

THE CHANGING BRITISH POLITICAL SYSTEM

by Grzegorz Ronek

PREFACE

There is no official guide to the British system of government. Unusually in the modern world, Britain lacks a written constitution. Indeed British government is unusual in many other aspects, a point reinforced by comparisons with other countries. The British political system has long appeared a model of stability in a changing world. Britain has not thus experienced the sharp regime changes that have characterized, for example, The French government and politics for over 200 years. Instead the British system of government has evolved gradually over the centuries. Reforms have been grafted onto traditional institutions. The new was painlessly absorbed into the old and familiar. This system of government was once widely revered all over the country and thus became a part of the British identity and integrity.

More recently the British system of government has seemed to some rather less admirable. Criticism of core institutions and even fundamental constitutional principles fuelled a strong movement for constitutional reform for a decade before the election of Tony Blair's government (Labour) pledged to radical changes in 1997. Some of these changes have been implemented and appear virtually irreversible, while others remain unaccomplished or incomplete. Yet the general public has insufficiently

appreciated the extent of change. This is partly because constitutional reform does not seem to excite the public, or win elections. However, it also partly reflected the Labour government's rather low – key and fragmented approach to its own reform programme¹. A series of radical initiatives have been pursued, but often in isolation from each other and uninformed by any overall vision. New institutions have been grafted onto the existing system of government. Old constitutional principles survived intact, at least according to the official interpretation. Thus the full significance of the reforms and their potential implications for the British political system have not been generally grasped, especially by society. The end result of the process remains unclear. It may in the future be celebrated as a new constitutional settlement for Britain. Alternatively it could lead to the disintegration of the British state and the end of the current British system of government and politics.

One of the most important factors which had an impact on the British political system was the European integration process. More specifically, Britain had to accept the supremacy of EU law over UK law. However, it maintained its own interpretation of this rule. Undoubtedly, one of the pillars of the British political system – parliamentary sovereignty has been affected. There were also further implications like the use of referendums or the devolution Acts. Some attempts have been made to change the electoral system to the European Parliament and the House of Commons. The process of changing the nature of the House of Lords has begun. In addition to that, membership of the European Economic Community and the European Union has had considerable implications for British parties and the party system. Both major parties (Labour and Conservative) have been split over Europe, which has been a cross – the party issue regularly threatening party realignment².

The breakthrough concerning the British political system took place in 2010. Due to the lack of a parliamentary majority by the Conservatives, a Coalition Government was established with David Cameron (Conservatives) as the Prime Minister. The second party turned out

¹ P. Toynbee, D. Walker, *Better or Worse? Has Labour Delivered?*, London 2005, p. 56.

² A. May, *Britain and Europe Since 1945*, London–New York 1999, p. 94–95.

to be the Liberal Democrats. David Cameron's Conservative – Liberal Democrats coalition is in itself something unusual in Britain's history. The coalition's political and constitutional reform programme was going to introduce radical changes to the political system. Their proposals started with Parliament itself. They wanted to cut the number of MPs and create fewer, more equal – sized constituencies. The government's campaign was also aimed at changing the voting system for the House of Commons to the Alternative Vote system. Under the Coalition Government *The Fixed – Term Parliaments Act (2011)* came into force, which means an end to the personal power of Prime Ministers to call elections at a time to suit party – political interests. Among other proposals was the reform of an upper house (The House of Lords)- wholly or mainly elected, on the basis of proportional representation, having far less members. It should mean more democratic accountability for Britain's law – making process. Apart from it the coalition was going to introduce Individual Electoral Registration in order to tackle electoral fraud and help to maximize the levels of electoral registration.

If all the changes being proposed by the coalition come to fruition, British democracy could look very different. We can say that Britain is on the verge of constitutional upheaval and the main aim of this article is to depict and characterize this changeover. Apart from it, this article is going to present key features of the British political system and main factors which have the biggest impact on this system (the European integration process as the most important). The aim of this article is also to present the complexity of British democracy, especially in transition, and what the proposed changes are going to entail.

I. KEY PRINCIPLES OF THE BRITISH CONSTITUTION

A constitution is more than just a simple description of the government of the country. It provides clear limits on the powers of state institutions and the rights and responsibilities of citizens, and generally involves underlying assumptions and principles. Normally today for most states these are contained in a single written document. Britain remains

a conspicuous exception. Yet if Britain lacks a single authoritative document on its system of government, this does not mean that Britain lacks a constitution, in the sense of well – established rules for the conduct of government and underlying constitutional principles. However, some of these rules are written down, as part of the law of the land, contained in Acts of Parliament, or decisions on cases decided in the courts. Thus strictly speaking, the British constitution is uncodified (in the sense that it has not been collected into a single document), rather than unwritten. Some key aspects of the British political system are unwritten, as they are not contained within any formal written document, but rest on conventions, agreed usages which are so widely accepted and virtually undisputed. However, if these conventions are “unwritten”, in the sense that they have not been authoritatively recorded in some law, they have been extensively recorded or written about by constitutional lawyers and political scientists. The major sources of the British constitution are the following³:

- a) *Statute law* – law passed by Parliament, some of which is of a constitutional nature – e.g. Acts determining the compositions of the electorate and the conduct of elections, and Acts laying down the powers and compositions of the House of Lords (like all Acts of Parliament and their updated versions). They also have historical significance (like the Magna Charta Libertatum or Bill of Rights).
- b) *Common law* – theoretically the immemorial law of the people, in practice the law as determined by the decisions of courts. The remaining “prerogative powers” of the Crown (now exercised by the government of the day) derive from common law.
- c) *Conventions* – unwritten rules of constitutional behavior which are widely accepted and observed, largely because of the political difficulties which would follow if they were not. Most of the powers relating to the Prime Minister depend on conventions. They may evolve over time and may be difficult to date precisely (e.g. the convention that a prime minister must sit in the House of Commons).
- d) *The law and custom of Parliament* – many of the rules relating to the functions, procedures, privileges and immunities of each house

³ M. Moran, *Politics and Governance in the UK*, Basingstoke 2005, p. 24.

are contained in the resolutions of both houses, conventions and informal understandings.

- e) *Works of authorities* – in the absence of other authoritative written sources, works by eminent experts on the British constitution are consulted⁴.
- f) *EU law* – since the UK joined what was then the European Economic Community (EEC) in 1973, EEC/EU law has been generally binding on the UK and applied by British courts. This has implications for the constitutional principle of parliamentary sovereignty. Additionally, some specific EU rules are of a constitutional nature.
- g) *The European Convention on Human Rights* – this was (in effect) incorporated into UK law by the 1998 Human Rights Act, which came into force in 2000.

In Britain there is no authoritative statement of the principles on which the (unwritten) constitution rests, and these in practice have been inferred by constitutional lawyers and other experts from various sources. The British constitution displays the following characteristics⁵:

1. *A unitary state (rather than a federal state)*. Britain (like e.g. France) is still a unitary state, at least in a legal form. The United Kingdom of Great Britain and Northern Ireland (UK) is a political union of several countries, each with a different constitutional status. Legally, it consists of the Kingdoms of England and Scotland, the Principality of Wales and two – thirds of the province of Ulster (Northern Ireland), which remained subject to the British Crown in 1922 when the rest of Ireland split away to form what eventually became the Republic of Ireland (1949). Yet it is now questionable how far the UK remains a unitary state. The recent *devolution* of power to Scotland, Wales and Northern Ireland in theory affects neither the unity of the UK nor the sovereignty of the Westminster parliament⁶. However, political realities begin to suggest otherwise and

⁴ The examples: W. Bagehot, *The English Constitution* (1867), A.V. Dicey, *The Law of the Constitution* (1885) or Sir I. Jennings, *The Law and the Constitution* (1966).

⁵ R. Leach, B. Coxall, L. Robins, *British Politics*, Basingstoke 2006, p. 168.

⁶ *Devolution* is a term coined to describe the delegation of powers in the UK downwards to institutions in Scotland, Wales and Northern Ireland. It is distinguished from federalism because it does not, in theory, involve any transfer of sovereignty, nor any

perhaps foreshadow the development of a quasi – federal, or ultimately fully federal, system of British government, or alternatively the break – up of Britain⁷.

2. *A constitutional monarchy (rather than a republic)*. The United Kingdom, as the name implies, remains a monarchy, but a limited or constitutional monarchy. Thus it is generally reckoned that the Queen “reigns but does not rule” and has little or no political power. The personal political power of the monarch has been eroded gradually over the centuries and is now vestigial. The Queen retains the right to be consulted, the right to encourage and the right to warn⁸. The Prime Minister has regular meetings with the sovereign. Until recently the future of the monarchy has rarely been a political issue, but it is now more openly debated. Criticism of the monarchy as an institution in Britain, and increased debate over its financial costs and benefits, has been exacerbated by scandals and by the perceived personal of some members of the royal family. However, the events like the wedding of Prince William and Kate Middleton in 2011 suggested substantial continued public support for the monarchy. No major political party had dared propose the abolition of the monarchy, but this institution is being changed, like other elements of the British political system.

3. *Parliamentary sovereignty*. This rule has long been considered a key British constitutional principle. It should be noted, that it denies (implicitly and explicitly) the principle of the separation of powers, and so it appears. The executive in Britain is a parliamentary executive, whose existence depends on the continuing confidence of Parliament. The judiciary is bound to accept law passed by Parliament. What parliamentary sovereignty means in practice is that, in formal terms, parliamentary authority in the United Kingdom is unlimited. Parliament can make or change laws on any subject whatsoever⁹. Statute law (law passed by Parliament) is supreme above other kinds of law. No person may question Parliament’s legislative

breach of the constitutional principle of the unity of the UK. However, some argue that devolution in practice involves a quasi – federal system of government. *Ibidem*.

⁷ *Ibidem*, p. 169.

⁸ *Ibidem*, p. 170.

⁹ The classic statement of its omnipotence derives from William Blackstone, the 18th

competence and the courts must give effect to its legislation. Part of the principle is that no Parliament can bind its successors. This looks like a limitation on the power of Parliament, but clearly if an Act of Parliament contained a clause that it could not be repealed, this would in practice end parliamentary sovereignty.

4. *Representative democracy (rather than direct democracy)*. It may be considered a more fundamental principle of the British system of government than parliamentary sovereignty, even if it is a principle less discussed by constitutional lawyers. It is a mark of the evolutionary nature of the British political system that it is difficult to pin down precisely when Britain became a democracy. Yet the extension of the vote was accompanied by a gradual acceptance of democratic principles over time and this in turn prompted the emergence of new conventions embodying the spirit of democracy. Thus it came to be established that the peers should not frustrate the will of the democratically elected House of Commons, particularly on issues that had been submitted to the people in a manifesto by the governing party. Similarly, it became an unwritten rule that the Prime Minister should be a member of the House of Commons and normally the elected leader of the majority party¹⁰.

British democracy involves representative (or parliamentary) democracy rather than direct democracy. It is elected representatives of the people rather than the people themselves to decide. Thus Parliament e.g. can legislate to abolish capital punishment even when opinion polls suggest public support for it. However, British governments have made more use of popular referendums recently, on essentially issues¹¹. The referendums require the passing of a specific Act of Parliament and the result of a referendum remains theoretically advisory, thus the principle of parliamentary sovereignty is maintained. But it should be noted that the

– century jurist, who declared that Parliament “can do everything that is not naturally impossible”. P. Norton, *Parliament in British Politics*, Basingstoke 2005, p. 126.

¹⁰ Ibidem, p. 130.

¹¹ The referendums have been held on membership of the European Community (1975), devolution (1979, 1997), London government (1998) and recently on the voting system to the House of Commons (2011) and further scope of devolution in Wales (2011).

more referendums become a regular part of the British political system, the further the principle of parliamentary sovereignty can be eroded. The “will of the people” will be invoked to challenge the will of Parliament. It may of course be questioned how far the British Parliament is truly representative of the people. Members of Parliament are representative to the extent that they are elected, yet the seats political parties secured in the Westminster Parliament do not closely reflect the proportion of votes cast in general and local elections¹².

5. *The rule of law.* The leading jurist Albert V. Dicey saw the rule of law as a fundamental characteristic of the British constitution, viewing it as of equal importance to the doctrine of parliamentary sovereignty¹³. Although in strict constitutional terms the rule of law is subordinate to parliamentary sovereignty, which could be used to remove the rights it entails, the rule of law remains of key significance. In particular, it underpins the very important constitutional principle of the (partial) separation of powers, whereby, although executive and legislative branches are “fused”, the judicial branch is largely independent and separate and can check the executive¹⁴. Second, the rule of law enshrines principles such as natural justice, fairness and reasonableness, which can be applied by the courts through the process of judicial review¹⁵.

II. THE IMPACT OF EUROPEAN INTEGRATION ON THE BRITISH POLITICAL SYSTEM

British governments initially took no part in the first stages of the European integration process. At the end of the Second World War British concerns and interests were different from the continent. Britain retained the illusion of great power status still with a big, however dismantling,

¹² R. Leach, B. Coxall, L. Robins, op.cit., p. 68–88.

¹³ Albert Venn Dicey (1835–1922) – a British jurist and constitutional theorist. He is most widely known as the author of *An Introduction to the Study of the Law of the Constitution* (1885).

¹⁴ R. Leach, B. Coxall, L. Robins, op.cit., p. 174.

¹⁵ Ibidem.

overseas empire. Not having experienced German occupation, British politicians saw no need for closer economic and political integration with the rest of Europe. British governments remained aloof from the establishment of the European Coal and Steel Community (1952) and the European Economic Community (1958). Indeed, they took the lead in establishing a rival trading block (the European Free Trade Association).

Political and economic developments provoked a reassessment of Britain's relations with Europe from the mid-1950s onwards. The swift dismantling of the British Empire was one factor. The Suez crisis in 1965 was another. Apart from it continuing economic problems evidenced by low growth, adverse trade balances and a recurring sterling crises contrasted with the strong economic performance of the EEC countries. Britain joined the European Communities late, after many difficult negotiations (it was only the removal of Ch. de Gaulle from power which finally enabled E. Heath's Conservative government to join the Communities, along with Ireland and Denmark, in 1973).

Britain's membership in the European Communities (and the European Union) has always been selective and remained politically controversial. British conversion to Europe was never whole-hearted, at either elite or mass level. Concerning Britain's political system, one fundamental question arises: how far has parliamentary sovereignty been impaired by membership in the EC/EU? The European Communities Act (1972) gave the force of law in the UK to obligations arising under the EC treaties and it gave EC law general and binding authority within the country. It provided that Community law should take precedence over all inconsistent UK law. It also precluded the UK Parliament from legislating on matters within EC competence where the Community had formulated rules¹⁶. Some argue that parliamentary sovereignty is not impaired, because membership of the EU has not broken the principle that Parliament cannot bind its future action. Thus, the European Communities Act could be repealed and indeed had the 1975 referendum on continuing membership of the EC gone the other way, the UK would almost certainly have withdrawn from

¹⁶ *Ibidem*, p. 172.

the Community¹⁷. However, while Britain remains a member of the EU it does appear that parliamentary sovereignty has been impaired. In effect, the UK Parliament has bound itself procedurally by the 1972 European Communities Act so that in areas of EU legislative competence, EU law is supreme and the British courts will give it precedence over national UK law where the two conflict. Thus, since 1973, Britain has possessed dual constitutional arrangements, as an independent state and as a member of the European Community (Union). Since then it has had, and still has, “a parallel constitution”¹⁸. Consequently, judges are bound to accept statute law, yet they are equally bound to accept the law of the EU, which effectively override the law passed by the Westminster Parliament¹⁹.

The issue remains highly contentious. For Eurosceptics, the EU presents a continuing and increasing threat to British national sovereignty and the sovereignty of the Westminster Parliament. Those more disposed towards the EU emphasise the gains resulting from pooled sovereignty²⁰. It can be argued that even if the UK was outside the EU, the freedom of action of the British government would be constrained by the EU, but without being able to influence EU policy. The British government can influence the framing of EU law, but it is difficult to deny that parliamentary sovereignty has been affected. It should be noted that membership of the EU has had an impact on other aspects of the British system of government. The referendum was first introduced (1975) into Britain for a vote on whether the country should remain in the EC and has since become an accepted

¹⁷ This referendum was held on 5th June 1975, resulting in a 67,2% majority for staying in the EC. D. Butler, U. Kitzinger, *The 1975 Referendum*, Basingstoke 1976, p. 341.

¹⁸ P. Madgwick, D. Woodhouse, *The Law and Politics of the Constitution*, Hemel Hempstead 1995, p. 47.

¹⁹ Britain’s legal subordination to EU law was underlined by an important legal case in 1991 (the *Factortame* case). The European Court of Justice in effect squashed sections of a British Act of Parliament (the Merchant Shipping Act 1988) which provided that UK-registered boats must be 75% British-owned and have 75% of crew resident in the UK. The Act had been designed to prevent boats from Spain and other EC countries ‘quota-hopping’ by registering under the British flag and using the UK’s fishing quotas. The European Court of Justice had overturned British legislation before. J. Jowell, D. Oliver, *The Changing Constitution*, 2nd ed., Oxford 2004, p. 138.

²⁰ S. Savage, R. Atkinson, *Public Policy under Blair*, London 2001, p. 124.

if irregular mechanism for settling controversial issues of a constitutional nature (such as devolution). EU membership contributed significantly to the pressures for electoral reform in the UK. In 1999 the regional list system was used for British elections to the European Parliament, while the system of elections used for the Scottish Parliament and Welsh Assembly (the additional member system) followed another model familiar on the European continent. Although pressures for electoral reform existed prior to EU membership, they were strengthened by European precedents²¹. Much the same could be said of demands for devolution and regional government. These demands were reinforced by the parallel pressures for more national and regional autonomy in other member states and by the development of European regional policy and the establishment of the Committee of the Regions. European legal principles have also begun to influence British law²².

Membership of the EC/EU has had considerable implications for British parties and the party system. It has always been politically controversial. Both major parties have been split over Europe, which has been a cross – party issue regularly threatening party realignment. Labour was manifestly deeply divided on the issue from the 1960s onwards. It was the European issue that was a major factor in the 1981 Social Democratic Party split from Labour and consequently helped ensure Conservative dominance for 18 years. Conservative divisions over Europe date back at least as far as Labour's, but were initially less disastrous for the party. Most Conservatives were then far more enthusiastic about Europe. After all, Britain's membership in the EC was their achievement. When Margaret Thatcher took office in 1979, it would have been reasonable to expect a more positive approach to Europe. However, the problem arose from the malfunctioning of the rebate mechanism and the escalating cost of the Common Agriculture Policy. It dominated Britain's relations with Europe for the next five years²³. Conflicting attitudes towards Europe caused tensions within M. Thatcher's

²¹ E. Magee, P. Lynch, *The changing British Constitution*, "Politics Review" 2003, 13/2, p. 75.

²² R. Leach et.al., *op.cit.*, p. 281.

²³ Eventually an agreement was reached at Fontainebleau in June 1984, by which M. Thatcher accepted a rebate of 66% of the difference between British VAT contributions

last administration, but became far more damaging under John Major, threatening the survival of his government. These divisions helped undermine any immediate prospects of the Conservative Party recovery after the landslide defeat of 1997, when the Labour Party started its rules, which lasted until 2010. Tony Blair aimed to pursue a constructive European policy, which led to a stronger British imprint on the character of the EU²⁴.

David Cameron, the Prime Minister since 2010, is a leader of the most eurosceptic Conservative Party ever. For him, the most dangerous are those Conservative MPs who want a looser relationship with the EU or leaving it completely. This is why D. Cameron took the biggest gamble of his political career on 23rd January 2013 with a historic speech offering the British people an in-or-out vote on membership of the European Union. He said he would negotiate a more flexible arrangement with the EU which would include the repatriation of some powers and the put the result to the British people in a simple in-or-out referendum in about five year's time²⁵. D. Cameron had to promise a referendum in order to maintain control of his own party. Had he failed to do so, the Conservatives' most eurosceptic backbenchers would have posed a serious threat to his position.

It should be noted that the European issue has also spawned new political parties, like the UK Independence Party (UKIP), which threatens to deprive the Tories of many seats at the next general election (2015)²⁶. This is another reason why D. Cameron decided to announce an EU referendum. Promising an EU referendum is going to help him achieve his number one priority: re-election. He may have increased his chances of winning an outright majority in 2015, but it depends: if he is deemed to have got a good deal for Britain, he will probably win the support of the

and the EC receipts. In return she agreed an increase in the EC revenue from 1 to 1,4% of national VAT receipts. A. May, *op.cit.*, p. 70.

²⁴ S. Bulmer, *New Labour, New European Policy? Blair, Brown and Utilitarian Supranationalism*, "Parliamentary Affairs" 2008, Vol. 61, No. 4, p. 597.

²⁵ I. Dunt, *No turning back now: Cameron promises in-or-out EU referendum*, <http://www.politics.co.uk/news/2013/01/23/no-turning-back-now.html> [accessed: 23.03.2014].

²⁶ There was the surge of support for the UKIP in 2013 to 10%. Ch. Grant, *Cameron's optimistic, risky and ambiguous strategy*, Centre for European Reform, <http://www.cer.org.uk/print/3285> [accessed: 12.04.2014].

British people and, more critically for him, the bulk of his party. He thinks that he will be able to achieve a deal that satisfies the skeptics, neuters the rise of UKIP and keeps Britain in the EU. This is D. Cameron's biggest gamble. He outlined Britain's primary interest in being in Europe is the single market, called the EU to do away with its commitment to "ever close union"²⁷.

From accession in the 1970's we see tensions between the priorities of British governments and those of other EU member states. This has led to the UK being tagged an "awkward partner". This awkwardness is not apparent in all policy issues because, for example, the UK has been keen to pursue market liberalization. Also, the UK has been a good implementer of agreed measures. However, as we have seen, there were constant post-accession tensions between the British political parties. This points to significant continuities in British relations with the EU and demonstrates some limitations on the Europeanisation of British politics in the sense that the EU influences have a refracted through the lens of domestic politics²⁸.

III. THE REFORM AGENDA

Constitutional reform was a cause that had become increasingly fashionable from the late 1980's onwards. An important step was the formation of the influential pressure group, *Charter 88* (symbolically 300 years on from the Revolution of 1688). The main demands of *Charter 88* were the following:

- a) A Bill of Rights to ensure key civil rights,
- b) Freedom of information and open government,
- c) A fair electoral system based on proportional representation,
- d) A reformed democratic, non-hereditary second chamber,

²⁷ A. Stevenson, *Cameron's Europe speech analysis: 2015 trumps 2017*, <http://www.politics.co.uk/comment-analysis/2013/01/23/cameron-speech-analysis.html> [accessed: 03.12.2013].

²⁸ D. Kavanagh, D. Richards, M. Smith, A. Geddes, *British Politics*, Oxford 2006, p. 169.

- e) The subordination of the executive to a “democratically renewed parliament”;
- f) An independent, reformed judiciary,
- g) “An equitable distribution of power between local, regional and national government,
- h) A written constitution²⁹. However, it was too early to introduce any changes in the British political system at that time.

When Tony Blair became the Labour Party leader in 1994, constitutional reform was a way of showing that his party was “new” and could be identified with modernization. Constitutional reform was also a way of attracting support from liberal – minded people and the Liberal Democrats, and be a clear dividing line from the Conservatives. T. Blair’s governments (1997–2007) had enacted a substantial part of their reform programme. The measures included:

1. A Human Rights Act (1998) which came into effect in 2000 (although it began operation in 1999 in Scotland, Wales and Northern Ireland). The Act is based on the European Convention on Human Rights. All bills before Parliament now allow judges to rule that minister’s decisions on legislation are incompatible with the Human Rights Act but not to strike down an Act. Ministers may use a fast – track procedure to amend legislation if they wish.

2. A Freedom of Information Act came into effect in 2005. It creates the right to access to information held by public authorities. The measure, however, has disappointed reformers because ministers retain the right to exempt from releasing large areas, including discussion of many policy matters, and the proposed Information Commissioner only has a right to recommend, but not to compel, the release of information.

3. A number of serious stresses developed in the unitary nature of the United Kingdom. One of the most radical aspects of T. Blair’s governments has been their programme of *devolution*. Labour’s response to regional demands and concerns over democracy was its commitment in its 1997 manifesto to devolve greater power to Scotland, Wales and Northern Ireland. Labour’s approach, in particular to Scotland and Wales.

²⁹ R. Leach, B. Coxall, L. Robins, op.cit., p. 176.

Their programme of reform has been framed in the context of devolving greater power to the territories in order, paradoxically, to strengthen and reinvigorate the unitary character of the British state, not as a transitory stage on the path to complete separation or federalism. The key dynamic underpinning this stance has been Labour's reluctance to risk the strong electoral position it secured in 1997, reaffirmed in 2001 and which it has spent 18 years striving to achieve³⁰.

In September 1997, a referendum was called to vote yes or no on two questions: a) should a Scottish Parliament be created and b) should it have tax – varying powers? It gave an overwhelming backing to a Scottish Parliament (74,3%) and a 63,5% support for tax – varying powers³¹. In the light of the referendum result, Labour set about establishing a new Parliament for Scotland and the formal transfer of power from Westminster occurred in July 1999. The new Scottish Parliament possessed powers covering: health, education and training, local government, social work and housing, economic development and transport, the law and home affairs, the environment, agriculture, fisheries and forestry, sports and art, research and statistics in relation to devolved matters. It was also vested with tax varying powers + or – 3p, in relation to the basic rate of tax established by the Westminster Parliament³².

4. For London a directly elected mayor and assembly were established in 2000. The mayor (at present Boris Johnson from the Conservative Party) has modest powers, largely to devise strategies, for example, in transport.

5. Proportional electoral voting was greatly extended, with the additional member system introduced in Scotland, Wales, London and the European elections. In Northern Ireland the highly proportional single transferable vote is used. In London the supplementary vote is used to

³⁰ D. Kavangh, D. Richards, M. Smith, A. Geddes, *op.cit.*, p. 328.

³¹ R. Leach, *et.al.*, *op.cit.*, p. 300.

³² Westminster Parliament retained powers over issues concerning: UK defence and national security, UK foreign policy including relations with Europe, the UK constitution, the stability of the UK's fiscal, economic and monetary system, common markets for goods and services, employment legislation, social security and over most aspects of transport safety and regulation. D. Kavangh, *et.al.*, *op.cit.*, p. 331.

elect the mayor, but for the assembly it is first-past-the-post and a top up by additional member system.

6. In 1999 the preponderant role of hereditary peers in the Lords was finally removed. It was agreed that 10% (92) of hereditary peers could remain in a transitional second chamber. Most of these were elected on a party basis by the party groupings of peers. A Royal Commission headed by Lord Wakeham reported in January 2000 and recommended a second chamber of about 550 members, most of whom would be appointed by an Appointments Commission, with the remainder – between 65 and 195 – elected to represent the regions. Although the Lords remained a largely nominated body – not much of an advance in democracy – in its 2005 election manifesto Labour promised to end the membership of the remaining 92 hereditary peers and consult on methods of choosing members.

7. The use of referenda was greatly extended, being used for all the devolution measures. As of 2006, there have been 34 referenda during the lifetime of the Blair Government, some covering votes for introduction of elected local mayors. In 1997 devolution referenda were a key part of Labour's ambitious constitutional reform agenda. Referenda have been suggested on the issue of proportional representation, on the new European Constitution (which was to occur after the 2005 general election, but was quickly abandoned once French and Dutch voters rejected this project) and on British membership of the Euro (which was also abandoned).

8. The potential conflict of interests stemming from the Lord Chancellor being both, a senior politician and a judge as well as head of the judicial branch has been resolved by the Constitutional Reform Act (2005). The new arrangements under the Constitutional Reform Act were the following: a) The 12 Law Lords moved from the Lords and constituted a separate Supreme Court (it officially started its works in 2009), b) The new Judicial Appointments Commission made recommendations for the appointment of judges, c) The Lord Chancellor remained a member of the Cabinet, but no longer sat as a judge³³.

³³ He no longer was a chairman of the House of Lords and was replaced by the Lord Speaker. *Ibidem*, p. 482.

So extensive was the programme of constitutional change in Labour's first term (1997–2001) that the second term (2001–5) seemed almost inevitably an anticlimax. New institutions needed time to bed down. By 2005 the new arrangements for governing Scotland, Wales and London had become part of the accepted furniture of government. After an uncertain start they all had made their mark and achieved some success. Northern Ireland was another matter, but at least the ceasefire held and some measure of normality returned to the province. Some other reforms enacted in the first term were only effectively implemented later³⁴.

An important “unfinished business” from Labour's first term was The House of Lords reform. It was always anticipated that the removal (at least partial) of hereditary peers would be only the first stage of a more comprehensive reform of the second chamber. Here the Labour government's own proposals (for a part-elected but mainly appointed upper house) were widely criticized and Labour handed the issue over to a committee of both houses. However, not even the House of Commons on its own, let alone the two houses, could come up with broadly acceptable alternative proposals for the composition of a reformed Lords. Thus the House of Lords remained in limbo till now.

The only one constitutional initiative that came into effect in Labour's second term was the Constitutional Reform Act (2005). However, it also ran into problems. In 2003 T. Blair announced the abolition of the office of Lord Chancellor, the introduction of a new system for appointing judges and proposals for a new Supreme Court to replace the judicial functions of the House of Lords. These were changes that many constitutional reformers had longed called for, yet they were announced in a hurry and provoked a strong reaction that the government was unprepared for. Traditionalists lamented the abolition of the centuries-old post of Lord Chancellor. The

³⁴ The Human Rights Act, passed in 1998, was only implemented from 2000, and a body of precedent has taken longer to establish. Elected mayors was an initiative which depended on local referendums, under the Local Government Act 2000. Some 30 such referendums were held in 2001–02 and in just 11 the vote was in favour of directly elected mayors. Another example is The 1999 Freedom of Information Act, widely criticized for not going far enough, was only implemented in 2005. R. Leach et.al, op.cit, p. 178.

law lords were divided on the proposals and opposed to the institution of a Supreme Court without a suitable building. Other critics objected to the potential cost. Finally, the Constitutional Reform Act was passed in 2005 and was a significant stage towards a greater separation of judicial powers from executive and legislative powers in the British political system.

Beyond specific criticism there is a more general objection that Labour's various initiatives do not seem to be related to any overall vision, that the reforms are insufficiently "joined up"³⁵. Indeed, what is striking is the sheer diversity and absence of pattern in the reforms. Thus different electoral systems have been introduced for the various devolved institutions and the European Parliament. The functions and processes of the devolved bodies in Scotland, Wales and Northern Ireland are markedly different³⁶. Lords reform has proceeded independently of other constitutional change, particularly devolution. It is as if each reform was considered in isolation. Moreover, there appears to be no clear sense of direction, nor even any realization of the implication for established constitutional principles, such as parliamentary sovereignty and the unitary state³⁷.

IV. DAVID CAMERON'S COALITION GOVERNMENT'S CONSTITUTIONAL REFORMS

On the 6th May 2010 a general election took place in Britain. It resulted in "hung Parliament", because the Conservatives did not have an overall majority³⁸. Consequently they had to enter into a coalition with the Liberal Democrats. The set of changes in the British political system was

³⁵ P. Dunleavy, A. Gamble, R. Heffernan, I. Holliday, G. Peele, *Developments in British Politics*, Basingstoke 2002, p. 75.

³⁶ R. Hazel, *Reforming the constitution*, "Political Quarterly" 2001, No. 72, p. 1

³⁷ R. Leach, *op.cit.*, p. 179.

³⁸ The results were the following: Conservatives: 305 seats, Labour: 258, Liberal Democrats: 57. J. Szczepański, *Hung Parliament*, [in:] *Polityka brytyjska po wyborach parlamentarnych 2010*; F. Gołębski, P. Biskup, M. Kaczorowska, W. Lewandowski (eds.), Warszawa 2011, p. 88

an important part of the coalition agreement³⁹. The first stage was *The Parliamentary Voting System and Constituencies Act 2011*. The Act had two key components. It provided for a referendum, which was held on 5th May 2011 on the voting system for UK Parliamentary elections and reduced the number of Parliamentary constituencies in the UK from 650 to 600⁴⁰. The Act set the date for the referendum and voters were asked to vote “Yes” or “No” on the following question: “At present, the UK uses the ‘first past the post’ system to elect MPs to the House of Commons. Should the ‘alternative vote’ system be used instead”⁴¹? The alternative voting system (AV) offers voters a chance to rank the candidates running by order of preference within a single member constituency⁴². Proponents of change promoted the fact that AV is a fairer, more representative system. In their opinion this method of voting would force MPs to work for all of the residents in their constituency. Opponents argued that first past the post system is simple to understand and enables the production of solid majorities and keeps extremist parties under control⁴³. However, the alternative voting system was rejected by around 70% of the public⁴⁴.

³⁹ *The Coalition: our programme for Government*, http://www.cabinetoffice.gov.uk/media/409088/pfg_coalition.pdf [accessed: 05.11.2013].

⁴⁰ According to Act “the reduction in the number of constituencies will be implemented at the next general election regardless of the referendum result”, <http://www.legislation.gov.uk/ukpga/2011/1/contents/enacted> [accessed: 04.03.2014].

⁴¹ *Ibidem*.

⁴² This selection is not obligatory however and the voter can choose to vote for one candidate only. The voting slips are sorted according to first choices. The candidate rallying an absolute majority of first choices is declared elected. If no candidate succeeds in rallying 50% plus one first choice votes the one who has won the lowest number of first choices is eliminated from the race and the votes which went to that candidate are then divided between the other candidates according to the number of second choices won by each of them. The operation continues like this until one candidate wins an absolute majority of the vote and is declared elected as a result. C. Deloy, *Referendum on the Voting Method in the UK*, <http://www.robert-schuman.eu/en/doc/oeo/oeo-1203c-en.pdf> [accessed: 04.03.2014].

⁴³ *Ibidem*.

⁴⁴ R. Scott, J. Cox, *Lessons to be learned from the Yes to AV campaign failure*, <http://www.opendemocracy.net/Print/59405> [accessed: 23.01.2014].

The Fixed-term Parliaments Act 2011 was also a key element of the 2010 Coalition Agreement between the Conservatives and the Liberal Democrats. The Act has a major impact on the timing of parliamentary elections in the UK, as well as for devolved institutions. First of all, The Act sets the date of the next general election as 7th May 2015 and on the first Thursday in every fifth year thereafter⁴⁵. It should be noted that there is a scope for the Prime Minister to lay an order before both Houses to extend this date for a maximum of 2 months to deal with unexpected developments. He/she must set out the reasons for the delay. There are only two circumstances when early elections can be held: a) if a motion for an early general election is agreed by at least two-thirds of the whole House or without division, b) if a motion of no confidence is passed and no alternative government is confirmed by the Commons within 14 days⁴⁶. Where an early election has taken place, the next election will generally take place 5 years later. The only exception is where an early election is held before the first Thursday in May in an election year. In these circumstances, the next general election will be held on the first Thursday in May in the fourth year from the previous election. It means that Parliaments cannot extend 5 years and that the normal cycle is restored to 5 years⁴⁷.

If an early general election is to take place, the polling day for it is to be the day appointed by Her Majesty by proclamation on the recommendation of the Prime Minister. The Parliament then in existence dissolves at the beginning of the 17th working day before the polling day for the next (early) parliamentary general election. Once Parliament dissolves, the Queen may only issue the proclamation summoning the new Parliament which may appoint the day for the first meeting⁴⁸. However, the Act does not affect the Monarch's power to prorogue Parliament, but it deals with the position following the demise of the Crown in the days before polling

⁴⁵ *Fixed-term Parliaments Act 2011 – Commons Library Standard Note*, <http://www.parliament.uk/business/publications/research/briefing-papers/SN0611/fixedterm-parliaments-act-2011> [accessed: 23.01.2014].

⁴⁶ Ibidem.

⁴⁷ Ibidem.

⁴⁸ *Fixed-term Parliaments Act 2011*, <http://www.legislation.gov.uk/ukpga/2011/14/contents/enacted> [accessed: 12.04.2014].

day. Where a demise occurs 7 days or fewer to prior dissolution or once Parliament has been dissolved, the election will be delayed by 14 days⁴⁹.

Concerning the Scottish Parliament and National Assembly for Wales both these bodies already operate a four year fixed-term cycle and were due to hold elections on 7th May 2015. When the Bill was first introduced, the devolved governments in Scotland and Wales expressed concerns about these elections being held on the same day as a UK general election. Following discussions, the Government introduced two new sections providing for extending the term to 5th May 2016. The Act also provides that both institutions will revert to a four year term after 2016. It should be mentioned that no legislative provision was made for the Northern Ireland Assembly, where elections are also due on 7th May 2015⁵⁰.

The 2011 statute fixes the date of the next general election on 7th May 2015 and at 5 yearly elections thereafter. Consequently, it removes the Prime Minister's power to decide the date of the next election. It abolishes the prerogative power of the Monarch to dissolve Parliament and replaces it with only 2 statutory events when a dissolution (and election) may occur. The change was largely introduced for party-political reasons. The motivation behind this Act was principally to preserve the Coalition to the maximum length possible, rather than determine the ideal length between general elections. The Coalition wanted the longest period in office they could achieve in which to tackle the current economic crisis before returning to face the electorate at the polls. Five year Parliaments are too long and the threshold for triggering an early election is too high. There is an imbalance in the Act between competing interests – entrenching the position of the executive and securing its democratic accountability to Parliament and the electorate⁵¹.

Among other constitutional reforms was an attempt to change the House of Lords. Under the Coalition's set of proposals the present House of Lords was earmarked for abolition. Its current serving members were to be replaced, after a transition period, by a semi-elected house (possibly called

⁴⁹ Ibidem.

⁵⁰ Ibidem.

⁵¹ R. Blackburn, *Fixing the General Election date*, http://www.historyandpolicy.org/opinion/opinion_80.html [accessed: 04.11.2013].

a Senate) of as few as 300 members. The draft Bill provided for 240 elected (by a form of proportional representation for single terms of 15 years) and 60 appointed members (nominated by a statutory Appointments Commission and recommended by the Prime Minister for appointment by the Queen). In the reformed House of Lords there would be up to 12 places for representatives of the Church of England (nowadays there are 26). Apart from it the 92 remaining hereditary peers were to be ejected from Parliament⁵². Finally, the House of Lords' reform was not introduced mainly because of the peers' resistance.

On 28th October 2011, proposed reforms to the succession were announced during the 2011 Commonwealth Heads of Government Meeting in Perth (Australia). The heads of government of the 16 Commonwealth countries agreed to change the rules of succession by replacing male preference *primogeniture* with absolute *primogeniture*, in which the first-born child of a monarch would be heir apparent regardless of gender. The change would apply for persons born after October 2011. The reforms will not therefore cause Princess Anne and her issue to be promoted over her younger brothers, the Princes Andrew and Edward and their children⁵³.

It was also proposed to end the ban on marriage to Catholics and to restrict the requirement for those in line to the throne to gain the permission of the sovereign to marry to the first six in line only. However, the requirement for the sovereign to be in communion with the Church of England was proposed to remain, as well as the specific ban on Catholics sitting on the throne⁵⁴. The Queen was understood to support the changes⁵⁵. Depending on individual constitutional arrangements, the proposed reforms need to be approved by the parliaments of most of the Commonwealth countries. In the UK, the reforms will require amendments to numerous pieces of legislation, like the Bill of Rights (1689),

⁵² *House of Lords Reform Bill 2012–13*, <http://www.services.parliament.uk/bills/2012-13/houseoflordsreform.html> [accessed: 12.04.2014].

⁵³ *The current Royal Family – succession and precedence*, <http://www.royal.gov.uk/ThecurrentRoyalFamily/Successionandprecedence/overview.aspx> [accessed: 12.04.2014].

⁵⁴ *Ibidem*.

⁵⁵ *Ibidem*.

the Act of Settlement (1701). The UK legislation making the changes, the Succession to the Crown Act 2013, received the Royal Assent on 25th April 2013, but will not be brought into force until the equivalent legislation (where necessary) is approved in other Commonwealth countries⁵⁶.

One of the biggest challenges to the Coalition government is the possible separation of Scotland from Britain. Alex Salmond, Scotland's first minister, led his Scottish National Party (SNP) to a stunning victory in the devolved Parliament's election on 5th May 2011 and then he announced the referendum on independence. On 18th September 2014 this referendum will be held. Polls suggest that 38% of Scots favour independence and almost 70% favour a form of partial independence known as "devo-max"⁵⁷. This is the most probable scenario. It means that Scotland would be entitled to maximum fiscal autonomy, raising all taxes in Scotland and transferring only a minor share to Westminster for the remaining common policy areas such as foreign policy.

D. Cameron began his fight for the preservation of the United Kingdom. He insisted that together the countries are stronger and safer because of the influence brought by Britain's permanent seat in the United Nations Security Council and the reach of the UK's armed forces and antiterrorist and security capabilities. He also underlined the economic benefits of maintaining the union. "We are richer, because inside the United Kingdom Scotland's five million people are part of an economy of 60 million, the seventh-richest economy on the planet and one of the world's biggest trading powers"⁵⁸. It should also be noted that the British government is going to rule out currency union with an independent Scotland. In other words it is a declaration that he will not be willing to enter any negotiations about such an agreement. It is a hostile attitude to the Scots and their reaction is that if they cannot be in a currency union, they will walk away from its share of the UK's debt. Yet another issue is the position of an independent Scotland in the European Union. According to Jose Manuel

⁵⁶ Ibidem.

⁵⁷ G. Fahy, *Cameron comes out fighting for Scotland*, <http://www.politics.co.uk/news/2012/02/16/cameron-comes-out-fighting-for-scotland> [accessed: 04.12.2013].

⁵⁸ Ibidem.

Barroso “it is almost impossible for the Scots to stay in the EU and they will have to start the negotiations from scratch⁵⁹. It is yet more proof that the most probable scenario for Scotland is “devo-max”.

V. CONCLUDING REMARKS

Interest in constitutional and electoral reform in the UK has always been a combination of pressures (from the EU) and dissatisfaction (largely from the political centre left under the 18 years of Conservative rule from 1979) which changed the situation. Labour took over the agenda and has achieved a remarkable programme of constitutional reform. The constitutional changes enacted since 1997 are undoubtedly significant. Beyond specific criticism there is a more general objection that Labour’s various initiatives did not seem to be related to any overall vision, that the reforms were insufficiently “joined up”⁶⁰. There was the sheer diversity and absence of pattern in the reforms as if each reform was considered in isolation. Thus different electoral systems have been introduced for the various devolved institutions and the European Parliament. The functions and processes of the devolved bodies in Scotland, Wales and Northern Ireland are markedly different. Moreover, there appears to be no clear sense of direction, nor even any realization of the implication for established constitutional principles, such as parliamentary sovereignty and the unitary state⁶¹.

The UK’s constitutional arrangements are increasingly unstable and it is by no means clear what the British political system would look like. While significant constitutional reforms have been introduced since 1997, some changes have proved less effective than expected and several facets of the British political system have proved stubbornly resistant to reform (like the House of Lords reform). Moreover, some areas of reform have had clearly unintended or unanticipated consequences, most notably

⁵⁹ A. Ramsay, *Scotland should relish the chance to run its own currency*, <http://www.opendemocracy.net/print/79296> [accessed: 24.03.2014].

⁶⁰ P. Dunleavy, A. Gamble, R. Heffernan, G. Peele (eds.), *Developments in British Politics 7*, Basingstoke 2003, p. 125.

⁶¹ R. Leach, et.al., *op.cit.*, p. 179.

devolution to Scotland and Wales (where constitutional change has gone further and faster than anticipated). The UK's previously unitary state is now characterized by highly asymmetric decentralization, with considerable autonomy granted to regions like Scotland and Wales, while England remains highly centralized. Demands for greater autonomy and even independence (Scotland) represent the most obvious instability arising from the devolution settlements. It seems that the UK's asymmetric federalism is simultaneously centralizing (for England) and decentralizing (for Scotland, Wales and Northern Ireland)⁶².

Constitutional change since 1997 has been extensive, but reform has tended to be piecemeal, lacking in any consistent or coherent approach or any clear sense of direction. There was not a "holistic view" of the reform process. The most obvious objective of recent reforms has been the stated desire for senior figures across all political parties to reverse the decline in public trust and popular participation in the British democracy. There is little evidence that recent reforms have had any success in this regard – about the best that can be said is that the decline in electoral turnout has been arrested⁶³. In this context, it is important to note that moments of crisis have often served as drivers of change, notably accusations of "sleaze" in the 1990's the controversies over MP's expenses from 2009 onwards. These "flash-points" of popular disquiet have given rise to periods in which constitutional reform efforts have arguably been as incoherent as they have been intense. One fundamental contradiction has remained throughout. Governments have attempted to respond to declining public faith and popular participation by rendering political and governmental processes more open and transparent. But, with the exception of devolution, they have done so without fundamentally challenging the "power-hoarding" instincts of the British state. The result is a highly flawed variant of the Westminster model of democracy in which some elements more typical

⁶² S. Wilks-Heeg, A. Blick, S. Crone, *How Democratic is the UK? The 2012 Audit*, <http://www.democraticaudit.com/wp-content/uploads/2013/06/auditing-the-uk-democracy-the-framework-2.pdf> [accessed: 18.03.2014].

⁶³ *Ibidem*.

of the consensual democracies have been imported, but political power remains highly concentrated⁶⁴.

The British political and constitutional reforms will only succeed if they are guided by a long – term vision of how Parliament, local councils and other organs of representative democracy are to be re-established as the centrepiece of the country’s political system. Recent reforms to the UK Parliament are an encouraging development, as is the evidence of parliamentarians becoming more assertive in their role as scrutinisers of government legislation and action. While they are certainly not democratic panaceas, there is a great deal to be learnt at Westminster from the way in which the Scottish Parliament and the Welsh Assembly have forged links between representative institutions and civil society. However, the most significant lesson to be learnt from devolution is that democratic improvements do not stem from “quick fixes”. The successes of devolved governments (especially in Scotland and Wales) are the products of new constitutional settlements, from which the residents of England, by far the great bulk of the UK population, have been excluded. If significant, and sustained, improvements in British democracy are to be achieved, then a fresh constitutional settlement will be required for the UK as a whole. In this regard, the case for defining a new, written constitution for the UK, as an act of far-reaching democratic reform and renewal, has never been stronger⁶⁵.

SUMMARY

The British political system is unusual in many aspects. First of all, Britain lacks a written constitution. The country’s political system has long appeared a model of stability in a changing world. It should be noted that European integration has had a considerable impact on the British political system. However, the election of Tony Blair government in 1997 was a starting point towards serious constitutional reforms. One of the most important was the devolution and The House of Lords reform. Apart from it Human Rights and Freedom of Information Act were introduced. In 2000 a directly elected

⁶⁴ Ibidem.

⁶⁵ Ibidem.

mayor of London was elected. In 2010 a coalition government was established with David Cameron as the Prime Minister from the Conservative Party. The second were the Liberal Democrats. This coalition in itself was unusual in Britain's post-war history. The set of changes in the British political system was an important part of the coalition agreement. The first stage was The Parliamentary Voting System and Constituencies Act 2011 which provided for a referendum on the voting system for UK Parliament and reduced the number of constituencies. The second was The Fixed-term Parliaments Act 2011 which set the date of the next general election as 7th May 2015 and on the first Thursday in every fifth year thereafter. There are only two circumstances when early elections can be held. The Monarch no longer dissolves Parliament, but the Act does not affect her/his power to prorogue Parliament. In 2011 proposed reforms to the royal succession were also announced. They changed the rules of succession and the first-born child of a monarch would be heir apparent regardless of gender. Apart from it there were plans to reform the House of Lords again. Its current serving members were to be replaced by a semi-elected house of as few as 300 members (240 elected and 60 appointed). The plans failed, because they did not gain acceptance. Constitutional changes since 1997 have been extensive, but there was no holistic view on the reform process. Nowadays the country faces the possible separation of Scotland, which could lead to the breakup of the United Kingdom. It could be a revolutionary change of the British political system. However, there are close links between Scotland and the rest of the country and in all probability the *status quo* will prevail.

Keywords: British, political system, constitutional reforms, devolution, coalition, referendum