“Oops I did it again!” Cameron and the Britney Spears Model of Constitutional Reform

democraticaudit.com /2015/10/19/oops-i-did-it-again-cameron-and-the-britney-spears-model-of-constitutional-reform/

By Democratic Audit UK 2015-10-19

*Constitutional change in the UK has progressed haphazardly in recent years, and with the benefit of hindsight many of the changes might be considered imprudent or ill-thought through. **Matt Qvortrup** argues that “Oops, I did it again”, the 2000 hit by pop princess Britney Spears could be a leitmotif in constitutional reforms undertaken by successive governments since the 1970, and possibly even before.*

Credit: Stephen Harlan CC BY 2.0

Some may naively see the British Constitution as inspired by high-minded principle, philosophical deliberation and a concern for good governance. In reality the process of constitutional reform has followed a pattern of opportunism and hastily enacted changes. Many of these have had unintended and unforeseen consequences, and others have even back-fired. This article will therefore argue that British constitutional reform in recent years – with very few exceptions – has followed the *Britney Spears Model of Constitutional Reform* of haphazard changes, which with the benefit of hindsight were imprudent and ill-thought through.

In other democratic countries, the constitution is a fundamental law. Aside from New Zealand, Israel and the United Kingdom, every democracy has a written constitution compiled in a single document. These are documents that cannot normally be challenged through ordinary legislative procedures. Furthermore, in the more theoretical jurisprudential literature on constitutional reform it is customary to talk about *constitutional moments*, a phrase coined by the American lawyer and legal theorist Bruce Ackerman. In a much-cited article, he wrote:

> *Although constitutional politics is the highest kind of politics, it should be permitted to dominate the nation’s life only during rare periods of heightened political consciousness. During long periods between these constitutional moments, a second form of activity – I shall call it normal politics – prevails. Here factions manipulate the constitutional forms of political life to pursue their own narrow ends (Ackerman 1984: 1022).*

With hindsight, nothing that happened in British constitutional politics in the period 1997-2015 – with the possible exception of the peace agreement in Northern Ireland – deserves the epithet 'constitutional moment'. Rather, politicians have tended to especially use constitutional issues to pursue their own narrow ends. David Cameron is a clear example of this. The same man who told the Conservative Party Conference in 2013 that he was against "pointless constitutional tinkering" has already set in motion new debates and drastic constitutional change for political capital.

The Prime Minister's brief speech after the result of the Scottish independence referendum was a case in point. It was 7 am precisely on the 19 September when he stepped out of the black door of No. 10 Downing Street. The PM looked relieved. He said:

> *The question of English votes for English laws – the so-called West Lothian Question – requires a massive answer. Just as Scotland will vote separately in the Scottish Parliament on issues of tax, spending and welfare, so too England, as well as Wales and Northern Ireland, should be able to vote on these issues…We will set up a Cabinet Committee right away.*

A few hours before – around 5 am in the morning – he had received a phone call from the Labour politician Alistair Darling, the former Chancellor of the Exchequer and latterly leader of the *Better Together campaign.* Darling was not best pleased. He warned Cameron against stirring up hostility. Nick Clegg, the Deputy Prime Minister and leader of the Liberal Democrats, was not impressed either. In a conversation with the latter the day before, Cameron had told his coalition partner, "I have to lean into the English issue". Clegg responded, "I've got a problem with my English flank and I have to deal with it now…You can say whatever you like but we don't agree on this – you are not speaking on behalf of the coalition" (Seldon and Snowdon 2015: 420).

The exchange between the three leading politicians on a fundamental constitutional issue is in many ways indicative of the way reform of the most key institutions of state are proposed and resolved in the United Kingdom. Allowing only English MPs to vote on 'English laws' would be unique in countries with devolved assemblies. In other countries with similar arrangements, such as Spain, Denmark and Canada, all MPs can vote on all matters. Such constitutional niceties, to speak nothing of the possible consequences of changing them (i.e. effectively, creating two classes of Members of Parliament) do not seem to have weighed heavily on the Prime Minister's mind. His concern was purely political, he had to 'lean into the English issue', and for political purposes he had to calm his backbenchers. Nick Clegg's objection too had all the hallmarks of political calculation. The Deputy PM was concerned not about the constitutional principles but about his 'English flank'.

Once again, an important political issue of constitutional importance was being discussed *not* at a constitutional convention and *not* as a part of a process of consensus. There was no *constitutional moment* on the 19 September 2014. Cameron had acted quickly – too quickly. It soon transpired that rather than solving a problem with his backbenchers EVEL was likely to create more problems than it solved. Effectively creating a group of second-class citizens would lead to resentment and would weaken the increasingly fragile Union . Moreover, many backbenchers were less than impressed, the SNP were able to use the proposal to great effect. It was another own goal, or to adapt the metaphor to our familiar pattern: 'oops he did it again!'

"You see my problem is this/ I'm dreaming away/Wishing that heroes, they truly exist", Britney sang in her 2000 hit. Constitutionalists, activists and academics with an interest in political institutions may be 'dreaming away' and wishing that constitutional 'heroes, they truly exist' – like they existed in America in Philadelphia in 1787. Unfortunately, constitutional politics in Britain has been even more partisan than what Ackerman called 'normal' politics; it has been characterised by short-term gain and with scant regard for the implications of reform. The 'Oops they did it again' pattern of reform is characteristic for a political culture under which Prime Ministers use the constitution to gerrymander the system for party-political advantages.

In short, it is not the eloquence of Burke, nor the genius of Bagehot which currently provides the best model of how constitutional reform in Britain is evolving. Understanding recent developments as the 'Britney-model' should serve as a caution against the poorly thought out constitutional changes introduced for short-term political gain, particularly when they are likely to lead to irreversible consequences for the Union. To paraphrase Britney Spear's other hit *Toxic* (from 2003), a thing like constitutional reform "Should wear a warning/ It's dangerous"!

—

Note: this post represents the views of the author, and not those of Democratic Audit or the LSE. Please read our comments policy before posting.

—

Matt Qvortrup is Professor of Political Science at Coventry University. His most recent publications include *Angela Merkel* (Duckworth 2016), *Referendums and Ethnic Conflict* (University of Pennsylvania Press, 2014) and *The British Constitution* (Hart, Second Edition 2015). During 2015 he was an adviser to the Public Administration and Constitutional Affairs Committee in the House of Commons.