A political reformer claimed in 1812 that «No country in the world ... possesses so many constitutional writings as England.» Writing about the constitution was a national disease, and over the course of the nineteenth century it reached pandemic proportions. There were books on the subject by William Gladstone, Benjamin Disraeli and Lord John Russell; parliamentary manuals by Walter Bagehot and Erskine May; popular histories by Henry Hallam and Thomas Macaulay; and works by John Stuart Mill, Henry Brougham and A. V. Dicey. The constitution stood at the very heart of political life, giving parties their identity, popular movements their platform and national politics its defining issues. It was a rallying point for popular patriotism and national identity; the preservative of liberties enjoyed by no other European country.

1. The «Providential» Constitution
Beneath the bombast, there were genuine achievements of which to be proud. Over the course of the long nineteenth century, the British constitution had adapted quietly and apparently successfully to the coming of democracy. It had accommodated itself to the expansion of empire, industrialisation and religious pluralism; and, uniquely among the great powers, it had managed this transition without either revolution or civil war. British politics was often turbulent and frequently violent, especially during elections and at times of economic distress, but by comparison with her Continental neighbours her political system was

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1 G. Dyer, Four Letters on the English Constitution (London, 1812). I am sincerely grateful to Peter Ghosh, Jose Harris, Brian Harrison and Ross McKibbin for their comments on this article.
3 Charles Dickens, Our Mutual Friend, ed. A. Poole (London, 1997), 137.
remarkably stable. As Britain emerged unscathed from the revolutionary waves of 1789, 1830 and 1848, her constitution took on an almost mythic prestige. According to Macaulay, Europe in 1848 had experienced «A storm such as there was none like it since man was on the earth; yet everything tranquil here.» «We owe this singular happiness, under the blessing of God, to a wise and noble constitution.»

Yet paeans to the constitution were less common at the end of this period than at the beginning. By the time war broke out in 1914, the constitution was reeling from a collision between the two Houses of Parliament that had paralysed government and left open wounds. Trade unionists and suffragettes were pursuing increasingly violent methods and civil war was brewing in Ulster. The Conservative and Unionist Campaign Guide of 1914 – prepared for an election that never took place – accused the government of having «smash[ed] the constitution». It warned that «No method remains, except armed revolt, by which the country can make its will prevail,» and predicted that Britain might soon be «once more stained with the blood of civil war». Andrew Bonar Law, the Unionist leader, wrote privately of «breaking the parliamentary machine», and gave his public approval to a paramilitary army in Ulster. In the 1914 preface to his celebrated Law of the Constitution, Dicey lamented that «Faith in parliamentary government has suffered an extraordinary decline,» a phenomenon that «greatly puzzles the now small body of surviving constitutionalists old enough to remember the sentiment of the mid-Victorian era.»

Constitutional pessimism was not, of course, unprecedented. What was new in the Edwardian period was a crisis of legitimacy in the House of Commons and a loss of faith among Conservatives in its popular authority. The Campaign Guide of 1914 declared bluntly that the «House of Commons does not truly represent the people, nor do its votes represent the opinions of the electorate». Bonar Law went further, describing the government as «a revolutionary committee which has seized by fraud upon despotic power». It is the paradox of this period that, as the franchise grew more democratic, the popular authority of the Commons became more contested.

This article explores three themes from British constitutional debate: the salience of the constitution in public life; the evolving relationship between political institutions and the people; and the loss of faith in the representative functions.
of the Commons. It considers how changing conceptions of representation facilitated the emergence of democratic ideas and shows how the constitutional crisis from 1909 to 1914 had its roots in much older developments. It does not claim to be comprehensive or to cover the entirety of the United Kingdom. Irish affairs are largely excluded, though they were frequently a trigger for debates on the constitution of Britain and put immense strain on its workings.\textsuperscript{10} Despite its status under the Act of Union, Ireland was not governed according to British constitutional norms, and many of the ideas discussed in this article were inoperative there. Readings of constitutional history, understandings of public opinion and the nature of Whig politics were all different in Ireland and would require an article of their own to do them justice.\textsuperscript{11}

A second omission is the relationship between Church and State. This is not for its want of importance or for any lack of impact on constitutional debate. In 1832, Tories had condemned the architects of the Reform Act as «the enemies of God», and one of the most common objections to Home Rule was the power it would bestow upon the Catholic hierarchy.\textsuperscript{12} Religious and constitutional politics were never wholly distinct, though opposition to the Established Church in Britain usually expressed itself in a form of liberal pluralism rather than in the secular constitutionalism more common on the Continent. The focus of the present article, however, is on evolving notions of representation and the dialogue between parliament and people. As such, religious issues have been left to one side, though I hope to return to them at a later date.\textsuperscript{13}

2. Ideas, Imagination and Practices

In 1832, the classicist and Liberal statesman Sir George Cornewall Lewis published a dictionary of political rhetoric. It was an attempt to give precise definition to common ideas, but terms like «the constitution» proved gravely problematic. As Lewis discovered, the word was used in both a «real» and an «ideal» sense, signifying not just the laws and usages by which Britain was actually governed, but «an imaginary model of excellence which the government has never, in fact, attained, though in the writer’s or speaker’s opinion it has constantly been tending to it».\textsuperscript{14} In contrast to many Continental states, British political parties did not align

\textsuperscript{10} One of the main objections to Home Rule was that it would damage the constitution of England, and Dicey in particular urged that it be judged on that basis. A. V. Dicey, England’s Case Against Home Rule (London, 1886).
\textsuperscript{12} W. E. Gladstone, «Letter to Charles Grant», 1832, Gladstone Papers, British Library, Add. MS. 44721, f.93l.
\textsuperscript{13} I explore Gladstone’s thinking on the relationship between Church and State in a forthcoming volume on the making of the Second Reform Act.
\textsuperscript{14} G. Cornewall Lewis, Remarks on the Use and Abuse of Some Political Terms (London, 1832), 4.
themselves ‘for’ or ‘against’ the constitution; nor, apart from the Irish, did they cohere around possible alternatives to it. Unlike French politics – with its Legitimists and Orléanists, republicans and communards – British parties all claimed to be the true exponents of an existing constitution. As George Dyer observed wryly in 1812, ‘We have at present three predominant parties in the country … Yet they all talk of rallying round the Constitution, like different religious sects, who all appeal to the same code’.15

Even for critics and advanced radicals, the constitution was an ideal standard against which particular laws and governments could be held to account. When Sir Francis Burdett fell foul of the government in 1810, he contrived to be arrested while translating the Magna Carta of 1215 – a conscious invocation of the arrests of Wilkes and Beardsmore in the previous century.15 The Magna Carta was a staple of radical iconography, exploited most famously by the Chartists of the 1830s and 1840s, with their demand for a new ‘People’s Charter’. The significance of the Magna Carta lay in the principle it affirmed of government accountable to law and its articulation of certain liberties of the subject. In popular memory, at least, it guaranteed the ‘freeborn Englishman’ against imprisonment without trial, the confiscation of property and other acts of arbitrary power. Defined in this sense, the English constitution was about freedom from government, expressed in a vigorous support for local institutions and a network of voluntary agencies that kept the centralised state at arm’s length. It was not a legislative machine so much as a time-honoured commitment to the freedom of the subject, to a government of laws and an authority rooted in consent. Like the constitutional history of England, it was significant chiefly for its mythic value, as ‘a record of liberties wrung and extorted bit by bit from arbitrary power’.17

It was this that gave the constitution its imaginative hold over British politics. It was a court of appeal that could be invoked against governments and rulers, and a rallying point for popular patriotism. This could make it a conservative force; the radical MP Richard Cobden complained that the masses were ‘mystified into the notion that they are not political bondmen’ by the ‘great juggle of the English Constitution’.18 But as Cornewall Lewis shrewdly observed, the language of constitutionalism could also be exploited by reformers. It enabled them to sanitise change by subsuming it within a reassuring historical continuum, allowing them ‘to deceive ignorant persons into a belief that a measure or law recommended to them is only a recurrence to ancient institutions, and that the change is restoration, and not innovation’.19

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15 Dyer, Four Letters, 4.
19 Lewis, Use and Abuse, 5.
The constitution was not a set of documents but a reading of history; and, as Macaulay famously observed, the «History of England is emphatically the history of progress,» a tale of «constant change in the institutions of a great society.»

It was a commonplace that the English constitution enjoyed a «plastic power of self-amelioration», an «elastic adaptability» in the face of new conditions. Even in 1905, the Austrian political scientist Josef Redlich was struck by the «irresistible instinct» of British politics «for the constant development of its institutions».

This normalisation of change encouraged reformers to work within the existing machinery and ensured that at least some on the inside would be receptive to their claims. As a Conservative writer acknowledged in 1912, it allowed reformers to justify their demands «by strictly conservative arguments and to represent revolution as being in some sense a reversion to ancient principles».

The Whigs of 1832, the Chartists of the 1830s and 1840s, and the advocates of household suffrage in 1867 all appealed to constitutional tradition, often charging that it was the opponents of change who were at odds with historical practice.

This gave a weapon to reformers, but it also gave enormous powers to government. The British constitution contained no fundamental laws, no statutes beyond the ordinary scope of legislation, and under the theory of parliamentary sovereignty there were no limits to the authority of parliament. In strictly legal terms, parliament could change the dynasty, repeal the Union and abolish the Magna Carta just as easily and by the same process as it could repeal a tax. As William Blackstone had written, it could do «everything that is not naturally impossible».

This principle caused some disquiet, particularly when so bluntly expressed. Having triumphed over royal absolutism in the seventeenth century, there was considerable unease at an absolutism of parliament in the nineteenth. The standard line of defence was that parliament, while legally sovereign, was in fact constrained by a framework of customs, conventions and principles, of which the most important was public opinion. In his Constitutional History of England, Erskine May defined his subject as «legislation, custom, [and] policy», while F. W. Maitland asserted that a constitutional history «which spoke only of legal rules would be ... quite unintelligible». Even Dicey, who took a more legalistic perspective than most, dedicated the third section of his Law of the Constitution to «Conventions».


Cecil, Conservatism, 221–222.

Pallister, Magna Carta, 57. Some writers, notably Dyer and Creasy, argued that Magna Carta was a «fundamental law» or even an «original contract». This, however, was a minority view, and as Pallister has shown, large parts of the Magna Carta were in fact repealed in the legal reforms of the late nineteenth century.

T. E. May, The Constitutional History of England Since the Accession of George the Third, 1760–
be unconstitutional, a breach not of statute but of «the spirit of the Constitution».26 This was best illustrated in 1856 when Queen Victoria created the first life peerage. No one doubted that the Crown had exercised this prerogative in the past, and that it had never formally been stripped of that power. The Crown’s actions could not, therefore, be said to be illegal; but they were held to be unconstitutional because, at some indefinable moment, that element of the prerogative had passed out of usage.27 Like the common law itself, Victorians placed great emphasis on precedent, and the policy of life peerages was abandoned.

The most important check was public opinion. For a broadly aristocratic system, the importance of this principle to all parties in British politics was remarkable. This was partly a matter of practical necessity: as Brian Harrison has observed, the lack of a standing army, effective police force or centralised bureaucracy meant that British politicians «needed to work with the grain of significant public opinion, and had long experience of doing so».28 But it was also a matter of principle, particularly among the Whigs and their successors in the Liberal party. The Whigs presented a peculiar historical phenomenon: a class of wealthy and socially exclusive aristocrats who conceived their political role as the friends and champions of the people. Like the constitution itself, their political identity was rooted in the «Glorious Revolution» of 1688, which had established that «Power is a trust for the people,» and that «where it is abused by magistrates … it may lawfully be withdrawn.»29 Whigs believed that a willingness to associate themselves with the popular cause was the best corrective to dangerous social movements, allowing them to protect the liberties of the subject while maintaining the institutions of the state. It was the historic duty of the Whigs to «stand between the constitution and the revolution, and to go with the people, but not to extremities».30 The Whigs themselves never doubted that it was the absence of such a class that made the Continent so unstable.31

As Leslie Mitchell has argued, the very existence of the Whigs had an integrative effect on radicalism. «The English radical always had friends, real or
pretended, at the very heart of the political elite. He had no reason to feel marginalised, or that his cause would not receive a parliamentary hearing.\textsuperscript{32} Radicals often became frustrated with the Whigs, accusing them of hypocrisy and conceit, but Whiggism undoubtedly helped to direct reforming energies through legal and constitutional channels. Even the Chartists, the most formidable protest movement of the period, built their campaign around a parliamentary strategy, petitioning the House of Commons for the redress of grievances.

Such ideas also acted as a constraint on government. Throughout this period, as Jose Harris has commented, ‹Politicians and social observers spoke and behaved as though they believed that the British political system was much more broadly democratic than it actually was, a fact that acted as an invisible but powerful constraint upon public policy.›\textsuperscript{33} Whiggism in this broad sense was not restricted to those who called themselves Whigs. When the Continental revolutions broke out in 1848, Sir Robert Peel immediately blamed them upon an obtuse resistance to public opinion. ‹[This] comes of trying to govern the country through a narrow representation in Parliament, without regarding the wishes of those outside. It is what this party behind me wanted me to do in the matter of the Corn Laws, and I would not do it.›\textsuperscript{34}

‹Public opinion› was quite a new concept in the nineteenth century, boosted by the vibrancy of the popular press and the lack of effective censorship. British governments had no power to censor articles in advance of publication, and although they could prosecute a newspaper for seditious or blasphemous libel, this power was rarely exercised after the 1820s.\textsuperscript{35} Together with a vigorous tradition of public meetings, this created a culture of public debate that no elected Chamber could disregard. By 1859, John Stuart Mill considered it ‹almost a triviality to say that public opinion now rules the world›; and the future Lord Salisbury testified in 1866 to ‹how deeply this theory has tinged our political philosophy› and ‹modified our political action›.\textsuperscript{36} Its influence operated in two directions. In the first instance, it put real limitations on what governments could do while claiming popular authority. A mob might sometimes be put down by force, but to use military power against the settled will of the people was unthinkable.\textsuperscript{37} As Michael...
Brock has suggested, the significance of the popular ‘army’ assembled by Thomas Attwood and Francis Place in 1832 was not its ‘intrinsic strength’, but ‘the political impossibility of opening fire on it’.38 At the same time, however, the conviction that they governed by consent gave ministers greater confidence in resisting opposition. Unlike the autocratic governments of the Vormärz, the British government stood firm in 1848 and faced down the Chartist challenge. Confident that they spoke for the great majority of their subjects, British ministers faced opposition movements with a confidence and resolution that more despotic governments lacked.39

Popular politics did not require a mass franchise; on the contrary, it was possible to argue both for the political sovereignty of ‘the people’ and for a restricted suffrage. This was not intellectual sophistry: a numerous constituency would not express the popular will if voters were purchased by the rich or herded to the poll by a despotic landlord. Even radicals often opposed the enfranchisement of those, like domestic servants, who were deemed to be ‘dependent’ on their Tory masters. The case for a restricted electorate was not that it was wiser – an argument with which Victorians were uncomfortable – but that it was better able to represent the people as a whole. It was the function of the electorate to hold MPs accountable to a wider public opinion, but it was not their function to act as an interest group or to instruct representatives on matters of policy. Brougham wrote in 1812 that ‘The people ought not to decide directly and finally on any public measures except the choice of their representatives.’ Cornewall Lewis agreed, stressing that the people ‘cannot by their votes decide directly and finally on any public measure: their power is confined to the choice of those who are to decide’.40

In any case, the unenfranchised were not wholly excluded from the political process. They made their views known through organisations of non-electors, participated in the electoral hustings and used systems of exclusive dealing to put commercial pressure on shopkeepers and tradesmen. John Vincent has argued that the limited franchise actually benefited working men in large boroughs because it protected them from bribery and coercion while leaving

39 British policy-makers never accepted that Chartism represented a genuine demand for political reform, interpreting it instead as a cry of discontent exploited by a small band of troublemakers. See R. Saunders, ‘Chartism From Above: British Elites and the Interpretation of Chartism’, Historical Research (forthcoming, 2008).
40 H. Brougham, ‘Rights and Duties of the People’, Edinburgh Review 20 (1812), 405–425, 408; Lewis, Use and Abuse, 136–137. Brougham did not wish the people to be inert between elections, but to maintain an active public opinion through frequent public meetings. These were not to be restricted to electors – quoting Burke, Brougham insisted that ‘no class or description of men is to be excluded’; Brougham, 422.
them free to apply pressure from below. "The working-class non-elector", he concludes, "could intervene effectively where he had the wit to do so: the working-class elector could not".\footnote{J. Vincent, The Formation of the Liberal Party, 1857–1868 (London, 1966), 100–104.} Pressure of this kind required organisation and was generally restricted to the largest boroughs, but the involvement of non-electors in any form gave credence to the idea of a "popular" constitution despite the restricted franchise.

Given the Whigs’ populist rhetoric, it was no surprise that their first great measure in government after 1830 should have been an "Act to Amend the Representation of the People". The intentions behind that measure were conservative rather than democratic. The preamble spoke of "correcting diverse Abuses that have long prevailed in the Choice of Members" signalling that this was to be a work of renovation, not a new system of election. Improving the representation of the people meant expelling royal influence from elections, diminishing corruption and insisting that every constituency represent a genuine interest, while ensuring that those vested with the franchise could exercise it with independence and integrity. The Whigs did not argue that only the £10 householder was to be counted among "the people", but that the interests of the people would be best represented if those too poor or too ignorant to vote independently were excluded. That the electorate increased in size was almost incidental; the £10 franchise was intended to shut out the dependent as well as to let in the fit.

Yet the Reform Act placed a new importance on the right to vote in a way that had not been anticipated by its sponsors. Before 1832, the opportunity to use the vote had been comparatively limited. Between 1734 and 1832, almost a quarter of all constituencies in England and Wales had experienced only one contested election or fewer; and not a single vote had been cast in Scotland in 1826 or in Wales in 1830. The electorate in such places was a "stage army", and the distinction between electors and non-electors largely academic.\footnote{D. Beales, "The Electorate Before and After 1832: the Right to Vote, and the Opportunity", Parliamentary History 11 (1992), 139–150, 148–149.} This is not to say that popular politics before this date was illusory – Frank O’Gorman in particular has emphasised the very real involvement of the people in the unreformed system even where elections were not formally contested – but it did diminish the visible significance of possessing or casting a vote.\footnote{F. O’Gorman, Voters, Patrons and Parties: the Unreformed Electoral System of Hanoverian England, 1734–1832 (Oxford, 1989).} After 1832, this began to change. The creation of an electoral register, which was maintained between elections as well as during them, drew a clear line between those who were enfranchised and those who were not, while elections to the reformed Parliament were more frequent, more divisive and more obviously important than ever before. The election of 1835 was the first at which a government enjoying the confidence of the monarch failed...
to win a majority; the election of 1841 was the first at which a government lost its majority at the polls. The emergence of the Chartist movement between 1837 and 1848, whose enormous numbers were unable to secure any significant change of policy, underlined a growing opinion that enfranchisement alone secured meaningful representation in the reformed system.

When the Continent exploded into revolution in 1848, Liberals were quick to attribute Britain’s unique stability to the Reform Act and to measures, like the repeal of the Corn Laws, passed under its aegis. Not even Lord John Russell, however, asserted that it was the £10 franchise to which they were indebted. Rather, it was the spirit of gradual reform by which that measure had been justified. In this respect, the 1848 revolutions vindicated a Whiggish interpretation of the constitution, based on evolutionary reform and deference to the will of the people. In the aftermath of the revolutions, all parties in Britain expressed their openness in principle to a further extension of the franchise, though they did not necessarily anticipate one in the near future. In the modern world, as Russell opined, nothing could be more foolish than to meet the growing political maturity of the people with «the old system of restraint». This would be like «lock[ing] up all the gates of the railroad, with the hope that the express train would be stopped in its course».

The lack of upheaval in Britain seemed to many to demonstrate not only the superiority of Britain’s institutions, but also the greater political maturity of her people. As one MP gloated in 1850, the English «were not of the kind we saw over the water»; you would not catch John Bull reading Rousseau. In the long run, this would make it more difficult to resist further reform; for denying the franchise to those fit to wield it risked eroding the distinction between British and Continental politics. As Russell told MPs in 1860, no one now denied that the unenfranchised included many «whose intelligence and integrity qualified them for the exercise of the right of voting. But if that be the case, then their exclusion – their continued exclusion – their perpetual exclusion – must weaken, while their admission cannot fail to strengthen the basis on which our representative institutions rest.»

The 1850s and 1860s saw a marked shift in perceptions of the British people as well as in the temperature of their relations with government. Despite an escalation in industrial disputes, political tension was broadly agreed to have declined. When Charles Kingsley wrote a new introduction to his Chartist novel, *Alton Locke*, in 1862, he felt it necessary to explain to younger readers the radically different circumstances under which it had been written. *Alton Locke* had been published

45 Times, 27 September 1852. See also Newcastle to Gladstone, 26 August 1852, Gladstone Papers, British Library Add MS. 44262, f.126.
46 Hansard cix, 28 February 1850, 188.
47 Hansard clix, 11 June 1860, 230.
in 1849, a time of "hateful separation between the classes", when young men believed (and not so wrongly) that "the masses were their natural enemies. "How changed, thank God! is all this now."48

By the 1860s, one set of myths was giving way to another. In the 1830s and '40s, the Home Office had been seriously alarmed by reports of secret drilling by Chartist revolutionaries; yet by the 1860s, the volunteer movement was providing working men not only with a military training but with weapons to keep in their houses. Liberal politicians never tired of enumerating the working men's clubs and lending libraries springing up around the country, or of lauding the sober political consciousness which eschewed agitation in favour of self-improvement. This new mythology, together with the growing association between representation and the parliamentary franchise, left the case against further reform gravely undermined. As Royden Harrison and Kristin Zimmerman have shown, by 1867 MPs had largely abandoned any principled objection to an extension of the franchise, though the details of such a measure remained controversial.49

The fruits of that conversion were reaped in 1867, when a new Reform Act brought about a million new electors onto the electoral register. This was followed by a further instalment in 1884, creating a mass electorate in all parts of the country and propelling the British state into the age of democratic politics. The sheer scale of these measures shattered the traditional idea of the franchise as a limited trust, to be exercised by a select few on behalf of a wider public. They made it more realistic to treat "the electorate" and "the people" as equivalent terms, though they also heightened the exclusion of those, like women, still barred from the parliamentary franchise.

The emergence of mass politics had an immediate effect on government. After the first election under the new franchise in 1868, Disraeli resigned without waiting for an adverse vote in Parliament. The power to make and unmake governments had moved from the floor of the Commons to the electoral hustings. As Dicey recognised, elections were coming to be seen not as the election of a local representative, but as "a decision that a particular party shall hold office for the duration of the newly-elected Parliament and, in some instances, into the election of a particular statesman as Prime Minister."50 In the mid-nineteenth century, the idea of an electoral "programme" had been seen as a corrupt bargain with the electorate; but by the start of the twentieth century, the House of Lords was claiming the right of veto over any measure that lacked an electoral "mandate."

It quickly became not only acceptable, but even expected that party leaders would address popular audiences during the meeting of Parliament – something that had been condemned in 1866 as a “an influence of terrorism.”

Reform of the Commons had particular ramifications for the House of Lords. It was a truism that Britain enjoyed a “mixed government” combining the best elements of “monarchy, aristocracy and democracy”, but even before 1832 this was something of a myth. The theory that each branch of the constitution acted as an external constraint upon the others was part of the “literary theory” of the constitution, embedded in the works of Montesquieu, Blackstone and De Lolme, but it had become little more than a useful fiction. No monarch had exercised the royal veto since 1707, and since that date both the Crown and the Peerage had tended to wield their influence within the House of Commons, rather than in opposition to it. Through the network of Treasury boroughs, nomination boroughs and the social influence of great landowners, the interests of Crown and Lords had found representation within the Lower House, and the number of aristocratic scions who sat as MPs ensured that there was no substantial difference in its social composition. A reform that expelled such influences would compel a reworking of constitutional practice, obliging the Crown and the House of Lords to act outside of the Commons and sometimes in visible opposition to it.

Tory writers spent much of the 1830s trying to justify the resistance of the peerage to an elected majority in the Commons. Some writers, notably Disraeli, argued that the Lords were themselves a popular assembly through their ownership of property. Others took the more conventional view that the Lords acted as a “control on the popular representatives” by “the opposition of popular energy to aristocratic tenacity.” Even the Whigs agreed that an Upper House which was “neither appointed by the people nor accountable to the people, but formed of a class wholly removed beyond the popular control”, might act as an “effectual check” on the popular will; though in its own best interest they believed that it should be cautious in exercising that power. But over the second half of the century, both these arguments lost purchase. The idea that the Lords represented an independent popular authority could not survive the increased importance of the vote; and, after 1867, the Lords became equally reluctant to claim the right, as

51 R. Lowe, Speeches and Letters on Reform, with a Preface (London, 1867), 122. In this period, the word “terrorism” evoked the revolutionary “Terror” carried out by French Jacobins in 1789–1794. It was particularly associated, therefore, with the passions unleashed by demagogic rule. I am grateful to Brian Harrison for this information.
54 A. Alison, “Shall we overturn the Peers?”, Blackwood’s 38 (1835), 573–586, 577.
55 Brougham, British Constitution, 11.
an aristocratic body, to resist the popular will. Yet the last two decades of the century witnessed a revival in the political confidence of the Lords, which was founded in a loss of confidence in the popular authority of the Commons.

3. The Onset of Democracy – Constitutional Eclipse or Adaption?

This development was rooted – paradoxically – in the extension of the franchise. Mass politics required a more organised party system, which encouraged greater discipline and central control. Though the extent of the change was often exaggerated, contemporaries were convinced that an ‘immense increase in the power of the Party Machine’ was taking place, generating real concerns about the changing relationship between Parliament and constituency.\(^\text{56}\) At a national level, the party system and the electoral ‘caucus’ were portrayed as anti-popular institutions, designed to stifle the free action of voters by constricting the range of interests and opinions. At a constituency level, electors were increasingly endorsing parties and party programmes rather than individual representatives, who then made decisions on their behalf. This had troubling implications. What if an item of policy had not featured in a party programme; or if one item on a programme was obviously less popular than others? In an age of composite election platforms, how much of a party’s programme could genuinely claim popular authority?

The rise of party seemed to endanger the capacity of the Commons to hold the executive to account. Between 1832 and 1867, ministries had been expelled by the Commons on nine separate occasions;\(^\text{57}\) but the growing power of the executive over the parliamentary timetable and the introduction of the ‘closure’ in the 1880s made it harder to portray the Commons as an independent agency acting as a check upon government.\(^\text{58}\) Instead of being held responsible at all times by the representatives of the people, it was increasingly argued that ministers were now irresponsible except at elections. Dicey had written in 1885 that ‘the underlying principle of all modern constitutionalism’ was ‘obedience to the will of the nation as expressed through Parliament’. By 1914, however, he was losing faith in the ability of Parliament to fulfil that role, and he was attracted to the referendum as a means of accessing public opinion over the heads of party managers. ‘Its strongest recommendation is that it may keep in check the inordinate power now bestowed on the party machine.’\(^\text{59}\)


\(^\text{57}\) This excludes the ministerial crises of 1839 and 1851, when ministries resigned but resumed office shortly thereafter.


\(^\text{59}\) Le May, Victorian Constitution, 7–8.
This gave real plausibility to claims by the Lords, not themselves to represent an authentic popular authority, but to appeal to ‘the people’ against an elected government. In theory, they could have adopted this role much sooner, but it was necessary first to abandon any formal claim to independent, aristocratic authority. As Salisbury put it in 1872, it was necessary ‘frankly to acknowledge that the nation is Master, though the House of Commons is not’. This was widely accepted only in the years after 1867, and at an intellectual level, it was never accepted by Salisbury himself. But he was pragmatic enough to recognise where power now lay.

The first steps had been taken by Disraeli. In 1868, Disraeli denied the right of the Commons to legislate on the Irish Church because the issue had not previously been raised at a general election. This was a major constitutional innovation, though in Disraeli’s formulation it was of relatively limited application. Disraeli argued simply that the Commons could not legislate on great questions if they had not previously been aired at a general election. Salisbury went much further, and by 1892 was claiming the right to obstruct legislation on any subject if it was not actively popular. It was not enough to say that the Liberals had won a majority on a platform that included Home Rule; if it could not be shown that a majority had voted for that issue, rather than for Welsh disestablishment, licensing reform, or any other point on the Liberal programme, the government could claim no mandate. Even the landslide majority of 1906 was not accepted by the Unionists as a mark of popular authority. The Primrose League Gazette of 1909 condemned the ‘People’s Budget’ as wholly ‘unconstitutional’ because it lacked the authority of the people. The Unionist Campaign Guide insisted that the electoral system had greatly exaggerated the majority in 1906, and that ‘the disproportion has become infinitely greater as time has gone on’. Unionist writers also rejected the verdict of the 1910 elections, denying that they gave a mandate either for the budget or for the Parliament Act of 1911. The Campaign Guide protested that the ‘Lords had correctly judged the opinion of the country,’ and had been judged to have lost the election only because the Irish members had ‘vote[d] against the opinion of their constituents’.

This formed the basis for a sustained campaign against Liberal governments in the House of Commons, which met its doom in the Parliament Act of 1911. The Parliament Act stripped the Lords of its power of veto, replacing it with a power to delay legislation for a period of two years. The loss of the veto left Unionists in an extraordinary position: they had accepted the principle that legislation must have

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60 Ibid., 137.  
63 Campaign Guide, (1914), 42.
the direct authority of the people, but no longer recognised any machinery by which that authority could be secured. The emasculation of the Upper House was not only a blow to their party, it was an assault on the weapon by which they had sought to reconnect government with their conception of public opinion. With the veto gone, the Commons had become a despotic Single Chamber.\textsuperscript{64} Armed revolt was brewing in Ulster, with the active encouragement of the Conservative leadership, and even the arch-constitutionalist Dicey put his pen in March 1914 to the \textit{British Covenant}, which pledged resistance to an Act of Parliament. Bonar Law observed ominously that there were \textit{things stronger than parliamentary majorities}, and accused the government – its three election victories notwithstanding – of ruling \textit{without the consent of and against the will of the people}. \textit{We shall use any means}, he warned, \textit{to deprive them of the power which they have usurped.}\textsuperscript{65}

4. Conclusion

Both as an idea and as a mechanism, the British constitution in 1910–1914 was in crisis; but the constitutional struggles of the early twentieth century may have had a silver lining. When Dicey warned in 1914 that \textit{Faith in parliamentary government has suffered an extraordinary decline,} he was talking not just of England but of \textit{every civilised country}. He meant by this a crisis of democracy and a suspicion, particularly on the right, that popular government was unsuited to a world of brutal international competition. There were elements in British society that shared this scepticism, but such ideas now sat uneasily in Conservative discourse. The theory of the mandate had habituated the party to a rhetoric that placed absolute sovereignty in the hands of the people. For the last thirty years, the party had founded its right of resistance to elected Liberal governments on the will of the people, and populism had become its weapon of first resort against all legislation of which it disapproved. If no serious anti-democratic movement in the twentieth century was ever to take hold on the British right (by contrast with Continental experience), it may have been partly as a result of this long training in and acclimatisation to popular politics. Whatever their other differences, all parties of government in Britain remained committed to the sovereignty of the people, expressed through elective institutions. This was no small advantage. In a world in which so much else had changed, a traveller from the early Victorian age would have recognised one thing at least: the continued exhibition, in the most unexpected of ways, of \textit{the plastic power} of the constitution.

\textsuperscript{64} Ibid., 45.
\textsuperscript{65} National Union of Conservative Associations (NUCA), Gleanings and Memoranda, 42 (Jan – June 1914), 22; R. J. Q. Adams, Bonar Law (London, 1999), 108.
Das Parlament und das Volk: Zur Entwicklung der britischen Verfassungsordnung im langen 19. Jahrhundert


Le Parlement et le peuple: la constitution britannique pendant le long 19ème siècle

Cet article explore le débat constitutionnel en Grande-Bretagne pendant le long 19ème siècle. Il montre comment la constitution fonctionna comme point de ralliement pour des hommes politiques de toutes tendances, agissant ainsi comme un mécanisme intégratif qui engagea tous les partis dans sa défense. Il se focalise en particulier sur les idées de représentation du peuple ainsi que la relation entre la souveraineté populaire et l’autorité du Parlement. Il montre à quel point la loi constitutionnelle s’intégrait dans un cadre d’idées et de coutumes, imposant de véritables contraintes sur le gouvernement avant même le début de la démocratisation. Il analyse comment l’évolution de la définition du peuple, de son rôle dans le gouvernement, contribua à l’adaptation paisible de la démocratie, mais constituait en même temps la base de la crise constitutionnelle de l’époque édouardienne.

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