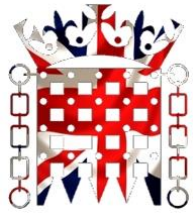


*“Dude, where’s my
Constitution?”*

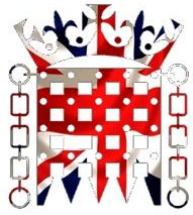
**The Coalition & beyond -
Constitutional Reform:**

**Proposals and Progress
to Feb 2018**



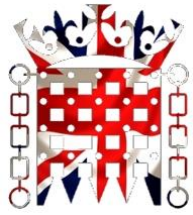
The Coalition & Constitutional Reform

- Labour 1997-2010 left major legacy of constit change & much debate about its future direction
- Coalition Agreement needs to be seen in that context:
 - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/78977/coalition_programme_for_government.pdf - see Section 24 (= p26) on Political Reform but some reform proposals found in other sections too
- But expenses scandal loss of public trust in Parl also important
- Different kinds of proposals:
 - Some react against Labour's reforms – e.g. s?
 - Some clearly continue Labour's work – e.g. s?
 - Some address unfinished business /incoherent areas – e.g. s?
 - Some respond to expenses scandal – e.g. s?
 - Some new, reflecting Con agenda / values– e.g. s?
 - Some new, reflecting Lib Dem agenda / values – e.g. s?
 - Some reflect unresolved tensions within the Coalition – e.g. s?



The Coalition & Constitutional Reform

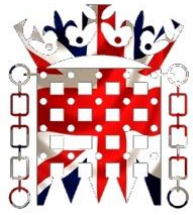
- Fixed term 5 year Parliaments
- Referendum on AV voting system + equal constituencies
- House of Lords reforms
- Wright proposals for House of Commons implemented
- All –postal primaries for candidate selection
- Petitions
- Public–reading stage for bills
- Local referendums incl vetoes on council tax rises
- Recall of MPs
- Calman proposals re Scotland + more powers for Wales
- EU-referendum lock
- Commission on British Bill of Rights
- Party funding reform
- Select Committees powers re appointments
- Elected mayors
- Directly elected Police commissioners



The Coalition & Constitutional Reform

Recommended Weblinks

- UCL Constitution Unit - <https://www.ucl.ac.uk/constitution-unit/whatis>
- Cabinet Office on Constitutional reform - <https://www.gov.uk/government/policies/constitutional-reform>
- Economist article on the UK Constitution- <http://www.economist.com/node/18617926>
- Graham Allen MP, Chair of Select Cttee on Constitution – calls for a written constitution - <https://www.opendemocracy.net/ourkingdom/graham-allen/cabinet-manual-on-uk-governance-is-no-substitute-for-written-constitution>
- Democracy Live on Constitutional Change (May 2011) - http://news.bbc.co.uk/democracylive/hi/guides/newsid_9435000/9435018.stm
- BBC summary of 2009 Calman proposals - <http://news.bbc.co.uk/1/hi/scotland/8100215.stm>
- Economist on European courts - <http://www.economist.com/node/18651298>
- BBC's Shaun Ley on Referendums in the UK - <http://www.bbc.co.uk/news/uk-politics-12910672>



The Coalition & Constitutional Reform

To what extent did the Coalition implement its constitutional reform proposals?

- Reforms completed as promised?
- Reforms completed with some compromise?
- Reforms passed but not yet implemented?
- Reforms currently before parliament?
- Reforms not attempted or abandoned?

- **And what new constitutional issues have arisen since the Coalition Agreement?**

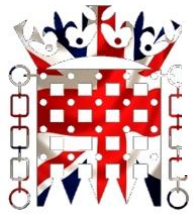
How significant is the overall impact of constitutional change?



1 Fixed term Parliaments

“We will establish five-year fixed-term Parliaments. We will put a binding motion before the House of Commons stating that the next general election will be held on the first Thursday of May 2015. Following this motion, we will legislate to make provision for fixed-term Parliaments of five years. This legislation will also provide for dissolution if 55% or more of the House votes in favour. “

- Fixed term parls passed into law (September 2011) but 55% margin for a no conf vote taken out by government in July 2010 after strong criticism.
- Lords tried to make Act only applicable to the next election but the govt overturned that in ping-pong, offering only a review in 2020 instead.
- Fixed next election for May 7th 2015 and every five years thereafter, with only two ways for elections to be held early
 - either after a no confidence vote passes (but by a simple majority, not the enhanced one of 55% proposed) and no alternative government can be found,
 - or if a motion for an early general election is agreed by at least 2/3 of the Commons (as Theresa May engineered for the early 2017 election)
 - <http://blogs.lse.ac.uk/politicsandpolicy/general-election-2014-dunleavy/> argued that the Act is weak and that political calculation will mean early elections happen anyway.
- By end 2014 interest from both Con & Lab backbenchers in repealing the Act - <http://www.bbc.co.uk/news/uk-politics-29605766> - but no action since



2 Voting and Constituencies reform

“We will bring forward a Referendum Bill on electoral reform, which includes provision for the introduction of the Alternative Vote in the event of a positive result in the referendum, as well as for the creation of fewer and more equal sized constituencies. We will whip both Parliamentary parties in both Houses to support a simple majority referendum on the Alternative Vote, without prejudice to the positions parties will take during such a referendum.”

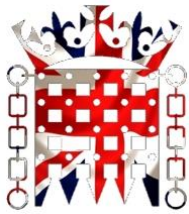
- Voting System and Constituencies Act passed with some HoL amendments to boundary change rules (Feb 2011).
- Set up ref on AV
- & reduced no. of Commons seats to 600, requiring equal constits with each within 5% of the average no. of voters
- AV referendum held May 2011 but lost – divided Coalition (& Lab)
- Boundary Comm work on new boundaries 2010-2012
 - Came up with draft maps – first consultation ended April 2012, revisions & more consultation followed
 - had to go back to Parl for Final Vote in 2013
 - **Defeated** (amendmt to defer until after next election) in HoL, then in HoC in Jan 2013 as LDs voted against it following Con decision to drop HoL reform.
 - Now seats reduction/new boundaries meant to happen for 2020 election (but could still be scrapped given Lab + Con bbench opp, esp as DUP unenthus.)



3 House of Lords reform

“We will establish a committee to bring forward proposals for a wholly or mainly elected upper chamber on the basis of proportional representation. The committee will come forward with a draft motion by December 2010. It is likely that this will advocate single long terms of office. It is also likely that there will be a grandfathering system for current Peers. In the interim, Lords appointments will be made with the objective of creating a second chamber that is reflective of the share of the vote secured by the political parties in the last general election. “

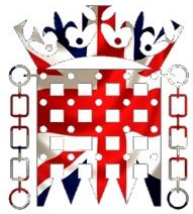
- Nick Clegg’s personal responsibility - slow process. Clegg’s White Paper late, then draft bill published May 2011 with options for debate – <http://www.bbc.co.uk/news/uk-politics-13428909>
 - Largely elected HoL – 80% ? Cd be 100% ?
 - Elected by PR system – STV ?
 - 15 year terms ? Limited to one term only ?
 - 1/3 elected at any one time, coinciding with Gen Election (begin 2015) ?
 - 12 / 26 bishops remain, no other faith leaders ?
 - Smaller, more effective house of 300-350 full-timers ?
 - Name uncertain – Senate? HoL?
 - Expulsion or “grandfathering” of existing peers ?
- Joint Select Cttee of 13 MPs and 13 peers undertook pre-legislative scrutiny – (4th such panel in 14 years, although first with a draft bill) – cttee produced split report
- Bill intro’d and passed 2nd Reading July 2013 with Lab support but big Con rebellion.
- Over summer 2013 Lab refused to cooperate with programme motion to allow Bill to become an Act, faced with growing Con rebellion & HoL opp **Cameron abandoned Bill**
- Lib Dems deeply unhappy -> Coalition strains and LD vote to kill boundary changes.
- Minor reform May 2014 with Steele-Byles HoL Reform Bill- allows retirement & expulsions



4 The Wright Committee proposals

“We will bring forward the proposals of the Wright Committee for reform to the House of Commons in full – starting with the proposed committee for management of backbench business. A House Business Committee, to consider government business, will be established by the third year of the Parliament.”

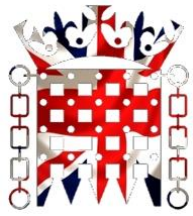
- **Wright Cttee sat 2009-10 in wake of expenses scandal – published proposals in Spring 2010: all main parties signed up to them in manifestos**
- **Wright proposals largely implemented:**
 - S Cttee membership and chairing now elected independently of whips
 - **Backbench Business Cttee (BBBC)** set up May 2010: given time by Coalition to schedule debates, several of which have embarrassed govt (prisoners’ votes, fuel prices, EU referendum)
 - Due to consider a **House Business Cttee** with role in timetabling govt business too, potentially undermining exec dominance significantly – will this ever happen?
 - Govt did make significant change to rules for election of BBBC members, 2012, making them elected within party groups (as with Select committees) rather than by whole HoC – seen as a way of weakening the cttee
 - <http://www.conservativehome.com/thetorydiary/2012/03/tory-mps-condemn-government-interference-over-backbench-business-committee.html>
 - and <http://constitution-unit.com/tag/backbench-business-committee/>
 - and <http://www.bbc.co.uk/news/uk-politics-17361687>
 - Liason Cttee published report and had BBBC debate on further strengthening scrutiny and giving Bbenchers more power vs Exec in Jan 2013 - <http://www.parliament.uk/business/committees/committees-a-z/commons-select/backbench-business-committee/news/debate-on-liason-committee-report-on-select-committee-effectiveness-resources-and-powers/>



5 State Funded primaries

“We will fund 200 all-postal primaries over this Parliament, targeted at seats which have not changed hands for many years. These funds will be allocated to all political parties with seats in Parliament that they take up, in proportion to their share of the total vote in the last general election.”

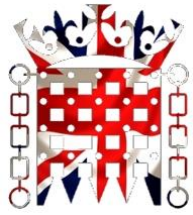
- All gone v quiet. Some criticism of nothing happening.
- Others point to cost issues – Tories spent £40 000 each on postal primaries in Totnes and Gosport in 2009 - c£8 million of taxpayers money would be required now to run contests for multiple parties in 200 constituencies, but it would look terrible in a time of cuts
- Some point out potential unfairness to less well-off candidates, or those without union/pressure group backing.
- Primaries held ahead of Bristol’s mayoral elections in November 2011 (as they were for Labour’s candidate for Mayor of London), but without state funding
- Whips unenthusiastic after Sarah Wollaston, MP for Totnes, the highest profile primary victor from 2010, has been notably outspoken and claimed an additional mandate from the popular nature of her selection.
- Comment - <http://www.leftfootforward.org/2011/10/french-primaries-point-the-way-for-democracy/>



6 Petitions

“We will ensure that any petition that secures 100,000 signatures will be eligible for formal debate in Parliament. The petition with the most signatures will enable members of the public to table a bill eligible to be voted on in Parliament.”

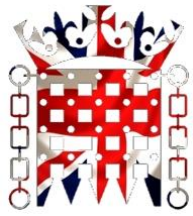
- Proposal draws on practice of Scottish Parliament since 1999
- <https://petition.parliament.uk/> - 32000+ started – over 80 gained >100 000 signatures by Feb 2018 (N.B. Became UK Govt & Parliament Petitions website in 2015)
- Promise that all over 100 000 *will get considered* for HoC debate, but not an actual *guarantee* of getting a debate – 63 out of 80 qualifying did by Feb 2018 (with 3 awaiting debate at present and some debated even if they didn’t reach 100 000 signatures).
- Controversial as Govt gave job to BBC, who are somewhat unhappy that such debates come out of their time + they require an MP to sponsor the debate– e.g.s include Hillsborough disaster, EU referendum, fuel prices. - > led to **change after 2015 Election**, now a separate Petitions Select Committee - <http://www.parliament.uk/petitions-committee>
- Petition to scrap NHS bill reached 170 000 signatures by March 2012 but BBC turned it down for a debate – in the end Labour gave it time as an Opposition Day debate...
<http://www.independent.co.uk/life-style/health-and-families/health-news/labour-uses-epetition-to-win-commons-debate-on-health-bill-7546216.html>
- How will public feel if petitions ritually debated but make no difference – e.g. EU – (but govt did delay fuel duty rise? & scrap beer duty rise in 2013 budget)
- No sign that any popular petition will become a bill and be voted on



7 Public Reading Stage for Bills

“We will introduce a new ‘public reading stage’ for bills to give the public an opportunity to comment on proposed legislation online, and a dedicated ‘public reading day’ within a bill’s committee stage where those comments will be debated by the committee scrutinising the bill.”

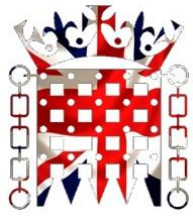
- Pilots of the proposed Public-reading stage for bills were run in Feb/March 2011 (Protection of Freedoms Bill), Autumn 2012 (Small Charitable Donations Bill) and early 2013 (Children & Families Bill)
 - <http://webarchive.nationalarchives.gov.uk/20121204113930/http://publicreadingstage.cabinetoffice.gov.uk/>
 - 3 weeks allowed for public responses, summarised by Home Office and fed into the Public Bill Committee considering the Bill after 2nd Reading
 - Pilots did not include a dedicated “Public Reading Day” to consider responses, as was originally envisaged
- Now being reviewed:
 - <http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm130117/wmstext/130117m0001.htm> (Jan 2013 - 3/4 way down page)
 - <http://www.parliament.uk/business/publications/research/briefing-papers/SN06406/public-reading-stage-of-bills>
 - Will anything happen beyond these pilots?



8 Local referendums

“We will give residents the power to instigate local referendums on any local issue.”

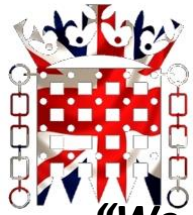
- More use of local referendums, initiated by citizens, was part of the Localism Bill
- but wider power for local refs removed in HoL – now just applies to Council Tax levels and some planning issues.
 - Local referendums triggered if Council Tax set to rise by more than a % set by the Govt – has been 2-3% pa, but 6% 2018
 - Such referendums cannot be triggered by citizens’ initiatives locally
 - This replaces previous Central Govt power to cap Council tax levels
 - Local referendums can endorse “neighbourhood development plans”, but this is essentially for town / parish councils: a way to put pressure on Local Planning Authorities
- Localism Act passed Nov 2011, in force from April 2012
 - Only one local referendum held on Council Tax – Bedfordshire Police & Crime Commissioner wanted rise beyond threshold – rejected by more than 2-1 May 2015
 - Over 450 local neighbourhood planning referendums held by Feb 2018 (all successful bar one in Derbyshire in Oct 2016)
- See - www.parliament.uk/briefing-papers/SN03409.pdf
- And - <http://www.parliament.uk/briefing-papers/SN05682>
- Brighton case - <http://www.heart.co.uk/sussex/news/local/brighton-hove-no-council-tax-referendum/>



9 Recall of MPs

“we will bring forward early legislation to introduce a power of recall, allowing voters to force a by-election where an MP is found to have engaged in serious wrongdoing and having had a petition calling for a by-election signed by 10% of his or her constituents.”

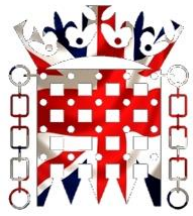
- Draft Govt bill considered in 2012 by Political & Constit Reform Select Cttee – rec’d Bill unnecessary & shd be dropped - <http://www.parliament.uk/business/committees/committees-a-z/commons-select/political-and-constitutional-reform-committee/inquiries/parliament-2010/recall-of-mps/>
- Govt response repeated commitment to recall, but did not introduce Bill into HoC
- April 2014 - Maria Miller affair may have created further pressure for change - <http://www.leftfootforward.org/2014/04/the-maria-miller-affair-shows-we-need-the-right-to-recall-mps/>
- Bill finally given 1st reading September 2014 – Royal Assent at end of Parl end March 2015 - <http://services.parliament.uk/bills/2014-15/recallofmps.html>
- Recall Bill proposed local petition to trigger by-election:
 - Either where an MP is convicted of an offence and receives a prison sentence of 12 months or less (longer sentences already disqualify MPs) – *N.B 5 MPs/former MPs jailed over expenses 2011-13 (only one for less than 6 months) + Chris Huhne MP imprisoned 2013 for 8 months over speeding /perverting justice case. All six resigned as MPs (or had stepped down before the 2010 election)*
 - Or where HoC resolves, through MPs’ vote, that an MP be suspended for 21 days
 - If either happens, a const petition would open. If within 8 weeks, 10%+ of eligible electors signed, seat would be declared vacant and a by-election held. The recalled MP could stand in by-election.
- Criticisms bill is too weak – Zac Goldsmith MP esp attacked it, after failure of his own recall PMB. Amendments were made in HoC on free vote to toughen it up (suspension period cut to 10 days, some non-custodial sentences & pre-election wrongdoing wd count) but attempts to allow public to initiate the whole process failed - <http://www.bbc.co.uk/news/uk-politics-30184066>



10 Changes to Devolution

“We will implement the proposals of the Calman Commission and introduce a referendum on further Welsh devolution.”

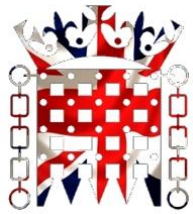
- Calman Commission set up by Labour to review devolution – 2007-2009. Report proposed Scotland gaining more powers over finance
- Wales promised primary legislative powers (as Scotland had already). Confirmed by referendum in March 2011 – all main parties were in favour.
- Scotland Bill intro'd 2010 but slow progress, then rather derailed by SNP victory in May 2011 and further demands. Passed as Scotland Act April 2012 – but not effective until 2016 - <http://www.bbc.co.uk/news/uk-scotland-17903145>
- Government also set up in 2011 a Calman-style review of Welsh devolution – the Silk Commission - with a view to further powers
 - Now complete - <http://commissionondevolutioninwales.independent.gov.uk/>
 - Silk initially recommended (2012) more financial and borrowing powers – agreed by Coalition, with Act receiving Royal Assent in December 2014
 - In March 2014 Silk proposed new powers for Welsh Assembly over transport, policing and youth justice + a move to *reserve powers* model like Scotland and NI (identifying which powers stay with Westminster, rather than listing those where the Welsh Assembly has competence, as now) – no Coalition action on these proposals, but new Wales Act passed Jan 2017 to deliver most of the recommendations in the Silk Commission.
- All these developments overtaken by Scottish Independence Referendum & English Votes for English Laws debate, so future highly uncertain (see later slide)
- And 3 recent UK Supr Ct cases over whether laws passed by Welsh Assembly trespassed on Westminster's authority – 2 resolved so far in Wales' favour - hints at future tensions - <http://constitution-unit.com/2013/02/05/the-dragon-roars-welsh-devolution-and-the-uk-supreme-court/> and <http://www.bbc.co.uk/news/uk-wales-politics-28711253>



11 EU Referendum Lock

“We will amend the 1972 European Communities Act so that any proposed future treaty that transferred areas of power, or competences, would be subject to a referendum on that treaty – a ‘referendum lock’. We will amend the 1972 European Communities Act so that the use of any passerelle would require primary legislation.”

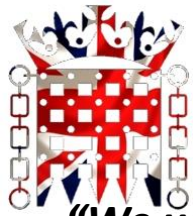
- Passed into law in European Union Act 2011
 - referendum now required for any proposed transfer of power from UK to EU
 - toughest requirement in Europe (tougher than Ireland’s constitutional rules)
 - *Passerelle* means UK govts cannot agree in Council of Ministers to move area from Unanimity to Qualified Majority Voting, or change legislative procedures, without UK referendum to confirm.
- Is this purely symbolic? Does it bind future parliaments and so undermine part of the principle of parliamentary sovereignty.?
- Controv as bill gave some (but not much) wriggle room to ministers to define what “significant transfer” means– v Eurosceptic Tories unhappy.
- Signif in strengthening Cameron’s decision to veto EU treaty change?
- Comment on constitutional implications -
<http://eutopialaw.com/2012/01/19/the-european-union-act-2011-three-key-questions/>



12 Commission on British Bill of Rights

“We will establish a Commission to investigate the creation of a British Bill of Rights that incorporates and builds on all our obligations under the European Convention on Human Rights, ensures that these rights continue to be enshrined in British law, and protects and extends British liberties. We will seek to promote a better understanding of the true scope of these obligations and liberties.”

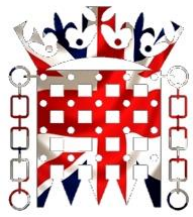
- Commission set up - reported in Dec 2012 - brief made it clear UK would remain within ECHR structure
- Commission report said new legislation on rights desirable so that people felt “ownership” – but comm was split with 2/9 members dissenting – feared it would mean UK leaving ECHR. Devolved nations v anti UK Bill of Rts. When giving evidence - <http://www.bbc.co.uk/news/uk-politics-20757384>
- Coalition v split on this, but also range of views within Tory party
- Cameron also trying to get Council of Europe to reform Ct – but Br Head Judge has brushed this off - http://news.bbc.co.uk/democracylive/hi/europe/newsid_9662000/9662077.stm
- Has been v contro recently
 - will it strengthen or water down rights?
 - Will it reduce interference from European Ct of HR? Will it reduce or strengthen powers of UK Supr Ct?
 - Sovereignty implications – can Parl bind its successors? Can any Bill of Rts be entrenched without codifying the whole UK constit?
- Coalition govt won’t take any more action, but pledge included in 2015 Conservative manifesto on replacing Human Rights Act with British Bill of Rights and on making ECtHR rulings only advisory on the UK – wd breach the current European Convention so either renegotiation (with 46 other states – prob impossible) or withdrawal are implied.



13 Party funding reform

“We will also pursue a detailed agreement on limiting donations and reforming party funding in order to remove big money from politics.”

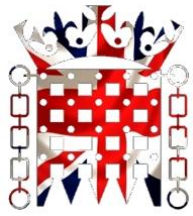
- Cttee on Standards in Public Life (Chaired by Sir Christopher Kelly) report in Nov 2011
 - suggested a donor limit of £10K p.a., with some tax relief on these donations.
 - Union members would have to opt in to political contributions (i.e. usually to Labour), rather than opt out at present.
 - Proposed significant increase in state funding for political parties – perhaps £3. per vote won in general elections, and half that for votes won to devolved assemblies.
 - Overall spending limits would also be lowered
- Political reaction to the Kelly Committee proposals was cool.
 - Conservatives want much higher cap on donations, perhaps £50K p.a., and for union donations to be capped in the same way as corporate donations - i.e. as a single donation per union, not thousands of small donations from individual members.
 - Labour unenthusiastic about anything that might potentially reduce its union funding, and will not compromise with the Tories on how union donations are categorised.
 - All of the parties believe that the public has no appetite for seeing its taxes going to political parties, especially in a time of cuts and increased taxation.
- March 2012 Tory funding scandal (Party Treasurer resigned over cash for access allegations) and Milliband’s proposed changes in 2013 to Labour’s relationship with unions brought the issue back into the news briefly, but reform now appears dead.
- But [Miliband did change Labour/Unions link in March 2014](#) – individual union members now must choose positively whether to become “affiliated supporters” paying £3. p.a. to the party – could make wider party funding reform possible?



14 Select Committee powers re appointments

“We will strengthen the powers of Select Committees to scrutinise major public appointments.”

- Continuing developments under Lab 2007 -> allowing S Ctees to question key Ministerial apptmts, but no actual power of veto – e.g. Ed Balls as Educ Sec ignoring Educ S Cttee on Maggie Atkinson Children’s Comm apptmt in 2009
- Osborne gave Treasury S Cttee veto over OBR head in July 2010 – new precedent? OBR apptmt later written into legislation - but this hasn’t been done yet for any other apptmt (‘tho Justice S Cttee now given informal veto over Information Commissioner)
- Most appointments have been uncontroversial – S Cttee approving and Ministers appointing their preferred choice (80/ 85 2007 - 2016).
- But by July 2016 5 negative S Cttee reports – 3 of these not appointed
 - e.g. Proposed NHS Monitor Head Dominic Dodd turned down in October 2013 – he withdrew.
- But clash between Vince Cable and BIS S Cttee over Les Ebdon’s appointment to Head OfFA – Cable ignored Cttee rejection Feb 2012 - <http://www.bbc.co.uk/news/education-16946484>
- And Ofstead Chief Inspector received negative report July 2016 – appointed anyway
- Liaison Cttee call for more Parl power over apptmts in Sept 12 - <http://www.parliament.uk/business/committees/committees-a-z/commons-select/liaison-committee/news/select-committees-and-public-appointments-government-response-publication/>
not accepted by Govt - but Cabinet Office paper 2013 listed 52 apptmts subject to such scrutiny
- And in Jan 2014 a Defence Agency apptmt was subject to scrutiny after the Govt gave in to Defence S Cttee demands – an important precedent as previously nearly all scrutiny had been at the Govt’s choice, and shows the list of 52 can be added to.



15 Elected mayors

“We will create directly elected mayors in the 12 largest English cities, subject to confirmatory referendums and full scrutiny by elected councillors.”

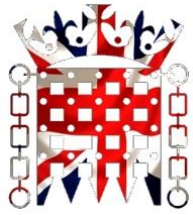
- Pushed through Parliament in 2011 Localism Act
 - refs in 12 big cities held in May 2011 (even where council opposed, as in Coventry) to decide whether to have a Mayor (potentially joining the 15 places that already do so, e.g. London, Sunderland, Leicester – although only 14/47 refs held previously had passed)
 - Proposal defeated in 11 cities – <http://www.bbc.co.uk/news/uk-politics-17949950>
 - only passed in Bristol, which voted for its first directly elected mayor in Nov 2012
 - Govt said it wd encourage other cities/towns to adopt directly elected mayors, but through the existing provisions for local referendums or by council decision, as under Labour – but none scheduled by 2015 election.
 - 2015 - Post Scottish Referendum, renewed focus on devolution within England – revived idea of directly-elected leaders of city-regions, with George Osborne pushing the idea enthusiastically from the Treasury.



16 Directly elected Police commissioners

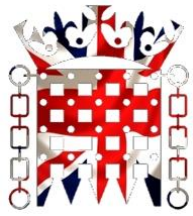
“We will introduce measures to make the police more accountable through oversight by a directly elected individual, who will be subject to strict checks and balances by locally elected representatives.”

- V contro (former Met Chief Sir Ian Blair came out against, although Mayor of London already has similar powers, & Met unaffected by this reform)
- Key part of Police Reform and Social Responsibility Act (Sept 2011) HoL gave it a hard time, mostly overturned in ping-pong
- Vote for 41 Police and Crime Commissioners held in Nov 2012 – historically low turnout of 15% - <http://www.bbc.co.uk/news/uk-20352539>
- 12 indeps elected, incl several former policemen - Cons won 16, Lab 11. Over next 5 years of PCCs at work some controversy over expenses, sacking of Chief Constables & their appointments - Labour on record as considering scrapping PCCs if they won in 2015
- Second PCC election May 2016 – higher turnout of c25% as held on same day as Council Elections – more party candidates won, with 9 fewer independents – Cons 20, Lab 15, Indep 3, PC 2



Other Constitutional developments: Scotland

- May 2011 elections saw SNP win majority in Scottish Parliament (under AMS!)
 - Alex Salmond used his strong position in Scotland to demand >financial power from Westminster, going beyond the 2012 Scotland Act's increased powers – but Treasury unwilling to allow Scotland power to vary Corporation Tax (also wanted by NI, which has strong tax comp with the Republic)
- Debate quickly became focused on Scottish independence referendum
- Rival consultations on timing, question, who should oversee vote, etc. – but Cameron, Salmon deal October 2012 - <http://www.bbc.co.uk/news/uk-scotland-scotland-politics-19946156>
 - **Authority?** SNP claimed it is purely a matter for the Scottish Parl to set up – Westminster argued that only UK Parl can give power to set up a legitimate ref – Westminster won on principle but only by agreeing to delegate authority to Scottish Parl to set up ref.
 - **Timing?** SNP wanted to go long (Sept 2014), UK Govt wanted earlier ref – Salmon got his way
 - **Supervision?** UK Govt wanted UK Electoral Comm to oversee vote, SNP initially unenthusiastic but accepted it
 - **Who should vote?** SNP wanted 16 year olds to vote, UK Govt insisting on 18 – SNP got its way
 - **Questions?** Wording of Q affects support for indep significantly. SNP has raised prospect of a 3rd option – “*devolution max*” – strongly resisted by UK Govt
 - **Referendum Bill** passed by Scottish Parliament in 2013
- Electoral Commission insisted on revised ref wording Jan 2013 - <http://www.bbc.co.uk/news/uk-scotland-scotland-politics-21245701>
- Hard fought campaign - No consistently led but Yes steadily closed gap, surging in last few weeks – rattled UK party leaders, who promised Devo Max (& to keep the Barnett formula for public spending in Scotland).
- Huge turnout of 84.6% saw a larger No win than predicted.
- Since Ref UK parties have fallen out over what additional powers to give to Scotland – Cameron set up Smith Commission – which proposed full devolution of income tax, plus big new powers over VAT, welfare and economy - <http://www.theguardian.com/politics/2014/nov/27/scottish-devolution-smith-commission-key-points>
- Draft legislation Jan 2015 (Burns Night!) – not put to Parl until after General Election, passed May 2016
- Meanwhile, SNP have surged in support (under new Leader, Nicola Sturgeon) – taking all but 3 Scottish constituencies in 2015 General Election and considering calling IndyRef 2 post-Brexit.



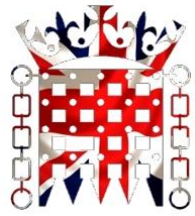
Other Constitutional developments: Rights

- **Justice and Security Act** - Coalition proposed legal reforms with significant civil liberties implications
 - **Secret Trials** – allowing some cases involving secret intelligence to be held in private.
 - Promoted as necessary to continue intell sharing with unhappy USA
 - and as a way for terror suspects to be put on trial, rather than put under supervision orders for prolonged periods
 - Many Lib Dems v unhappy, along with lawyers, civil libertarians – argue that this will prevent evidence being properly tested in court
 - Disputes over whether Home Sec or Judges would decide on secrecy
 - Act received Royal Assent April 2013 - <http://www.theguardian.com/law/2013/jun/14/what-are-secret-courts>
- **Communications Data Bill** wd require companies to cooperate with security services
 - Would cover email, skype, facebook, mobiles, etc. as well as landlines
 - Security services would have warrantless access to “traffic data” - who communicated with whom, when, for how long, etc. – but would still require a warrant if they wish to access *content* of communication
 - Argued as essential in fight vs terrorism + serious organised crime, only an updating of existing laws to take account of tech advances
 - Similar to Lab proposal rejected by Cons & Lib Dems in opposition
 - Draft Bill 2012 but Lib Dems withdrew support in March 2013 so no progress
- ISIS atrocities prompted renewed attempt Nov 2014 –
 - **Counter-terrorism and Security Bill** with most of the Communication Data Bill measures passed through Parliament Feb 2015 (also includes measures to strip jihadists of British citizenship) - <http://www.independent.co.uk/news/uk/crime/new-security-bill-will-force-online-service-providers-to-keep-log-of-users-activity-9877902.html#>



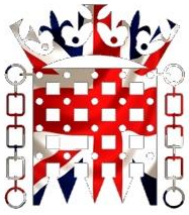
Recent Human Rights Issues

- **Prisoners' votes** – Feb 2011, Parliament voted 234 -22 to defy the ECtHR and UK Supr Ct and continue the ban on prisoners voting
 - Only ruling out of 22 under HRA on which UK has refused to change the law
 - Nov 2012 - Govt announced draft bill with 3 options- <http://www.bbc.co.uk/news/uk-politics-20431995> - Joint Cttee reported on Bill in Dec 2013, recommending prisoners serving less than a year + those within 6 months of release should get the vote.
 - No govt response as yet for actual intro into parl - just an attempt to show it is doing something, drag things out, avoid being fined as thousands of prisoners may file complaints with the courts (2354 have brought cases so far but no action while judges wait for Parliament to act)?
 - August 2014 ECtHR decided that prisoners' not entitled to compensation, so UK does not have to pay fines – but unlawfulness of ban was reaffirmed.
 - **NEW - Dec 2017** – Con Govt offered compromise by which c100 prisoners a year will get the vote when released on licence - <http://www.bbc.co.uk/news/uk-42271100> - appears to have resolved the dispute?
- **CRB Checks** - Jan 2013 - Ct of Appeal find way Criminal Records Bureau operates non-compliant with Human Rights Act, as breaching sections of ECHR on private and family life - <http://www.telegraph.co.uk/news/uknews/law-and-order/9833827/CRB-checks-are-a-breach-of-human-rights.html>
Govt has accepted this ruling and adjusted the working of Disclosure & Barring checks
- **Gay Marriage** – not in Coalition Agreement, but introduced as a Govt Bill, strongly backed by Cameron
 - Seen by proponents as an equality issue
 - passed at 2nd reading in HoC on free vote 5th Feb 2013: 400 – 175
 - large majority of Lab and LibDem MPs in favour, but more Con MPs voted against the bill than for it.
 - Received Royal Assent July 2013, first gay marriages March 2014



Other Constitutional developments: EU vote

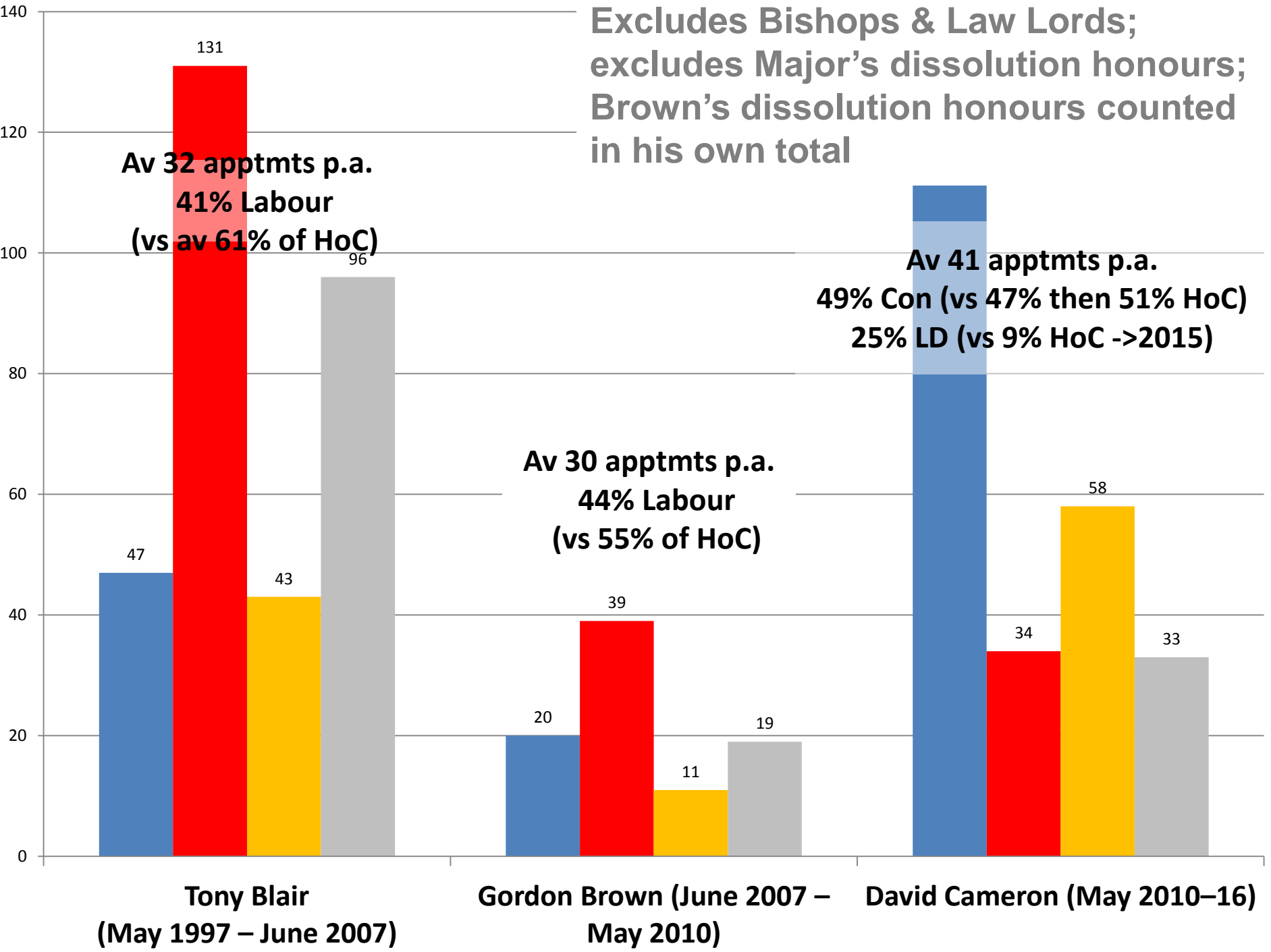
- Cameron had avoided making any major statement on European Union until recently, but under great pressure:
 - Oct 2011 – Backbench business debate on having a referendum on EU membership – Govt defeats the motion but c80 Tory MPs rebel, some ministerial aides sacked for supporting motion
 - Dec 2011 – **Cameron vetoes an EU Treaty** designed to save the Euro by allowing more interference by the EU in Euro-members' budgets (= "fiscal union". Other EU members agreed the pact anyway outside the formal EU structures.
 - Oct 2012 - Cameron threatened to veto the EU budget for 2014-2020 if it increases spending above inflation
 - 31st Oct 2012 – **Govt defeated** 307-294 on non-binding HoC vote ahead of EU budget negotiations, when 53 Con MPs joined with Lab to demand a "real terms" reduction in 2014-2020 EU budget.
 - New Con members notably Eurosceptic
 - + Rise of UKIP in the polls in the last year has frightened many Cons who fear Tory votes going to UKIP will cost them seats at the next election
- Jan 2013 – Cameron finally delivers major speech on EU – promise of in / out referendum on renegotiated terms if Tories win next election - <http://www.bbc.co.uk/news/uk-politics-21148282>
- Con MP James Wharton came 1st in 2013 PMB Ballot and introduced a Bill to set up a 2017 referendum as Cameron has promised
 - Cons supported its passage, giving it enough time in HoC to pass, despite filibuster attempt by some pro-European Lab MPs.
 - Lord Dobbs took it forward in HoL but it was talked out in Committee Stage on 31st Jan 2014, with no more time available for it.
 - Bill reintroduced in 2014 by another Con backbencher, keeping the referendum issue in the headlines as a "wedge" issue vs Labour and to head off defectors to UKIP. If passed unamended Parl Act could have been used to make it law – but died after 2nd Reading in Oct 2014 when Lib Dems refused to allow it enough government time to make progress.

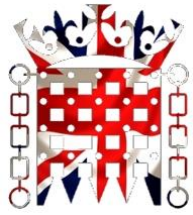


Controversy over HoL Appointments

- Accusation that Cameron created too many Con life peers, straining the convention that previously operated in this area, and creating a House that is far too large
 - Electoral Reform Society & Unlock Democracy call for reform of HoL appointments - <http://www.theguardian.com/commentisfree/2013/aug/01/crowded-house-too-many-lords> and <http://blogs.channel4.com/michael-crick-on-politics/cameron-promises-to-cram-yet-more-peers-into-the-lords/2138>
- A House of Lords Reform Bill has made progress in 2013-14 as a Private Members Bill
 - Lord Steele (former LD leader) has been proposing such a bill annually for 6 years (passed HoL in 2012 & 2013), but made no progress in HoC – keen reformers opposed it as removing worse abuses and so increasing HoL legitimacy, while leaving the hereditary/unelected principle intact.
 - but following failure of Clegg proposals in 2012, Con MP Dan Byles used his 5th place in PMB Ballot to introduce a new version – backed by HoC Political & Constitutional Reform Ctee
 - Would allow peers to **permanently retire**, and for **exclusion** of those convicted of **serious wrongdoing**, or who **fail to attend** for a whole Session.
 - but does *not* affect hereditaries, increase the powers of the Appointments Commission or cap size of the HoL, reducing patronage - Original Steele proposals included a statutory Appointments Commission + end to hereditary by-elections, but these removed to help overcome opposition in the HoL (Feb 2012)
 - Byles Bill passed HoC Feb 2014, with Govt and Opp support, then passed HoL in May 2014 to become law – first retirements under the House of Lords Reform Act in autumn 2014.
 - Some criticism (esp from Prof Meg Russell) that proposals would allow HoL to become training ground for politicians seeking HoC seats (or seeking temporary refuge after losing seat), as in Canada & Ireland, changing the relationship between the two Houses and increasing party control - <http://www.democraticaudit.com/?p=3098>

**Excludes Bishops & Law Lords;
excludes Major's dissolution honours;
Brown's dissolution honours counted
in his own total**

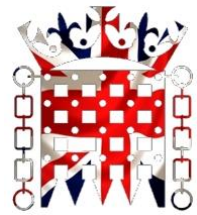




Other Constitutional Reforms: Succession

Succession to the Crown–

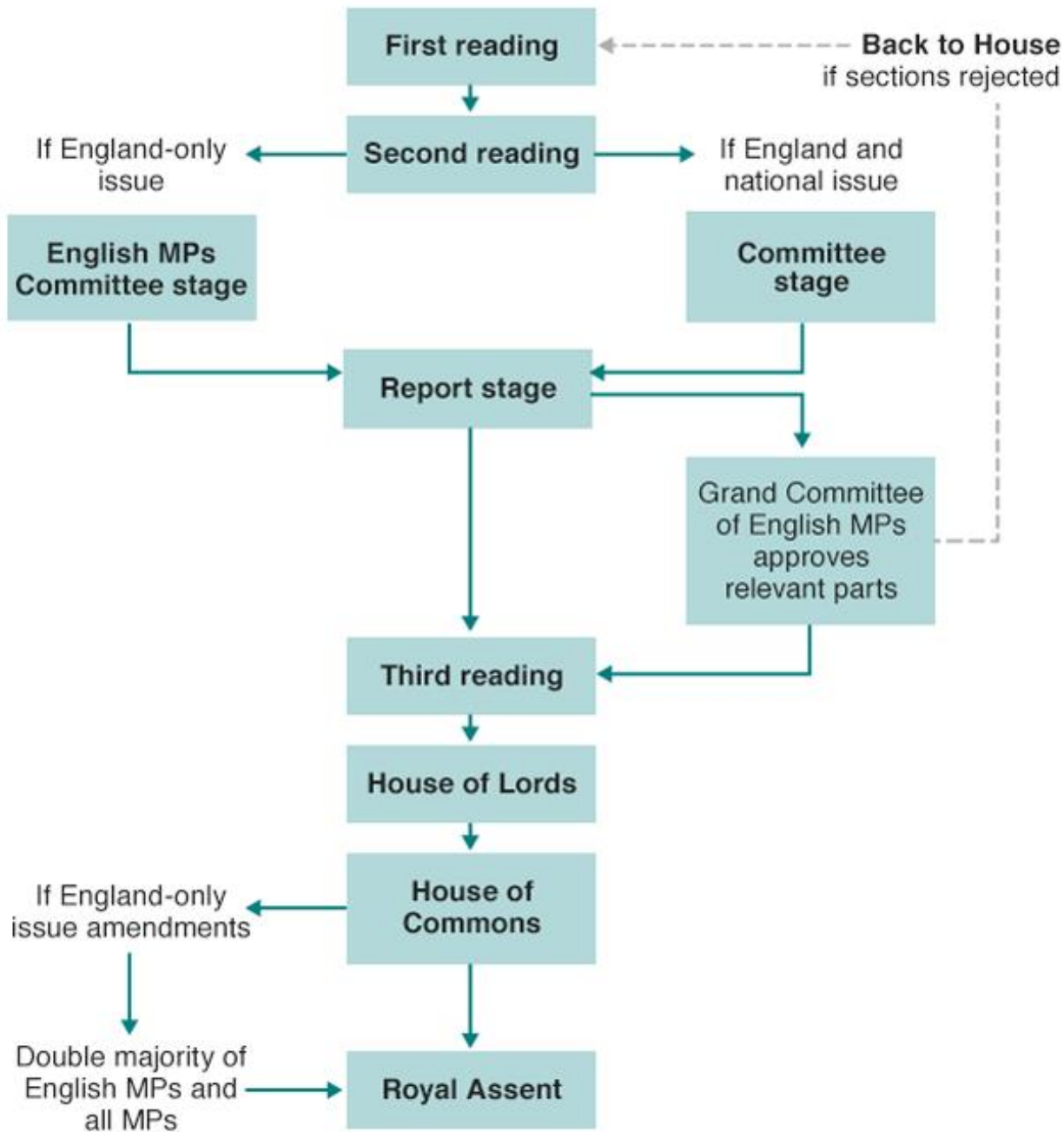
- **Succession to the Crown Act** received Royal Assent April 2013
- changes succession to the UK monarchy to allow first born child to succeed to the throne
- Have been several private members attempts to address this in recent years, but Lab had not attempted reform, seeing it as too difficult, so signif success for Coalition - 15 Commonwealth countries had to be consulted by Cameron
- Also removes ban on monarch marrying Catholic wife and relatives of monarch needing permission to marry
- But preserves hereditary principle
- and fails to address ban on Catholic becoming monarch, and so Supreme Governor of C of E – some criticism of this in HoC
- so it raises questions about continuing Church/State link
- <http://constitution-unit.com/2013/01/30/succession-to-the-crown-bill-the-religious-tests/>



Other Constitutional issues: The English Question

- On 19th September 2014, the morning after the Scottish Referendum result, David Cameron announced that giving promised extra powers to Scotland would have to be linked to resolving the “English Question”
- Seen as highly divisive move – **English Votes for English Laws** advantaging the Conservatives and perhaps making it impossible for a future Labour government including Scottish MPs to get most of business through the House of Commons
- Hague put forward 4 options Dec 2014 - <http://www.bbc.co.uk/news/uk-politics-30484453> -
 - Barring Scottish and Northern Irish MPs from any role in English bills
 - Allowing only English MPs to consider relevant bills during their committee and report stages, before allowing all MPs to vote on the final bill
 - Allowing only English MPs to consider relevant bills at committee stage and giving them an effective veto in a separate vote before their third reading
 - A separate Lib Dem plan to establish a grand committee of English MPs, with the right to veto legislation applying only to England, with its members based on the share of the vote.
- Labour opposed but also divided – Ed Miliband has proposed replacing the HoL with an elected Senate representing all regions fairly instead
- Scots nats upset that progress to Devo Max seemed to be linked to resolving the English Question, tho Govt clarified draft Scotland Bill would go ahead first regardless.
- Also criticisms that it is in practice v hard to identify purely English (or English and Welsh) bills, and that spending in particular is interlinked due to the Barnett Formula
- Others have used the debate to argue for more devolution to English regions
- 3rd option of separate English votes at Committee Stage adopted by new Con govt Oct 15

House of Commons

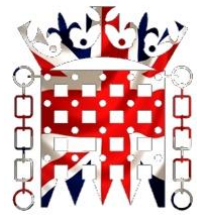


TOPICAL CHANGE! EVEL!

On 21st October 2015 the Govt used its majority to amend the House of Commons Standing Orders, changing the way legislation is passed that affects England but not Scotland - *English Votes for English Laws*

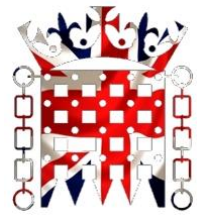
<http://www.bbc.co.uk/news/uk-politics-33370064>

First used for Housing and Planning Bill Jan 2016



Constitutional issues & the Conservative Government 2015->

- **EVEL** – attempted July 2015, but delayed by rebellion – passed as amendment to HoC Standing Orders (= work of authority?) using Con majority in Oct 2015. c20 votes now held, but none changed the outcome of any bill.
- **HoL powers** – following Oct 2015 Govt defeat on tax credits (secondary legislation), Strathclyde Review suggested limiting HoL powers somewhat – abandoned by May Dec 2016
- **City Regions policy** – v associated with George Osborne & “Northern Powerhouse” ideas.
 - Allows groups of local authorities to come together under an elected Metro Mayor in order to gain more decision-making powers, financial autonomy from Westminster – have to negotiate with Treasury
 - initially Manchester but also Liverpool, Teesside, Cambridgeshire, W Midlands, W of England – several of these voted vs directly elected mayors in 2012 referendums
 - Is this real devolution to English regions or just some decentralisation, making city regions responsible for distributing centrally-mandated cuts? Initially metro areas, but more rural counties too now
 - In tune with Brexit anti-Wminster feeling? Offering an alternative career path for ambitious politicians?
 - Other city region bids due but several in trouble due to authorities disagreeing
 - Govt commitment now unclear post-Osborne
- **Brexit referendum** – momentous in itself, but also provoking arguments around the nature of sovereignty in the UK –
 - popular sov vs rep sov?
 - Prerog powers vs Parl powers to trigger Article 50 – UK S Ct made key decision (Comm Law, rule of Law)
 - Rule of Law and the powers of judges?
 - Unitary/devolved issues - do devolved assemblies/govts get a say on the process? Poss of IndyRef 2?
 - Need for a codified constitution to resolve these issues?



Constitutional issues & the Conservative Government 2015->

- **Scotland Act 2016** – powers over Welfare, income tax, etc. – “Devo Max” as promised in UK party leaders “Vow” in 2014
- **Wales Act passed Jan 2017** – changes Welsh devolution to a “reserved powers” model similar to Scotland
 - gives powers over tax, energy and transport
 - + its own election system (under which it plans to rename the Welsh Assembly a Parliament, and to give votes at 16 in Wales for elections other than Westminster Gen Elects)
- **Collapse of power-sharing in N Ireland** in Jan 2017
 - Disputes between 2 biggest parties, unionist DUP & nationalist Sinn Fein over Irish languages issues, gay marriage and SF demands for DUP’s Arlene Foster to step down as First Minister over a botched renewable energy scheme (“cash for ash”)
 - triggered early election in March 2017, but this failed to resolve matters and no power-sharing govt has been negotiated between DUP and SF - talks collapsing again in Feb 2018
 - means NI effectively run by Westminster Sec of State in Con Govt Cabinet (although in reality N Irish civil servants are running things and no major policy decisions have been taken yet, although a new budget needs to be set in 2018).
 - This means Westminster Parl/Govt has taken back devolved power, at least temporarily.
 - Impact of Brexit on N Ireland, incl border issues, potentially v divisive, esp as May’s Con Govt relies on 8 DUP votes in HoC.