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“REFERENDA AND A CROSS PARTY CONSTITUTIONAL CONVENTION”

Referendums are not just a device as Attlee described them when suggested by Churchill. They are also a refuge advocated when parliamentary patronage and party political whipping can no longer prevent cross party voting challenging governmental authority.

They are usually conceded by governments reluctantly and that reluctance stems from the pressure of public opinion and the unpredictability of the outcome.

Their constitutional validity depends on them being invoked sparingly, still claiming them to be advisory and on Parliament as a whole exercising full control over the executive's conduct to ensure scrupulous fairness. Otherwise they will be not only a device, but a refuge and even worse a manipulation.

All governments try to manipulate referenda; the worst example of this was the flagrant manipulation attempted by Prime Minister David Cameron and more worryingly the Cabinet Secretary, Sir Jeremy Heywood. They wanted to suspend aspects of the so-called "purdah" period enshrined after lessons learned from abuses in the 1975 referendum in specific legislation.

Fortunately all of this was thwarted by a cross party alliance in the House of Commons on 7 September¹. MPs were determined to uphold the Electoral Commission's views and influenced by the Public Administration and Constitutional Affairs Committee inquiry into the European Referendum Bill to which I gave written and oral evidence.

The government was forced to concede a four-month campaigning period after renegotiated terms are announced. Yet even so, the *Daily Mail*, reporting on a recent biography of Cameron, wrote about the Scottish referendum, “Under the cloak of secrecy the Cabinet Secretary and the Queen’s Private Secretary held talks to work out how she might express her concerns in a suitably coded way.”

Individual MPs who prize their independence will need more than vigilance in the granting of legislative authority for referenda that are becoming evermore frequent and evermore manipulative. They will also need brutal honesty in ensuring, as custodians of the constitution, they, as well as the people, are not being manipulated by the government.

In May 1945 Churchill's letter to Attlee and Sinclair, the leaders of the Labour and Liberal Parties, suggested that a continuation of the wartime coalition government be put to the British people in a referendum with a view to prolonging the current Parliament until the end of the Japanese War.

Attlee's rebuttal based on a large majority at a party conference rejecting the idea was salutary and blunt, very typical of the man. He said, "I could not consent to the introduction into our national life of a device so alien to all our traditions as the referendum, which has only too often been seen as the instrument of Nazism and Fascism. Hitler's practices in the field of referenda and plebiscites can hardly have endeared these expedients to the British heart." Sinclair referred to it as an "innovation" and reminded Churchill it had been "considered in times of political crisis and rejected for reasons which cannot be lightly set aside."² Both letters had powerful points and emphasise that the calling of a referendum is a very serious decision. The reason is clear: referenda, in effect, means MPs surrendering their independent and democratic position.

It took 27 years for another British Prime Minister to contemplate a referendum. As with so many constitutional innovations, partition, proportional representation, institutionalised power sharing, the first referendum in the UK took place in Northern Ireland. The announcement that it was coming came on 24 March 1972 when the Prime Minister promised occasional referenda in Northern Ireland on the issue of union with the South.

In May 1971 I had approached Tony Benn to see if he would sign an advertisement that we planned to appear in the *Guardian* on Tuesday 11 May as a European Declaration. He declined to sign, though in those days he was still considered an EEC supporter on the grounds that his opposition was not to entry but the manner of making the decision.

I also had to contact Jim Callaghan about the advertisement. On the telephone we negotiated a form of words that I could use if asked saying, "he felt it was better, as a member of the Shadow Cabinet, to stay out of signing such a declaration so he had not been given the wording". A few months later Callaghan was to succinctly sum up the political case for a referendum as providing "a little yellow rubber lifeboat on which we would all like to clamber."

In the five-day debate in October 1971 in the House of Commons 69 Labour MPs, of which I was one, voted for British entry against a three line whip with 20 abstaining. Had the 69 not kept their determination to vote against the party line, and merely abstained, and had the Conservative rebels held firm, entry would have been rejected by 46 votes. Britain would not have entered the European Community in 1973 and perhaps not even until 1997-98 under Tony Blair.

Heath should have conceded a free vote for Conservative MPs much earlier. He never received "the whole-hearted support of the British people" that earlier he claimed would be necessary for entry. In February 1972 the vote on Second Reading of the Bill was a mere 309 in favour to 301 votes against with 15 Conservative MPs voting against and 4 abstaining.

The question of consent began to dog the Committee proceedings of the Bill that were held on the floor of the House with all MPs eligible to vote. On 15 March the Shadow Cabinet discussed whether or not to vote for a backbench Conservative MP's amendment for a referendum to be held before entry. Only Tony Benn and 3 others supported this.

Next day President Pompidou announced there would be a referendum in France on the

question of enlarging the EEC. He had a political motive calculating it would split the socialists from the communists in France. But it had an immediate effect in the UK giving international legitimisation for a UK referendum.

This undoubtedly influenced the Labour Party National Executive who on 22 March voted by 13 votes to 11 in favour of a referendum - with Wilson, Callaghan and Jenkins absent.

Then on 24 March, Heath without thinking through its consequences for his wish for entry, compounded the constitutional arguments for a referendum on Europe by announcing a plan for occasional referenda in Northern Ireland.

The final demonstration of the raw nature of Labour politics was on 29 March 1972 when the Labour Shadow Cabinet reversed itself and voted by 8 to 6 with Wilson voting to accept the very proposition which he had shown no support for only a fortnight earlier. Next day two fellow members of the Shadow Cabinet told Roy Jenkins they were ready to resign.

Why did Wilson shift his position? Roy Jenkins had no doubt in a two-hour car drive together the following day that Wilson now saw him as a bigger threat personally than Callaghan who had threatened Wilson's leadership position ever since his "non merci beaucoup" speech in Southampton where he played with President Giscard d'Estaing's claim that French was the European Community's language.

A memorandum I wrote to focus minds on why we should accept a referendum, argued it would inevitably now be part of the Labour manifesto and we would have to renegotiate the terms if we won the general election.

Jenkins's arguments were passionate against mine, believing, first and foremost, that it was much harder to win a referendum 'Yes' *before* entry when fear of the unknown would be far higher than *after* we had joined. But he also believed that the mood in the Labour Party would turn ugly in any referendum campaign before an election and it would come down to a single test of getting the "Tories out".

I had already told Roy I would resign out of loyalty with him if he chose to. In truth, my position on resignation, probably his too, was not directly related to the referendum but more to self-disgust at voting against what I believed in, on the spurious grounds that on a day-to-day basis a government must carry its own legislation. I resigned with Roy and the referendum amendment was lost. From then on the die was cast - the Bill was bound to become law. The few older Labour MPs, who had quietly voted for the Bill in its Committee stages when needed, were the unsung stalwart supporters.

A discussion document called 'The Future of Northern Ireland' then came out in October 1972 and amongst its suggested reforms were proportional representation and a referendum. On 8 March 1973 the referendum, now called a Border Poll, took place. It told no-one anything new and I doubt actually built much new confidence of itself in Northern Ireland amongst those fearful of union with Eire and it has yet to be repeated. Almost 592,000 votes were cast for the proposition that Northern Ireland remain in the United Kingdom. Less than 6,500 supported Northern Ireland joining the Republic of Ireland outside the UK and the reason that figure was so small lay in the advice of the nationalists to boycott. Their action exposed the referendum as a device that can be used in opposite ways.

Sinn Fein can and does still campaign for votes in General Elections but refuses to take up the seats they have won in the Westminster Parliament. From their point of view this action is a more effective protest than being seen to lose a referendum.

The legislation, however, provided a precedent for Scottish and Welsh referendums on establishing their Parliaments in 1997 and in Scotland in 2014 as to whether they should separate. Now the people in one part of the UK can determine a constitutional question affecting all parts of the UK.

Sadly in 2015 we are still seeing the fragility of the power sharing arrangements in Northern Ireland. A federal union for the UK after the next General Election might provide a useful innovation strengthening governing structures for Northern Ireland as well as elsewhere. It is very important that not only people from Northern Ireland are closely

involved in any Constitutional Convention, but that the Convention before making recommendations discuss them with the Irish government in Dublin.

Do referendums help to heal party divisions? For Labour the 1975 healing tragically only lasted a bare five years, overtaken by the overwhelming vote at the Party conference in September 1980 to leave the EEC without even a referendum, a decision that was carried through into the General Election manifesto of 1983 that contributed to Labour's defeat. It is interesting to compare Michael Foot's determined support for this resolution and refusal to urge the Conference to compromise and Jeremy Corbyn's far more flexible response in 2015 respecting the views of the majority of Labour MPs in favour of staying in the EU.

Having established the precedent of having two referenda on the EU in the space of 40 years, it is no longer acceptable to rely just on a manifesto commitment for either leaving the EU or joining the euro. A referendum has become the only legitimate way of making any future decisions on membership of the EU. But I am not convinced that on every constitutional change there have to be referenda.

In particular if there were to be established a credible cross-party Constitutional Convention with recommendations for complex, interlocking changes to the devolved legislatures and Westminster as well as changes in voting arrangements it would be legitimate to use multi party manifesto commitments as the basis for legislation and not a referendum.

In the negotiations over the Single Market Treaty in the middle 1980s Thatcher accepted, indeed advocated, more Qualified Majority Voting than ever before authorised by Parliament. On the 14 and 28 November 1985 she foolishly ignored Nigel Lawson's written unequivocal warnings that "there should be no reference in the Treaty to EMU" and what she was signing up to was paving the way for a single currency.³ Yet by the winter of 1990 Margaret Thatcher and her most fervent supporters saw her removal as Prime Minister by Conservative MPs as being over her three strident "No's" to Europe, and characterized it as an 'assassination'.

It is important to recognise that there has been an inexorable progression within the Conservative party from Maastricht opposition in 1990, ERM ejection in 1992 to the announcement in 2013 of an in/out referendum before the end of 2017. It involves not just euro scepticism but a deep anti-European federalism.

Blair as Prime Minister pursued, out of conviction, a much more integrated EU than anyone other than Heath. He also promised a referendum on the Constitutional treaty proposed in 2004 but then cynically rescinded his promise in 2005 when the French and Dutch rejected the treaty in their referendums. Then the European Heads of Government behaved in a way that Berthold Brecht satirised, "would it not be simpler", Brecht wrote, "if the government simply dissolved the people and elected another"? European leaders ignored the verdicts of the referenda and brought back most of that treaty's provisions in the Lisbon Treaty.

Cameron, still in Opposition, used the same cynical pattern as Blair and promised a referendum on the Lisbon Treaty before it was ratified then rescinded his promise once it was ratified.

Denigrating UKIP was tried by Cameron in 2006. He called them "fruit cakes, loonies and closet racists". This then became "swivel-eyed loons" when described by someone close to Cameron. In a speech on 23 January 2013 David Cameron put himself and his party, in electoral terms, finally on the side of an in/out referendum before the end of December 2017.

Simultaneously the then leader of the Labour Party, Ed Miliband, despite his party under his leadership having voted against William Hague's European Union Act 2011, to ensure a referendum before becoming committed to any loss of sovereignty, reversed Labour's position and wisely accepted the legislation. But he matched this with a personal resolve to not endorse Cameron's in/out referendum. Ed Miliband was not open to dissuasion; for him this was a principled position; he just could not envisage as Prime Minister being bogged down by negotiations for fundamental EU change which he did not believe were necessary. Unfortunately it alienated a crucial number of potential Labour voters. A post General

Election analysis showed that greater enthusiasm for an EU referendum would have returned another eight Labour MPs ensuring that David Cameron would not have had a Conservative overall majority.

In the 2014 European Parliamentary Elections UKIP won with 27.5% of the vote. Even in the 2015 General Election UKIP did not fail in terms of votes. Whilst they succeeded in getting only one MP, they came second in important seats for the future, denting Labour in the North of England. Yet UKIP were irrelevant during the slaughter of Labour in Scotland by the pro-Europe SNP. But Labour did well in the broadly Europe-orientated London where UKIP did badly.

The Liberal Democrats had a dreadful General Election result for many reasons not least the fact that under Nick Clegg the party became evermore like continental Liberals, more market orientated than the Christian Democrats and voting for a marketised NHS in England.

The pollsters got the 2015 result wrong but the pundits are exaggerating the Conservative success because they only have a majority of 12 in the House of Commons and are already being defeated on some sensitive issues.

Labour for more than a decade has underestimated the dislike of potential Labour voters for many aspects of the UK's membership of the EU. Now Jeremy Corbyn has on this issue a chance as leader of the Labour Party to strike a better balance without Labour becoming again as in the early 80's anti EU. This shift should start by opposing the present Transatlantic Trade and Investment Partnership, TTIP, and its impact on the NHS and shape Labour's renegotiation stance into the European referendum.

While Labour should seek to influence the Conservative government's negotiating position it should also help gather support for that position amongst continental social democrats.

My own views about the restructuring of the EU, necessary to avoid an easily conceivable Brexit, are spelt out in an e-book version of *'Europe Restructured.'*¹⁴ [SLIDE A] I see this

impending EU referendum as way above and beyond party politics. It is about the future of our country, its economic, defence and foreign policy for the next half century.

At the moment the Eurozone crisis is driving a flawed form of federalism for all in the present EU. It is an EU interest, not just a UK interest, that a restructuring takes place to define and safeguard a non-Eurozone grouping as well as a Eurozone grouping with a fiscal transfer union. Also to grant full voting membership to Norway, Iceland, Liechtenstein. Also voting rights for a new member, Turkey. Then the Single Market European Economic Area would have a qualified voting mechanism to uphold the integrity of the Non-Eurozone grouping facing an integrated block Eurozone vote.

The two-year notice period before implementing an exit could be used if there has been no treaty amendment. There are no form of words or solemn declarations that are totally binding. Prior to ratification, referendums can be started and lost, governments can be changed.

If the British government reach an agreement in principle before the end of 2017 but do not achieve real and specific treaty changes prior to a UK referendum then I believe we will see a vote to leave carrying the day.

The government could, however, recommend a vote to leave but with an accompanying pledge and all-important proviso that if the treaties are amended within the two year exit period then automatically the UK exit legislation will lapse and the reserve position to stay built in to that legislation, will automatically be enacted. In effect, re-negotiating until 2019.

People are readier to cross party allegiances in referenda I suspect today than in 1975, particularly Labour voters. But that is an assumption. It will be tested. The effect of all these inter-relationships can be complex. For example, will Cameron make the issue one of confidence within his Cabinet threatening resignation, something Wilson never did? Or will Cameron allow Cabinet colleagues to campaign against his recommendation as Wilson did? The Conservative Party machine will not be involved. But will Labour's machine be involved? Will Corbyn make a virtue of Labour voters being untied from a strict Party

position that looks likely to remain broadly in favour and treat the vote as an open question? That in a referendum it is not just legitimate to do but what referendums are designed to do?

The Eurozone and the very concept of a single currency is now widely rejected across the Conservative and Labour parties. Many people remember that not very long ago the CBI and other major businessmen with the *Financial Times* were supporting British entry into the Eurozone.

Enshrined in the Government's renegotiation position is an acceptance, albeit reluctantly, that greater integration within the Eurozone is the key to overcoming its problems but demanding in compensation less integration for the Non-Eurozone. That has yet to become Labour's position but under John McDonnell, as shadow Chancellor, it hopefully will become that as well.

The 1975 "Yes" campaign of Ted Heath and Roy Jenkins used those exact words in the 'Money and Jobs' section: "There was a threat to employment from the movement in the Common Market towards an Economic and Monetary Union. This could have forced us to accept fixed exchange rates for the pound, restricting industrial growth and so putting jobs at risk. This threat has been removed."

The present continuing controversy over immigration and the rising numbers of those coming in from the EU destroying government estimates but in line with expert predictions is also calling in question amongst many previously pro-Europe voters the whole European engagement started under Harold Macmillan in 1962.

Federalism is not a Left v Right issue for the Labour Party in 2015. Federalism in all its guises was specifically rejected in a Cabinet meeting by the Labour government in July 1977 on a paper that Prime Minister Callaghan asked me to present as Foreign Secretary⁵. A referendum allows the people to reject the fudging language of Blair and Mandelson or Clarke and Heseltine on federalism and rule that out.

What the UK government and other countries must achieve in any renegotiation is clarity over the Non-Eurozone grouping never needing to be part of an integrated federal Eurozone with common European defence forces and QMV on foreign and security issues.

NATO is the creation of Labour's greatest government in 1949. Ernest Bevin crafted the wording of Article 5 with its core pledge to come to the defence of any member state under threat. NATO - more than any single country, including the U.S., and more than any other institution, including the EU - still keeps the peace in Europe.

Through military and ideological containment NATO defeated Soviet Communism when the Berlin Wall fell in 1989. Today when 70 per cent of NATO costs are carried by the U.S., Putin's Russia, though different from the USSR, is still contained. The EU has neither the will, nor does it perceive itself as having the capacity, to make up anything like that 70 per cent shortfall if the U.S. was to pull back across the Atlantic.

For the UK to pull out of NATO, which has primarily a conventional strategy, and holds in reserve a nuclear weapon deterrent, would be devastating. Far, far more damaging than the UK voting to leave the EU in the forthcoming referendum. Yet these two decisions will interact in the referendum as long as there is any doubt about Labour's commitment to NATO and with the EU providing a soft option on defence excluding evermore the US.

The Scottish Nationalists support NATO despite their opposition to Trident successor submarines being built and for nuclear weapons to come in to the Clyde. A British minimum deterrent can in fact be retained without nuclear weapons being on the Clyde.

As Foreign Secretary in government from 1977-79 privately, and ever since publicly, I argued for a minimal deterrent⁶, which means a British deterrent not designed to penetrate ABM defences, I see NATO as essential. Trident as an expensive financial inroad into our conventional defence effort. Supersonic cruise missiles conventionally armed but capable of carrying nuclear weapons at times of global tension as a prudent insurance policy⁷. As to the question of Jeremy Corbyn personally not wishing to authorise a nuclear response, Labour has already grappled with this issue in relation to Michael Foot. From 1974-79 he

was, while a full member of the Defence and Overseas Cabinet sub-Committee, never one of the four Cabinet Ministers involved in nuclear discussions or nuclear implementation.

We forget Britain under the Non Proliferation Treaty is committed to phase out nuclear weapons. Jeremy Corbyn, however, does need to make it clear in the context of the European referendum that he will keep the UK firmly in NATO whether we are in or out of the EU and that he will examine whether to retain a minimum deterrent if Prime Minister in the circumstances of the time before May 2020. We in the UK in the Budapest Memorandum of 1994 accepted the 'obligation' over the integrity or political independence of Ukraine'. Even as recently as 4 December 2009 the US and Russia confirmed these assurances and recorded them at a meeting. The memorandum had been issued from Budapest in order to help Ukrainian public opinion accept that more than 4,000 strategic and tactical nuclear weapons should be transferred from the Ukraine to Russia, in addition to 1,900 strategic nuclear warheads, a larger arsenal than Britain, France and China combined. Also included were 130 SS-19 ICBMs, 46 SS-24 ICBMs and 44 strategic bombers with hundreds of air-launched cruise missiles. The annexation of Crimea cannot now be given formal recognition. There has to be territorial negotiations involving at least Transnistria, a Russian enclave.

When the costly 'main gate' decision is taken in Parliament in 2016 hopefully Labour MPs will have a free vote. We will see many MPs, in my judgement, correctly voting against, whether Labour, SNP, Liberal Democrats, Plaid Cymru or Green.

It would not surprise me if a few Conservative MPs and others abstained because they know that there are many senior serving officers and military commentators who believe the Trident successor, on top of two large aircraft carriers being built, will cripple other parts of a balanced British conventional defence strategy. When as serious a commentator as Max Hastings writes about the Cabinet Secretary frequently visiting the Ministry of Defence to tell them what they can or cannot write about the Trident successor submarines, we know theirs is not going to be an objective Security Review.

In 1975 there was then no foreign policy for a European Union. No Defence Policy. Today

we are haunted, enthused, angry or bored - according to personal choice - by the EU's record, not least in foreign policy and with the ill chosen wording of the EU Association agreement provoking the crisis in Crimea and East Ukraine. That mood is dominated by a widely felt disappointment in the European dream. In NATO the US wish to expand into Georgia and Ukraine was wisely blocked by Germany. George Kennan, the architect of containment, denounced in the *New York Times* on 2 May 1998 NATO expansion agreed by the US Senate. "I think the Russians will gradually react quite adversely. It will affect their politics. I think it is a tragic mistake."

Article 4.1 of the EU Agreement meant to have been signed in Vilnius in November 2013 reads, "areas of mutual interest shall be further developed and strengthened between the Parties. This will promote gradual convergence on foreign and security matters with the aim of Ukraine's ever deeper involvement into the European security area.' This was reiterated in Article 7.1, which called for convergence in foreign affairs, security and defence. Article 10.3 mentioned 'conflict prevention, crisis management and military-technological cooperation' and went on, 'The European Defence Agency (EDA) will establish close contact to discuss military capability improvement, including technological issues.'

In Moscow, not unreasonably from Putin's point of view, those words 'military capability' were seen as provocative. Putin's apprehension was now confirmed that President Obama was following in the path established first by President Clinton and then President Bush Jr of ignoring all the confidence-building assurances given to Gorbachev and Yeltsin by President Bush Sr that they would not take NATO up to every part of Russia's borders in Europe.

Now we face potential problems in the Baltic States with Russia. **[SLIDE B]** We are sending troops to the Baltics announced today.

Meanwhile we have a new phenomenon in UK politics, Nicola Sturgeon, who has become, as a result of the 2015 UK General Election, a well-known and respected politician all over England, Wales and Northern Ireland. Her own nationalism and how she conducts herself is

critical as to where the UK will end up. A UK becoming more united or a UK heading for separation.

The question - and it is a very real one - is can the SNP and the Labour Party in Scotland do anything other than fight each other for the next five years? On this it has been encouraging that the London based UK leadership of Jeremy Corbyn has appointed Jon Trickett an influential Shadow Cabinet member with an additional task of embracing a cross-party Constitutional Convention. The prospect of developing some mutual respect in Scotland hinges on progress over creating a Convention in one form or another.

In late 2012 Nicola Sturgeon quotes in Strathclyde how Neil MacCormick had distinguished between “existentialist” and “utilitarian” varieties of Scottish nationalism, the first demanding independence simply because that is what nations should have, and the second seeing it as a route to a better society.

In a perceptive article in the *Guardian* on 23 April 2015 Ian Jack reported Sturgeon as recognising that there were some (by implication older) SNP members who were existentialists of the first kind, while others were of both kinds, but she was utilitarian; for her “the fact of nationhood or Scottish identity is not the motive force for independence ... nor do I believe that independence, however desirable, is essential for the preservation of our distinctive Scottish identity. And I don’t agree at all that feeling British – with all of the shared social, family and cultural heritage that makes up such an identity – is in any way inconsistent with a pragmatic, utilitarian support for political independence.”

Sturgeon’s position was a fascinating revelation and potentially a very important one over the timing of any future Scottish referendum. Better to stick to an interval linked to a settled will of the Scottish people with no dates attached. For example, some are arguing for Westminster to make an exception by allowing another Scottish referendum soon after any Brexit vote in a referendum in 2016 or 2017. But that has profound and many-sided dangers.

There is a principled objection to the constitutional integrity of a UK-wide EU referendum

carrying a threat of another referendum. The last minute intervention of three party leaders with the "Vow" smacked of an inter-party deal in the Westminster parliament and tainted the referendum.

A constitutional referendum result needs to be respected everywhere in the UK.

Separation has also a European dimension. There are countries like Spain and Belgium, to name but two, who are not going to accept a separate Scotland in the EU for fear of stimulating their own separatists. More honesty on that issue is needed. Particularly it would apply where repeat referendums are called by the Scottish Parliament without the support of the UK government.

There are other ways of introducing democratic reform than rolling out referenda after referenda. The present Conservative government have made it clear that there will be no all-party Constitutional Convention before the 2020 election⁸. A cross party Constitutional Convention depends on the Labour Party working with the SNP to ensure it has the widest possible support, authority and participation.

A first order question for such a cross party Constitutional Convention is can they and should they break the assumption hitherto that it will be followed by a referendum? A demonstration of both the unpredictability and the capacity for the manipulation of a referendum is the national Alternative Vote referendum conceded by the Conservative Party in the negotiations with the Liberal Democrats as the price for a coalition government in May 2010. Every poll in the second half of that year showed AV being won in a referendum. By February 2011 Ipsos/MORI had "Yes" on 49% and AV looked certain to be endorsed in ten weeks time.

Cameron was forced to focus on the issue by Osborne who is reported to have said, "we have to win this thing; who cares what Clegg thinks?"⁹ Cameron true to his reactive "Flashman" character moved fast. Money was found to overpower the "Yes" to Fairer Votes campaign. More people became aware that AV was neither truly proportional nor fair

and can have bizarre results. Some saw it as another manipulation agreed post election inside the coalition by Conservatives with no electoral mandate. The "No" campaign spent the last few weeks exposing the three 'Cs': cost, complexity and Clegg, who was lampooned. Cameron now talked of AV being "bad for democracy". On 5 May the referendum resulted in the "No" campaign achieving 67.9% support with 30.1% voting "Yes" to AV. The turnout was a miserable 42.2%.

It is hard to see referendums after this AV debate as the only respectable, let alone only legitimate, way for a democracy to change the constitution and/or voting system. Certainly the manifesto mandate route will and should be tried at some point in the future on voting reform, deliberately excluding referenda. House of Lords reform is also, after even modest reforms, are being sabotaged and the place even more dominated by patronage, a subject better dealt with through a manifesto mandate and stem from a Convention based on a federal UK.

This raises the question of the design of a people-led broad-based Constitutional Convention that should be established by opposition parties in 2016. It needs extensive public consultation and academic input but it will fail in Parliament unless there is cross-party involvement from people close to the party leaders that can help ensure its recommendations are carried through into party manifestoes by the 2020 General Election. This was what happened over the creation of the Scottish Assembly and the practical steps on devolved government where Donald Dewar played such an important role.

What the coalition government of 2010-15 demonstrated is that the post-election horse trading to form a coalition government, with no prior manifesto authority, is not a sufficient let alone a satisfactory basis for ensuring legislation. Yet the introduction of Fixed Term parliaments having survived one General Election has demonstrated some staying power for a post election "fix". If it survives post 2020 it may become permanent in which case it is likely to be a key precondition in place for proportional representation, itself the glue for a Constitutional Convention.

The 'West Lothian question' will need to be addressed but that will never have a simple answer. The McKay Commission chaired by the Clerk to the House of Commons from 1998 until 2002¹⁰ made a good start with the delicacy of watchmakers, and crafted with the skill of seasoned and acute observers of Parliament.

Sadly the House of Commons has not been able to reach agreement.

The other important aspect to the Scottish referendum has been how it has inspired a sensible concept if not schemes in England to devolve more decisions to the bigger cities: London, Birmingham, Manchester, Leeds, Liverpool and Newcastle, to Cornwall and elsewhere. In part this follows the success story of the gradual introduction of powerful elected mayors.

The time has surely now come for a small elected four-national second chamber, revising laws across the UK. If some appointed members were to be retained they could vote on non-legislative matters, while speaking on any subject, but only elected members would vote on the floor of the chamber. This proposition was a compromise discussed in 1911, the last time the Lords was seriously reformed. The present Lords is exploding under the load of its own contradictions. Broad reform across the UK through a Convention offers a path to enlightened federalism.

I will highlight only one possible model for a second chamber and that is the US Senate where the elected Senators are a reflection but not an exact copy of the population of the USA. Every State with its own legislature sends two Senators to Washington irrespective of the size of its population. What if the House of Commons continued to follow the UK population like the House of Representatives but the reformed second chamber of the UK followed more closely US Senate representation.

Such a second chamber even though elected would have mainly the existing powers of delaying as well as revising legislation, but in addition it could be empowered to block and to instigate constitutional change in the UK.

Its membership, by not exactly following the populations of England, Northern Ireland, Scotland and Wales, could more easily establish, as in the US Senate, a significant vote percentage where representatives in such a UK federal chamber could have a legitimate blocking vote on constitutional matters that could not be overridden by English votes within the second chamber. This is a delicate mechanism to devise but if the right balance is achieved it could be a powerful unifier for the UK and seen as such by fair-minded people.

It is an important sign that Jeremy Corbyn as leader of the UK Labour Party, elected by close to 60% of paid-up members without counting supporter votes, aims to give priority to a constitutional convention. The Labour Party historian, Greg Rosen, interestingly uses the term 'progressive alliance' in relation to the breakthrough period in the party's history 1901-1906 under Keir Hardie. "Hardie was always an uncertain supporter of 'a progressive alliance' but he went along with MacDonald's covert negotiations on a secret electoral pact with Liberal Chief Whip Herbert Gladstone in 1903. As a result Labour secured a clear run from the Liberals in 30 seats at the forthcoming election¹¹.

Here there is a choice. Can the parties build enough trust to bind themselves in before the election to work together after the election?

The first issue that looks as if it might face any progressive alliance, in terms of today's parliamentary timetable, and could perhaps be the first building block of any progressive alliance for the next election, would be the NHS Bill¹² designed here in Queen Mary's by Allyson Pollock's team. This is UK-wide in its significance but focused on England and will challenge the slogan English votes for English legislation. The Bill is before the House of Commons in the name of the Green Party MP, Caroline Lucas. Before the General Election as well as after the Election its cross party sponsors were Jeremy Corbyn, John McDonnell and all SNP MPs, including their present health spokesperson in the Commons.

That Bill¹³ is due for its Second Reading on 11 March 2016. Whether it progresses could be the litmus test as to whether a progressive alliance is possible. The Liberal Democrats face an early choice of whether, under their new leader, Tim Farron, they are ready to divorce

themselves from their earlier support for the Health and Social Care Act 2012. No 'progressive alliance' worth the name will survive with one party keeping the option open on doing a deal with the Conservatives again in 2020 and supporting the marketising of the NHS.

Another progressive alliance building block must be establishing a cross party Constitutional Convention with the aim of bringing forward draft legislation for a federal structure for the UK. That could be accompanied by a commitment to legislate any agreed recommendation early after a successful General Election and as they would be entitled to do to act without a referendum.

Any Convention seriously addressing the UK which has to include individuals close to the separatist SNP would be making a massive mistake to exclude Sinn Fein which has cooperated with power sharing. It would have Liberal Democrats but would not have the Conservative Party and sadly possibly not the DUP. But by choosing people as individuals it can be easier to forge a consensus in the UK as a whole.

Nicola Sturgeon said in 2012 that Scotland had to focus on – and here I quote - “the most effective political and economic unit to achieve the economic growth and the social justice that the Scottish people want. It is, in many ways, our version of the same question being asked across all mature western democracies: how to build a thriving but sustainable economy that benefits the many, not the few. The Westminster system of government has had its chance – and failed. Today, independence is the pragmatic way forward.” On this basis she can, I imagine, conceive at least of a progressive alliance. A Convention establishing a better pragmatic way forward than Scottish separation from the UK. Already many of the gas and oil revenue assumptions on which the SNP campaigned in 2014 have been shown to be invalid. There are many critical constitutional questions and techniques for cooperation to study and fulfil.

To start to establish a Convention infrastructure, appoint research workers, and agree on an independent Chair of the proceedings might be possible early in 2016 but start after the May elections. Then its recommendations could be submitted before the end of 2018 or

early in 2019 allowing the political parties, who would be well represented in all its decision making, to have time to absorb its decisions at their conferences and agree recommendations well before the General Election. This would give time for party politicians to compete for votes while at the same time presenting themselves as ready to fight for constitutional change as a cross-party manifesto commitment not subject to a referendum.

Sometimes people talk of constitutional reform as an academic subject something to be done only by all party reform. That is rubbish and we should remember, for instance, how, on the 24 July 1911 during the Parliament Bill, the Conservatives howled down Asquith as Prime Minister for 30 minutes in partisan rage while he remained on his feet unable to speak until Foreign Secretary Grey intervened¹⁴.

My great grandfather, Alderman William Llewellyn, Liberal leader of Glamorgan County Council was also Chairman of his Liberal and Labour Association. They made 'seat deals' for the 1906 Liberal victory and I have no hesitation in saying that Labour will have to become more open-minded on individual seat deals with any parties who wish within a truly progressive alliance if they are to stand a chance of becoming the government in 2020.

Pacts or deals do not involve merging of parties or the loss of their identity, but they can be the means to legislate for a constitutional accord. Such an accord might be one where the parties that want to separate agree to stay in the UK, to participate in a federal union and have proportional representation across the UK. To help achieve all that it is surely worth persuading some constituencies to stand down, particularly where two seats are contiguous and they can have a better chance of victory in the other. This is radical politics such as we have not seen for many years, but it is cross party, not one party. Inclusive, not exclusive. This is not hard left. Nor Trotskyist but socially responsible and capable of uniting the UK.

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