lord Denning stated, ‘whenever there is any inconsistency, Community law has priority.’¹⁴ He also stated that ‘priority is given by our own law. It is given by the European Communities Act 1972 itself,’ implying that the piece of Conservative legislation was the sole cause of EU law supremacy in the UK, highlighting the significance of the Act. Furthermore, Loveland believes EC membership has ‘markedly affected traditional constitutional understandings,’ resulting in a ‘profound restructuring of the relationship between the courts, the executive and Parliament and the

12 Anthony Bradley, ‘The Sovereignty of Parliament – Form or Substance?’ in Jeffrey Jowell & Dawn Oliver (eds), *The Changing Constitution* (OUP 2011) 56; See also Trevor Allan, ‘Parliamentary Sovereignty: Law, Politics and Revolution’ [1997] LQR 443, 450.

13 Paul Craig, ‘Britain in the European Union’ in Jeffrey Jowell & Dawn Oliver (eds), *The Changing Constitution* (OUP 2011) 117.

14 *Macarthy Ltd v Smith* [1981] QB 180, 200 (Lord Denning MR).

electorate,'¹⁵ indicating that repercussions were felt in institutions other than just Parliament. This is an important point made by Loveland, as the 1972 Act affected the courts just as much as Parliament, as the judiciary have to oversee the enforcement of EU law supremacy. The constitutional impact of joining the EEC was undoubtedly widespread.

A key example of Community law supremacy created by the Conservatives was in *Factortame II*.¹⁶ When the Merchant Shipping Act 1988 was found to be incompatible with EC law, the European law was given priority, and the British law subordinated,¹⁷ meaning the 1988 Act was disapplied. This case provided solid confirmation of the significant and lasting constitutional impact of the 1972 Act.

Despite it being the Conservatives who made the final push for a successful application into the EEC, it must be noted that Wilson's Labour government made considerable efforts to join, with the 1967 application arguably only failing because of France and Charles de Gaulle's unreasonable veto. Therefore, joining Europe was not just a Conservative initiative; Labour also had a strong desire to bring about the same reform, meaning that the Conservatives perhaps do not deserve full credit. By the time of the UK's third application, de Gaulle was no longer the French President, and France was much more willing to welcome Britain into the EEC. In that sense, it could be argued, Heath was extremely lucky. Nevertheless, this does not draw attention from the fact that 'accession to the Community has proved by far the most significant constitutional innovation undertaken by any government in the 20th Century,'¹⁸ as stated by Loveland. Concurring with

¹⁵ Ian Loveland, 'Britain and Europe' in Vernon Bogdanor (ed), *The British Constitution in the Twentieth Century* (OUP 2004).

¹⁶ *R v Secretary of State for Transport, Ex p Factortame Ltd (No 2)* [1991] 1 AC 603.

¹⁷ Wade (n 9) 568.

¹⁸ Loveland (n 15) 663.

Loveland, I believe the 1972 Act has been the *single* most important constitutional reform since the beginning of the 20th Century, as it provided for a considerable transformation of our political and legal system, ensuring that the British executive, judiciary and legislative now have an even greater power they must adhere to. Therefore, the Conservatives are strong contenders when considering which party has engineered the most significant constitutional change.

The Conservatives were also responsible for further European integration with Thatcher signing the Single European Act (SEA) 1986, and Major signing the Maastricht Treaty in 1992. Maastricht in particular was rather historic, creating the Euro currency,¹⁹ and the pillar structure of the EU which meant further harmonisation in foreign/security policy, and justice/home affairs. The Conservatives felt compelled to sign these treaties to keep up with the developments of the EU. Evans writes of how ‘the process of Europeanization has continued to mature as a structural response to the imperatives of the SEA (1986), and the Maastricht Treaty (1992),²⁰ suggesting the treaties signed by the Conservatives had to have had a lasting effect on Britain’s constitution and integration with the EU. Therefore, these tweaks in EU membership were of obvious importance.

B. The Abdication Act 1936

Another Conservative constitutional statute was the Abdication Act 1936, taken as necessary action for Edward VIII’s abdication. Baldwin’s government passed the Act rather reluctantly, granting the King his wish to step-down from the throne to marry divorcee Wallis Simpson. Whilst it was a significant constitutional event at the time, it did not have a lasting effect for the future, and only brought about

¹⁹Although the UK opted out.

²⁰Mark Evans, *Constitution-making and the Labour Party* (Palgrave Macmillan 2003) 320.

reform in relation to the monarchy (rather than the executive/legislative/judiciary), arguably a mere symbolic aspect of our constitution. The statute did not even have a lasting impact on the monarchy, merely replacing one king with another. Moreover, the political parties were united in relation to the abdication crisis, so this event should not contribute too greatly towards any reputation the Conservatives have in reforming the British constitution.

C. Direct Rule of Northern Ireland

The Northern Ireland Constitution Act 1973 was another reform not owing any particular merit towards the Conservatives, despite being a Conservative statute. The Act allowed for the direct rule of Northern Ireland from Westminster with the IRA/loyalist violence peaking between 1970 and 1972, and the Stormont government being unable to contain the security situation. The 1973 Act was merely a reactive piece of constitutional legislation that would have been passed out of necessity, regardless of who was in power.

D. House of Lords Peerage Reforms

The Conservatives do however deserve credit for their House of Lords reforms in the shape of the Life Peerages Act 1958, which allowed for the creation of life peerages,²¹ and for women to sit in the House;²² and the Peerage Act 1963 which allowed females to inherit peerages,²³ and allowed heirs to hereditary peerages to disclaim their peerage.²⁴ Following the Parliament Acts, the 1958 Act in particular took the first big step in attempting to alter the composition of the House, laying the foundations for further reform in 1999. The aim of the 1958 Act was to reduce the number of part-time hereditary peers, introducing

21 The Life Peerages Act 1958 s1(1).

22 *ibid* s1(3).

23 The Peerage Act 1963 s 6.

24 *ibid* s1(1).

the more effective Life peers who specialize in specific political fields, and to achieve a fairer representation of Labour in the Lords, as the Conservatives accepted this would have to be addressed at some point.

Walters writes of how the 1958 Act meant that the ‘hereditary mould [was] finally broken,’²⁵ implying the statute was key in modernising the House, which can be agreed with, as granting peers seats based on merit and ability, rather than through a genetic link (as had been the case for centuries), could only be seen as positive step forward, and thus, a significant constitutional reform by the Conservatives. Bogdanor makes the important point that the 1958 Act allowed the admission ‘not only of party politicians but also of experts from all walks of life [...which] enabled the Lords to discover a new and valuable role for itself,’²⁶ suggesting a new era for the House had been created. In my view, to have experts in particular fields voicing their opinion in the Lords, rather than just hereditary peers, was a brave and crucial step forward, turning it into the modern-day institution that can scrutinise legislation more commendably. This was a key turning point for the Lords, which the Conservatives were responsible for.

However, Blackburn and Plant do negate the significance of the reform slightly when writing,

this ostensibly modernising measure was in fact deeply reactionary: it served both to prolong the enfeeblement of the second chamber by deflecting rising criticism of the continuing appointment of hereditary peers, and to strengthen the premier’s powers of political patronage.²⁷

25 Rhodri Walters, ‘The House of Lords’ in Vernon Bogdanor (ed), *The British Constitution in the Twentieth Century* (OUP 2003) 198.

26 Vernon Bogdanor, *The New British Constitution* (Hart 2009) 155.

27 Robert Blackburn and Raymond Plant, *Constitutional Reform: The Labour Government’s Constitutional Reform Agenda* (Addison Wesley Longman Ltd 1999) 24.

This implies the reform was perhaps for the gain of the government, avoiding the more substantial reform that was needed: *removal* of hereditary peers, as later achieved by Labour. Nevertheless, regardless of motives, this was still a significant reform. In my opinion, the 1958 Act, along with the European Communities Act, are the key reforms that must be considered when analysing the Conservatives' reform efforts, both of which were ground-breaking.

In relation to the 1963 Act however, the Conservatives should not receive all the credit, as the main reason it came into being was because of Labour's Tony Benn, who was protesting of his disqualification from the Commons. For this reason, a key influence in passing the statute was pressure applied by Labour, meaning the Conservatives cannot be given too much praise for its existence.

III. The Labour Party

Labour have traditionally been more open to general reform than the Conservatives, but have only been proactive in *constitutional* reform quite recently,²⁸ having been rather ambivalent in the past.²⁹ For most of the 20th Century, Marquand believes that Labour saw 'constitutional arrangements [... as] frivolous diversions from the serious business of social and economic transformation,'³⁰ implying that they were relatively content with the existing format of the constitution. They only acquired an 'ostensibly greater commitment to constitutional reform since the Policy Review of the late 1980s,'³¹ indicating that their position in the political wilderness forced them to rethink their attitude

28 Evans (n 20) 15.

29 Peter Dorey, *The Labour Party and Constitutional Reform: A History of Constitutional Conservatism* (Palgrave Macmillan 2008) 347.

30 David Marquand, 'Half-Way to Citizenship? The Labour Party and Constitutional Reform' in Martin J Smith and Joanna Spear (eds) *The Changing Labour Party* (Routledge 1992) 45.

31 Dorey (n 29) 3.

towards constitutional reform. One can argue that the forced change was necessary in the modernisation of Labour, recognising the need to introduce exciting new policies to captivate the electorate.

The major constitutional reforms since New Labour came to power in 1997 'reshaped the UK's uncodified constitutional arrangements,'³² and are the most significant *group* of constitutional reforms the UK has seen in a long time, and they have achieved in the shortest period of time possible.

A. The Parliament Act 1949

However, one historic reform prior to this was the Parliament Act 1949, which built upon the 1911 Parliament Act in reducing the powers of the House of Lords, decreasing the time in which they can delay Bills from two years to one.³³ The primary motive to introduce the 1949 Act was to further cripple the Lords' powers, in the fear they would delay Labour's nationalisation programme, which Attlee wanted to complete within the life of the 1945 Parliament. Whilst the 1949 Act was not revolutionary in itself (unlike the 1911 Act, which passed the 1949 Act), it did cause a lot of constitutional debate and controversy, so it *is* significant in that sense. For example, it was used to pass the Hunting Act 2004, and the validity of both Acts were challenged in *Jackson v Attorney General*,³⁴ indicating that the Act had a great impact. The ruling that the 1949 Act was valid demonstrates its significance, as Attlee's government (along with Asquith's) have successfully bound future Parliaments, and the manner in which Bills are passed. It also demonstrates that the Commons are free to take action without being restricted by the Lords. Forsyth controversially suggests that the Commons could even alter s2(1) Parliament

32 Mark Ryan, 'The House of Lords and the Shaping of the Supreme Court' [2005] NILQ 135.

33 Section 1.

34 [2005] 3 WLR 733.

Act 1911 to remove the restriction on extending the life of Parliament, similar to the way the 1911 Act was altered by the 1949 Act.³⁵ It is extremely unlikely this would happen in reality, but if it did, the 1949 Act could be seen to have formed a highly significant precedent to follow.

Nonetheless, I must stress that the 1911 Act was far more revolutionary, taking the initial step. The 1949 Act merely made the Commons' stranglehold over the Lords slightly tighter. So as far as the Parliament Acts³⁶ go, the Liberals deserve much more acclaim.

B. European Convention on Human Rights

Labour also ratified the European Convention on Human Rights in 1951, meaning the British legal system had to respect Convention rights to a certain extent, having a substantial impact on the constitution. Labour ratified the agreement because they had to acknowledge it at least on some level, as they were opting out of fully incorporating it into UK law. It was only in 1998, when the ECHR was finally implemented into British law by Blair, that Convention rights had a significant impact on the constitution. So Attlee's government do not deserve as much credit as New Labour in constitutionally recognising human rights, with the events of 1998 being far more significant than those in 1951.

C. New Labour's Reforms

In turning our attention to New Labour, it must be stressed immediately that their collection of constitutional reforms were without doubt of pioneering importance. Labour introduced an entire shopping list of constitutional

35 Christopher Forsyth, 'The Definition of Parliament after Jackson: can the life of Parliament be Extended under the Parliament Acts 1911 and 1949?' [2011] *JCL* 132, 143.

36 For more information on the Parliament Acts see Owen Hood Phillips, Paul Jackson and Patricia Leopold, *Constitutional and Administrative Law* (8th edn Sweet & Maxwell 2001) 168-172.

reforms in 1997, wanting to fulfil manifesto promises; promises that theoretically appealed to the masses by providing radical change in democracy (although realistically much electorate support was won through simpler factors, such as Blair's charisma). They wanted to contrast the lethargic constitutional policies of the Conservatives, by creating a reinvigorated constitution more representative of modern society.

However, the Liberal Democrats deserve some substantial credit for the reforms due to their input in the Labour-Liberal Democrat Joint Consultative Committee on Constitutional Reform; producing many shared ideas,³⁷ later implemented by Blair's government. This exemplifies how the Liberals often construct ambitious proposals for reform, but simply lack the means to implement them alone. It is extremely important that the Liberal Democrats are still recognised for their ideas and influence.

D. The Good Friday Agreement

One of Blair's finest political and constitutional achievements was the Good Friday Peace Agreement and subsequent Northern Ireland devolution in 1998,³⁸ effectively resolving years of disagreement and violence, removing Westminster's direct rule that had existed since 1973. The aim was to achieve sustainable democracy in Northern Ireland, where opposing sides could cooperate and share power. Forman writes of how in 1997 there were 'new opportunities for resolving the Northern Ireland problem – opportunities which Tony Blair seized with both hands,'³⁹ resulting in the Good Friday Agreement, signed in an

37 For more details on the Labour-Liberal Committee see Roy Douglas, *Liberals: A History of the Liberal and Liberal Democrat Parties* (Hambledon & London 2005) 306-307; and Labour-Liberal Constitutional Committee, 'Report of the Joint Consultative Committee on Constitutional Reform' (1997).

38 For more detail on the devolution process in Northern Ireland see Colin Knox, *Devolution and the Governance of Northern Ireland* (Manchester University Press 2010) 1-46.

39 Forman (n 11) 70.

‘atmosphere of exhaustion and euphoria.’ This conveys a sense of initiative on behalf of Labour, taking brave and positive steps in a difficult constitutional area. A sense of ‘euphoria’ portrays the agreement as a momentous occasion, which it was. However, whilst Blair does deserve much credit, we must not forget that John Major also played a crucial role in the build up to a peace agreement, meaning this cannot be labelled an outright Labour achievement. Nevertheless, I believe Blair still made an outstanding contribution in this pivotal constitutional development, playing a vital role in negotiations between the two sides.

Despite the Northern Ireland Act 1998 including a seemingly significant provision, allowing Northern Ireland to leave the UK with the ‘consent of the majority’,⁴⁰ this consent principle that would allow the Northern Irish to leave through a referendum was actually present in section 1 of the Northern Ireland Constitution Act 1973, drafted by the Conservatives, and to an extent in s1(2) of the Ireland Act 1949. So the 1998 Act was not so revolutionary in this aspect. Moreover, Northern Ireland had already experienced a devolved government between 1922 and 1972 anyway, so the 1998 Act again provided for nothing new, yet it was something very different to what the 1998 population were accustomed to. The agreement also arguably focused more on fixing political relations, than the constitutional element of devolution. Nonetheless, it still resolved a 30 year disturbance of peace, which should not be discredited.

E. Devolution

Another key constitutional reform imposed by New Labour was general devolution,⁴¹ creating the Scottish Parliament,⁴² Welsh Assembly⁴³ and London Assembly,⁴⁴ as

40 s 1(1).

41 For more detail see Dorey (n 29) 203-347.

42 Scotland Act 1998.

43 Government of Wales Act 1998.

well as the Northern Ireland Assembly. Labour were keen to recognise the various national identities and cultures within the UK, awarding them an appropriate amount of independence. Forming such institutions was hugely significant, as it was the first time the whole of the UK was not directly ruled by Westminster since 1707. History was truly being made by Labour. Despite not being able to pass laws in some specific areas, such as foreign affairs, devolved institutions were given considerable legislative freedom, for example in education and health-care. Granting such competence was a remarkable forfeit of some of Westminster's powers, and a vital step towards Blair's vision of a 'more democratic, decentralised and plural state.'⁴⁵ Plus, even though the Welsh Assembly was not granted primary legislation powers at first, their ability has gradually enhanced following the Government of Wales Act 2006,⁴⁶ and the 2011 referendum.⁴⁷

Bogdanor writes of how each of the home nations, as part of 'the new constitution,'⁴⁸ now have their 'own identity and institutions - a multi-national state rather than [...] a homogeneous British nation containing a variety of people.'⁴⁹ To address such an error that had gone unrecognised for several hundred years was an important historic achievement, ensuring that Welsh, Irish and Scottish values are properly represented in Britain, fixing an 'outmoded constitution,'⁵⁰ as O'Neill puts it. However, I would not go as far as stating it to be 'the biggest

44 Greater London Authority Act 1999 – due to space restrictions, I cannot discuss this further.

45 Tony Blair's speech to the Welsh Assembly, October 2001 – Forman (n 11) 39.

46 Creating Assembly Measures, s 97.

47 Creating Acts of Assembly, s 107 Government of Wales Act 2006.

48 Bogdanor (n 26) 89.

49 *ibid* 116.

50 Michael O'Neill, *Devolution and British Politics* (Pearson Education Ltd 2004) 171.

constitutional change since 1707,⁵¹ as Bernhard Bort believes. That label should most probably be awarded to joining the EEC.

The use of referendums when trying to achieve devolution was also of great constitutional significance. As explained by Deacon, ‘There was the possibility that a future Conservative government would abolish the devolved bodies in Scotland and Wales if they were not endorsed by referendum.’⁵² This implies that Labour went one step further, safeguarding devolution through referendums, which in a sense embedded these new institutions into our constitution. Binding future Parliaments in such a manner contributed considerably towards the sheer enormity of this Labour reform.

Despite the huge significance of devolution, it would have been much more historic had Labour created federalism similar to in the US, or perhaps granted Scotland or Wales independence. On top of this, Westminster still maintains overall power, and with s28(7) Scotland Act, can override any decision made by Scottish Parliament. This means, according to Leyland, ‘the supreme law-making capacity of Westminster remains intact,’⁵³ demonstrating that the subsection was included to deliberately ensure that devolution was not too significant, and did not cross a certain threshold. This vitiates devolution’s significance, perhaps demonstrating that Labour were not quite as bold and brave as it initially appeared. Having said that, section 28(7) could possibly be seen as more of a technicality, having never been used without permission from the Scottish government.

Leyland also believes a weakness in devolution is that ‘both the purse strings and sovereignty remain in the hands

51 Eberhard Bort, ‘The New Institutions: an Interim Assessment’ in Michael O’Neill (ed), *Devolution and British Politics* (Pearson Education Ltd 2004) 295.

52 Russell Deacon, *Devolution in Britain Today* (2nd edn Manchester University Press 2006) 4.

53 Peter Leyland, ‘Devolution, the British Constitution and the Distribution of Power’ [2002] NILQ 408, 413.

of Westminster,⁵⁴ indicating that the UK government has held onto ultimate control in many ways. Additionally, Batey points out that there has been a substantial continuation of Westminster legislating in Scotland, writing that ‘it was widely assumed that Westminster would cease to legislate in the devolved areas. The evidence shows this has not happened.’⁵⁵ She believes there are still many statutes passed that have UK-wide effect, and perhaps should not have, such as the Criminal Justice and Court Services Act 2000. This is an important point she makes, similar to those by Leyland, but I feel devolution must be assessed in relation to what it *did* do, rather than failed to do. Labour could have provided devolved bodies with more powers, yes, but what *was* achieved was extremely significant, regardless of any powers held back by Westminster.

A further important point made by Leyland is that ‘devolution has been a dynamic process which has triggered further important constitutional changes.’⁵⁶ One possible and very significant ramification of devolution, particularly in Scotland, is that it could eventually trigger federalism or maybe even complete independence. Having being given some freedom, it is possible the Scottish will now want more and more, and devolution may have been the first substantial step towards an independent Scotland. Without the 1998 Act, it would not have been possible for the SNP and Alex Salmond to hold a referendum on independence in 2014, suggesting that Labour’s actions may have had wider, more significant implications, than initially thought. Such an implication would be contrary to Blair’s intentions, as stated in the White Paper *Scotland’s Parliament*, which dedicates its

54 *ibid* 412; see also Peter Leyland, ‘The Multifaceted Constitutional Dynamics of UK Devolution’ [2011] *IJCL* 251, 254.

55 Andrea Batey, ‘Scotland’s other Parliament: Westminster Legislation about Devolved matters in Scotland since Devolution’ [2002] *PL* 501, 522.

56 Leyland, ‘Multifaceted Constitutional Dynamics’ (n 54) 251.

focus towards 'legislative devolution',⁵⁷ stressing that any 'policy of independence being implemented in the near future' is unlikely. Nevertheless, this unintended consequence may be a possibility, even if only a slight possibility. Scottish independence would be an exceptionally important moment in constitutional history if it took place, but it is uncertain which party would be responsible. It could be Labour for the trigger of devolution, the Coalition government for allowing it to happen, or purely the SNP for their determination and persistence. But there is no doubt that Labour's devolution would have played a vital role.⁵⁸

F. The Human Rights Act

Furthermore, another immensely important constitutional reform engineered by Labour was the Human Rights Act (HRA) 1998.⁵⁹ It was exceptionally significant because it finally incorporated the ECHR into British law,⁶⁰ triggering an institutional focus on rights, freedoms and liberties that had never been felt before in our constitution; something Labour were enthusiastic to fully recognise and consolidate. It had a 'momentous'⁶¹ impact on the way government and Parliament can legislate, having to ensure laws are compatible with the Convention. There was also an influx of human rights cases appearing before the judiciary, encouraging citizens to protect liberties that they previously only had limited protection for, or who would have faced the daunting task of taking their case to Strasbourg. Human rights now find their way into cases and legal argument when

57 The Constitution Unit, *Scotland's Parliament: Fundamentals for a New Scotland Act* (Cmd 3658, 1997) para 3.

58 Iain Jamieson, 'Playing Politics with the Law? Scottish Parliament's Power to Legislate for a Referendum on Independence' [2012] SLT 61.

59 For further details on the 1998 Act and how it can be used, see Dawn Oliver, *Constitutional Reform in the UK* (OUP 2003) 112-119.

60 See The Home Department, *Rights Brought Home: The Human Rights Bill* (Cmd 3782, 1997) paras 1, 14-1, 19.

61 Lammy Betten, *The Human Rights Act 1998: What it Means* (Kluwer Law International 1999) 12.

they previously would not have. The HRA also encouraged public bodies to abide by the convention.⁶² This is the most important, and therefore significant, constitutional reform Labour has introduced, primarily because it has affected most, if not all, areas of law. Any attempt at a British Bill of Rights⁶³ by the Conservatives will be a mere modification of what was achieved by Labour, who took the ambitious and more important first step.

Bogdanor seemingly shares the same opinion on the HRA's significance, labelling it 'the key to our liberties'⁶⁴ and 'the cornerstone of the new constitution.' It can be inferred from this that the Act forms the foundations of our 21st Century legal system, for which Bogdanor can be strongly agreed with.⁶⁵ Bellamy also makes an important point about s.3 of the HRA, writing that 'read as convention compatible goes against the view that no Act of Parliament can bind later Parliaments.'⁶⁶ This implies that Parliamentary sovereignty was undermined by Labour when passing the HRA, so it can be deemed very significant indeed. I also agree with Starmer who believes section 3 can be a 'radical tool,'⁶⁷ as interpreting a statute as far as possible in line with Convention rights could alter a case's outcome completely; viewing an Act in an almost entirely different way from its 'natural meaning,'⁶⁸ as s3 provides judges with much discretion.

62 s 6.

63 Commission on a Bill of Rights, 'Do we need a UK Bill of Rights?' (2011).

64 Bogdanor (n 26) 88.

65 Roger Smith similarly labels the HRA 'a pillar of an evolving constitution' – Roger Smith, 'Human Rights and the UK Constitution: can Parliament Legislate "Irrespective of the Human Rights Act"?' [2006] LIM 274, 280.

66 Richard Bellamy, 'Political Constitutionalism and the Human Rights Act' [2011] IJCL 86, 102.

67 Keir Starmer and Francesca Klug, 'Incorporation through the "Front Door": the First Year of the Human Rights Act' [2001] PL 654, 664.

68 Philip Sales and Richard Ekins, 'Consistent Interpretation of the Human Rights Act 1998' [2011] LQR 217, 222.

Despite the HRA's unquestionable importance, it must be noted that most human rights were already protected through common law prior to 2000, and in many ways, the HRA was just a formalisation of those rights. However, some of those rights were not given as much judicial protection as they have post-2000,⁶⁹ meaning the HRA should still be recognised as very significant.

The constitutional significance of the HRA can also be questioned in the sense that courts cannot strike down incompatible legislation, they can merely make a declaration of incompatibility,⁷⁰ which Parliament are entitled to ignore. So human rights are not as strictly protected as they could be, and the Act has not affected Parliamentary supremacy⁷¹ as much as it could have. Parliament is still free from judicial control. In support of this, Wadham writes of how the HRA 'protects the principle of Parliamentary sovereignty because it does not permit the Convention to be used so as to override primary legislation.'⁷² Wadham can be agreed with here. It appears the HRA was deliberately constructed so its constitutional impact was not too invasive of Parliamentary sovereignty. The HRA is less directly and explicitly binding on future Parliaments, than the European Communities Act, for example.

However, in reality, despite the lack of strike-down power, the s4 declaration of incompatibility is still a powerful 'weapon',⁷³ and it is very unlikely that Parliament would ignore such a declaration. Section 4 still provided the judiciary with a significant new influence over Parliament, which must be acknowledged.

Roger Smith sums up the capabilities of s4 perfectly: 'ministers retain the legal power to legislate irrespective of the

69 Smith (n 65) 276.

70 s 4.

71 Lyon (n 6) 453.

72 John Wadham, Helen Mountfield, Elizabeth Prochaska and Christopher Brown, *Blackstone's Guide to the Human Rights Act 1998* (6th edn OUP Oxford 2011) 9.

73 Bogdanor (n 26) 64.

HRA but, in fact, their political powers are somewhat contained.’⁷⁴ This suggests that s4 provides an implied understanding that Parliament will respect the views of the judiciary and take action following a s4 declaration, meaning Parliamentary sovereignty is implicitly undermined. Whilst it is technically possible for a government to defy a s4 declaration, it would ordinarily be ‘politically inexpedient,’⁷⁵ meaning it would only be ignored in exceptional circumstances.⁷⁶ So the immense political and public pressure means that the government is almost compelled to address the incompatible statute. This reiterates the constitutional significance of the HRA.

Sales and Ekins believe this pressure means that the HRA ‘has created a system which is closer to a constitution in which courts have the power to strike down legislation than is often supposed.’⁷⁷ Therefore, it is partly the *indirect* repercussions of the HRA which make it so significant. I agree. Section 4 is much more powerful than it *prima facie* appears, as political pressure plays a highly influential role.

Another sign of the HRA’s significance has been the vast amount of important human rights cases since 2000. A fine example is *A and Others v Secretary of State for the Home Department*,⁷⁸ where a s4 declaration was made against s23 (detention without trial of foreign nationals) Anti-terrorism, Crime and Security Act 2001 due to its discriminatory nature. This use of the HRA by the courts led to the eventual replacement of this provision with non-discriminatory Control Orders⁷⁹ in the Prevention of Terrorism Act 2005. This demonstrates the important

74 Smith (n 65) 279.

75 Bellamy (n 66) 101.

76 Sales and Ekins (n 68) 230.

77 *ibid.*

78 [2005] 2 AC 68.

79 s 1.

impact the HRA has had on the courts, making the judiciary directly involved in legislative law-making.

One way the HRA could have been more significant would be if it was entrenched into the constitution, similarly to the US Bill of Rights, which would have been a greater contravention of Parliamentary sovereignty.⁸⁰ The HRA can be repealed at any time, as David Cameron intends to, replacing it with a British Bill of Rights, having set up a Commission to introduce this.⁸¹ Therefore, the constitutional significance of the HRA is by no means long-term or permanent. But if it is repealed, it will undoubtedly be replaced with something similar, so Labour's 1998 Act will still have a lasting effect regardless of what the future brings, having instigated this greater recognition of human rights. I believe that, on the whole, it is very difficult to doubt the constitutional impact of the Human Rights Act.

G. Reforming the Membership of the House of Lords

Another major reform that Labour was responsible for was the House of Lords Act 1999, which involved a drastic overhaul of the Lords' membership.⁸² This meant removing most hereditary peers, followed by the introduction of mainly life peers, which produced a Labour majority for the first time.⁸³ A key aim was to defeat the overwhelming Conservative majority that had existed in the Lords for centuries. Bogdanor writes of how the 1999 Act 'transformed the upper house,'⁸⁴ suggesting the alteration to be quite revolutionary. Producing such a 'markedly different

80 Alison Young, *Parliamentary Sovereignty and the Human Rights Act* (Hart Publishing 2009) 1.

81 Ministry of Justice, 'Commission on a Bill of Rights' (29 March 2012) <<http://www.justice.gov.uk/about/cbr>> accessed 20 April 2012.

82 For more detail, see Dorey (n 30) 123-140.

83 Walters (n 25) 233.

84 Bogdanor (n 26) 157.

composition'⁸⁵ to the membership of the Lords was an extremely courageous step taken by Labour.

However, some might argue that passing the 1999 Act was perhaps easier than it could have been, because despite there being opposition, the Lords reluctantly agreed to pass it. So because of the ease in which the Act was passed, it can be deemed slightly less of an achievement by Labour. The Act was passed with no delay due to the compromise made between Blair and the Lords, allowing 92 hereditary peers to remain. But this compromise also makes this reform seem less significant, only partially completing what it set out to do. I believe such compromise shows weakness on Labour's behalf, but the removal of hundreds of hereditary peers was still a very dramatic reform nonetheless.

In concordance with the 1999 Act, Labour vowed to carry out a second stage of Lords reform;⁸⁶ transforming it into a primarily elected chamber. This second stage was not attempted by Labour, suggesting they only completed half the reform that they set out to achieve. So when considering this larger picture, the 1999 Act seems less significant, as it was only one step in an incomplete master-plan. Walters suggests that all the parties have shown laziness towards Lords reform, Labour included. He writes of how the 1999 Act was 'an easier option to comprehensive change,'⁸⁷ implying that the most important reform of the Lords, to make it democratically elected, was avoided. Dorey also believes Labour had 'kicked House of Lords reform into the constitutional long grass.'⁸⁸ This indicates that despite their efforts, Labour were unwilling to carry out what would have been an even more spectacular reform. A complete reform of the Lords has been longed for since 1911, and Labour, like the Conservatives, have not committed to going the full

85 Forman (n 11) 211.

86 The Labour Party, 'New Labour: New life for Britain' (1997) 29.

87 Walters (n 25) 232.

88 Peter Dorey, '1949, 1969, 1999: The Labour Party and the House of Lords Reform' [2006] Parl Aff 599.

nine yards; merely taking a partial step to appease those demanding full reform. Nonetheless, what Labour did achieve should not be discredited; the 1999 Act was still one of the most significant constitutional reforms of the 20th Century.

Despite the Conservatives' Life Peerages Act 1958 providing necessary tools for Labour to carry out the 1999 Act (as mentioned previously), I feel Labour's reform of the Lords' membership was much more significant, drastically altering the composition of the Lords in a mass exodus, rather than just providing a means for slight improvement. However, if the Coalition government successfully pass the House of Lords Reform Draft Bill,⁸⁹ then such a reform, including a partly elected House (through STV proportional representation), would perhaps overshadow previous reforms.

H. The Constitutional Reform Act 2005

A further Labour reform to be discussed was the Constitutional Reform Act 2005, which aimed to achieve a more definitive separation of powers between the judiciary and legislators.⁹⁰ A key provision was to ensure the independence of the Lord Chancellor⁹¹ from the judiciary and House of Lords, taking the new role of Secretary of State for Justice. This provision was only a minor constitutional reform, simply shifting certain responsibilities to different positions.

However, Part 3, which created a UK Supreme Court was much more historic. After centuries of the House of Lords being the highest court in the land, it is now the Supreme Court, independent of the Lords, which some feel was a significant step. But I must argue that this reform was rather cosmetic, merely changing the title and location of the

89 HM Government, *House of Lords Reform Draft Bill* (Cmd 8077, 2011).

90 For more information on the 2005 Act see Lord Mance, 'Constitutional Reforms, the Supreme Court and the Law Lords' [2006] CJK 155.

91 Part 2.

highest court. Maleson points out that the new court does not have 'greater authority or a higher status,'⁹² and that it is 'a change in form rather than substance,'⁹³ being the same as the Appellate Committee in the House of Lords which it replaced. Maleson can be whole-heartedly agreed with. This reform had no deep impact on the constitution, as the court operates exactly the same as prior to 2009, and possesses no greater constitutional powers.⁹⁴

The Supreme Court title is also rather misleading,⁹⁵ as the UK court does not have the same strike-down powers as other Supreme Courts, such as in the US and Canada. Maleson believes the UK Supreme Court 'does not comply with the generally recognised prerequisites of a constitutional court.'⁹⁶ Lord Woolf also feels the UK court 'would be a poor relation among the Supreme Courts of the world'⁹⁷ with no strike-down powers, suggesting the introduction of this inferior Supreme Court to be of little importance. This again reiterates that the 2005 Act was merely a superficial alteration, and should not be considered a significant part of Labour's constitutional reform accomplishments.

I. Gordon Brown's Reforms

Finally, some slightly less important reforms introduced by Brown's government were the Parliamentary Standards Act 2009 and Constitutional Reform and Governance Act 2010. The former was used by Labour to introduce the Independent Parliamentary Standards Authority to regulate MP expenses,⁹⁸ and the latter granting

92 Kate Maleson, 'The Evolving Role of the Supreme Court' [2011] PL 754, 765.

93 *ibid* 754.

94 With the exception of acquiring the power to resolve disputes over devolution legislation from the Judicial Committee of the Privy Council.

95 Ryan (n 32) 158.

96 Maleson (n 92) 757.

97 Clare Dyer and Patrick Wintour, 'Woolf Leads Judges' Attack on Ministers' *The Guardian* (London, 4 March 2004).

98 s 3.

the civil service statutory recognition for the first time,⁹⁹ and requiring any new treaty signed by Britain to be ratified by Parliament.¹⁰⁰ Both Acts introduced relatively important changes, but neither can be considered one of the most significant constitutional developments since 1900.

IV. Liberal and Liberal Democrat Party

Traditional Liberal Party philosophy imposes a ‘distinctive’¹⁰¹ commitment towards constitutional reform, having historically provided an ambitious alternative to the Conservatives’ passive attitude. It has been customary for the Liberals to focus on constitutional matters, rather than the socio-economic issues like the Conservatives; purposefully planning long-term constitutional reform, instead of reforming the constitution out of forced necessity, due to the circumstances of the time, as has arguably been the case with the Conservatives.

The Liberals are extremely ambitious, consistently seeking a radically new constitutional order,¹⁰² and have longed for a codified constitution, for example. However, I feel they are perhaps only so ambitious because they have been the third party since the 1920s, and until 2010, have had no realistic opportunity to implement such radical ideas. The Liberals perhaps try to achieve electoral support by focusing on a political area that the main parties have less time to focus on, using it almost as a “wild-card.” Bogdanor writes of how in constitutional matters, Labour and Conservative policies are ‘marked by a cautious and sceptical pragmatism, while the Liberal Party has adopted a holistic and utopian approach entirely at variance with the politics of

99 Part 1.

100 Part 2.

101 Vernon Bogdanor, ‘Liberal Party and Constitutional Reform’ in Vernon Bogdanor (ed), *Liberal Party Politics* (OUP 1983) 173.

102 Rodney Brazier, *Constitutional Reform: Reshaping the British Political System* (3rd edn OUP 2008) 1.

gradualism.¹⁰³ I believe that such fearless ambition towards reform is largely influenced by the Liberal Party's usual¹⁰⁴ inability to legislate their proposals.

Having been the most committed party towards constitutional reform, the Liberals have been extremely influential, but have not received the credit they deserve, rarely having the means to put their initiatives into effect.

A. The Parliament Act 1911

One of the most significant constitutional reforms achieved by the Liberals was the Parliament Act 1911, marking a 'fundamental change'¹⁰⁵ in British politics. Following frustrations in failing to pass a finance Bill, the 1911 Act was passed by Asquith's government as a means of preventing the Lords from vetoing Bills, awarding them the ability to *delay* Bills only. As undoubtedly one of the most prominent reforms of the 20th Century, the 1911 Act radically altered the balance of power between the Houses, and how Parliament legislates.

Walters believes the effect of the 1911 Act was 'profound,'¹⁰⁶ creating 'an assertion of the primacy of the Commons,' meaning that 'a chamber of veto was forced to reinvent itself as a chamber of scrutiny.' This signifies the Act to be of remarkably importance, which can be agreed with, as I believe it symbolised the first official reduction of the Lords' power. However, I do feel Ridley's claim that 'the Unionist [Conservative] view of a bicameral legislative was finally defeated,'¹⁰⁷ is overly exuberant, as the 1911 Act merely curbed the Lords' powers, rather than completely eradicating the Upper House.

103 Bogdanor (n 101) 187.

104 When not in a coalition.

105 Bogdanor (n 26) 149.

106 Walters (n 25) 192.

107 Jane Ridley, 'The Unionist Opposition and the House of Lords, 1906-1910' [1991] *Parliamentary History* 253.

The Act also improved democracy, providing for greater respect of the electorate's wishes by giving more power to the elected Commons. Weill writes of how the Lords could no longer 'coerce an election,'¹⁰⁸ with the 1911 Act creating 'popular sovereignty by which the people's voice in constitutional matters was retained.'¹⁰⁹ This conveys a sense that the Liberals helped instil greater legitimacy into the constitution, making their reform highly commendable.

However, the significance of the Act can be questioned slightly. Firstly, the 1911 Act has only been used on seven occasions across an entire century, so it is not a reform that affects our constitution regularly. Ekins also argues that the 1911 Act 'does not seek to redefine Parliament,'¹¹⁰ which is true. It merely curbs certain powers and amends the way legislation is passed. Bogdanor also believes the Lords were still left with 'considerable powers.'¹¹¹ I strongly agree; the ability to delay a Bill by two years should not be underestimated.

Nevertheless, the 1911 Act was still highly significant in what it *did* do, and the role it played in instigating further future reforms. However, a century later, another Liberal, Nick Clegg, is still looking to achieve an elected 'popular' Second Chamber with the House of Lords Reform Bill. Whether the Coalition can finally achieve the aims set out by Asquith, only time will tell.

B. Voting Reform

A significant reform under Lloyd George was the Representation of the People Act 1918. However, despite the government at the time having a Liberal leader, it was a Coalition heavily populated by Conservatives, meaning both

108 Rivka Weill, 'Centennial to the Parliament Act 1911: the Manner and Form Fallacy' [2012] PL 105, 116.

109 *ibid* 118.

110 Richard Ekins, 'Acts of Parliament and the Parliament Acts' [2007] LQR 91, 106.

111 Bogdanor (n 26) 151.

parties deserve credit. The Act allowed all men to vote in elections (regardless of property status), and also granted women over 30 the right to vote, subject to certain property requirements. This Act was introduced after the Great War because it was felt that certain men who had fought a war to protect British democracy now deserved the vote, regardless of property status. With a persuasive input from Suffragettes and Suffragists, the government also felt it necessary to award women the right to vote, following their valiant contribution towards the war effort.

The 1918 Act was an unforgettable legislative achievement,¹¹² and significant modernisation of our constitution, making it more democratic and representative, allowing for a greater number of citizens to cast their opinion on who should run the country. Blackburn writes of how the Act 'laid the foundations for the country's present-day voting and electoral system'¹¹³ and 'was a symbolic measure of immense significance to the constitution,'¹¹⁴ illustrating it as a milestone in constitutional history. Blackburn can be strongly agreed with; granting women the right to vote was one of the most memorable advancements in democracy in modern times.

However, the government do not deserve too much credit as the 1918 Act was rather consequential of the times, with the First World War and the Suffragette/Suffragist movements being the most important contributions, rather than unprompted initiatives of the Liberals and Conservatives. Hobbs believes the Act was the outcome of 'the greatest political caucus of modern times,'¹¹⁵ implying that the primary influence was the women's rights movement, not a long-term Liberal/Conservative objective. However, as

112 Arthur Hobbs, *A Guide to the Representation of the People Act, 1918* (Butterworth 1918) 1.

113 Robert Blackburn, 'Laying the Foundations of the Modern Voting System: The Representation of the People Act 1918' [2011] *Parliamentary History* 33.

114 *ibid* 47.

115 Hobbs (n 112) 1.

is often the case, I believe it was a combination of the two; the government still played an important role. Blackburn also writes of how Lloyd George deserves a ‘great deal of credit’¹¹⁶ due to ‘strong leadership’ when passing the Act, indicating that the government *did* deserve some recognition. He also describes the Act as ‘the only true liberal achievement of Lloyd George’s premiership,’ implying that the 1918 Act was particularly influenced by Liberal members of the Coalition, emphasising the need to grant Liberals *some* recognition, despite a Conservative dominance in government.

In 2011, Nick Clegg attempted to achieve another Liberal reform of the voting system with the AV referendum,¹¹⁷ but failed. Had the public voted ‘Yes,’ I would have denoted his accomplishment as an extremely significant constitutional reform, but I am clearly unable to make such a statement.

C. Irish Independence

Another significant reform introduced by the 1916-22 Coalition was granting the Republic of Ireland independence from the UK, and forming Northern Ireland. This was achieved through the Government of Ireland Act 1920 and the Irish Free State Constitution Act 1922. Such action was reactionary to the Irish War of Independence 1919-21, and the agreed ceasefire.¹¹⁸

The reformation of Britain’s physical constitution and structure in such a drastic manner was extremely significant indeed; nothing short of a constitutional revolution. Bogdanor also describes the decision to keep

116 Blackburn (n 113) 47.

117 Parliamentary Voting System and Constituencies Act 2011.

118 For more detailed information on the build up to the Government of Ireland Act 1920 see HT Dickinson and Michael Lynch, *The Challenge to Westminster: Sovereignty, Devolution and Independence* (Tuckwell Press 2000) 102-111; and Francis Costello, *The Irish Revolution and its Aftermath 1916-1923: Years of Revolt* (Irish Academic Press 2003).

Northern Ireland excluded from the South as a ‘crucial decision,’¹¹⁹ implying that the action taken had important ramifications for the future, meaning acknowledgement of the Coalition’s efforts is due, regardless of whether the impact was positive or negative.

However, it must once again be stressed that the emergency circumstances of the Irish situation played a crucial role, and it is doubtful that independence would have been granted had the uprising not occurred. Additionally, any governmental credit can once again be shared between the Liberals and Conservatives.

V. The Current Coalition Government

As this article was intended to assess constitutional reform retrospectively up to present day, I will only consider the current Coalition government, and their future plans, very briefly. As mentioned previously, the introduction of a British Bill of Rights will be a noteworthy reform, but in most regards it will merely be a cosmetic modification of the HRA.

If the House of Lords Reform Bill is successfully passed, introducing a partially-elected Second Chamber, it will be of exceptional significance, achieving something that has been avoided for a century.

One reform the Coalition has already achieved is the Fixed-term Parliaments Act 2011, providing for fixed elections every five years. This guarantee will provide the Coalition the best amount of time possible to complete their intended legislative programme. Such a change will have a noticeable impact, as it means the Prime Minister cannot tactically select a general election date.

VI. Conclusion

Despite New Labour introducing a vast catalogue of significant constitutional reforms in a short time period, I must conclude that the single-most recognisable reform since

119 Vernon Bogdanor, *Devolution in the United Kingdom* (OUP 1999) 65.

the beginning of the 20th Century was the UK entry into the EEC by the Conservatives. The impact of the European Communities Act on our constitution has been colossal, having a profound effect on Parliamentary sovereignty and the foundations of law-making, completely reshaping the basic democratic structure of the UK.

Labour must nevertheless receive credit for the sheer number of reforms they engineered under Blair. So too must the Liberals for their influential attitude towards constitutional matters, making important contributions, for example, in the Labour-Liberal Committee prior to the 1997 election. In my view, the Conservatives seemingly introduce constitutional reforms through necessity of the times (with the recent exceptions of the Bill of Rights and Lords reform plans), whereas the Liberals and New Labour have a genuine ambition to improve our constitution for purely constitutional reasons. It is of great irony that the party most supportive of constitutional reform, the Liberal (Democrat) Party, has been the least influential and the party that has played the most important role, the Conservative Party, is traditionally averse to large-scale change. But that is the nature of politics.

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