

Bagehot Smiling: Gordon Brown's 'New Constitution' and the Revolution that Did Not Happen

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HISTORY never repeats itself but it is surprising how often it rhymes. Although the 'new politics' narrative, promoting a stark institutional and cultural shift away from the power-hoarding and adversarial system of politics and government, has been a constant theme of British politics for several decades there has been surprisingly little change at the *national* level. This might, at first glance, appear a counterintuitive line of reasoning in light of, *inter alia*, the introduction of devolution, incorporation of the European Charter of Human Rights (ECHR) and the establishment of a Supreme Court. And yet the critical dimension of the reform agenda does not lie in the individual institutional reforms, but in the superstructure: the reform agenda was constructed within and conditioned by the precepts of the Westminster model. It was in this vein that Norton notes that 'they [New Labour] have taken the Westminster model, the traditional constitution, and modified it, some would say vandalized, and not actually replaced it with a new form of constitution'.¹ Bogdanor similarly notes, 'the reforms since 1997 do not amount to a new constitutional settlement'.² And yet, as Lijphart notes from a comparative perspective, 'fundamental constitutional changes are difficult to effect and therefore rare'.³ They are rare because they often depend on an incumbent executive being willing to fetter their own governing capacity. This is why political science has for some time emphasised the role of crises as historical

points in which constitutional configurations may be recalibrated in a more extreme manner than would ever be likely to occur through typical day-to-day political negotiations. Put simple, crises can provide a political jolt through which basic assumptions and entrenched power relationships within a polity can sometimes be reviewed afresh.

With this in mind it was a strange twist of history that saw Gordon Brown outline the case for 'fundamental change' of the British constitution in the wake of the MP expenses scandal almost 200 years to the day since the death of Thomas Paine on 6 June 1809. If great constitutional theorists haunt the Palace of Westminster what might Paine have felt sitting in the gallery and watching Brown's statement to the House? Paine himself was a radical, an intellectual and a polemicist whose works shaped the nature of politics in France, America and (to a lesser degree) Britain by arguing against elite rule and in favour of democracy. His *Rights of Man* (1791) argued that 'only partial advantages can flow from partial reforms' and set out the case for a fundamental restructuring of the British state and democracy. Looking down from the gallery then in the opening decade of the twenty-first century Paine may well have been incensed to hear that debates concerning the need to reform the House of Lords, change the electoral system and possibly introduce a written constitution remained unresolved and that Britain still remained a constitutional monarchy. The

MP expenses scandal would not have surprised Paine but further vindicated his critique of political self-regulation. Walter Bagehot by contrast, the great constitutional theorist of the nineteenth century who's *The English Constitution* (1867) exposed and implicitly praised the British model of executive government, sitting next to Paine in the gallery may well have smiled.

This article makes a very strong argument about constitutional reform and democratic renewal in Britain. The MP expenses scandal is extremely unlikely to lead to the 'radical redistribution of power' that the Leader of the Official Opposition, David Cameron, demanded on 26 May 2009 and that the Prime Minister, Gordon Brown, spoke in favour of in the House of Commons on 3 June 2009. Brown *may* have the political inclination but he lacks the capacity to deliver far-reaching reform; Cameron is likely to have the capacity but not the inclination. This, in turn, brings us back to the logic and insight of Paine's writing over two centuries ago, particularly the warning that a

[c]hange of ministers amounts to nothing. One goes out, another comes in, and still the same measures, vices and extravagance are pursued. It signifies not who is minister. The defect lies in the system. The foundation and the superstructure of the government is bad.

This article is not, however, an argument in favour of reform (cf. Paine) or continuity (cf. Bagehot), but an attempt to look beneath the current discourse and narratives on constitutional 'crisis' and democratic renewal in order to deepen our understanding of six interrelated issues:

- How the MP expenses scandal has affected public attitudes to politics;
- The reasons why the scandal was so rapidly inflated as a 'systemic crisis' as opposed to a specific incident;
- How the government responded in terms of institutional adaptation and commitments to change;

- The degree to which this response reflected a strategic and principled approach or further evidence of constitutional anomie;
- The likely trajectory of democratic renewal; and,
- What is missing from the current debate about constitutional reform and revitalising politics.

The article is divided into three sections. The first section focuses on the first two issues by examining attitudinal data and survey evidence on how the MP expenses scandal has affected public opinion regarding politicians and political institutions. It then proceeds to reflect upon this data in terms of how and why the specific issue of MP expenses so quickly became interpreted as evidence of 'systemic failure' and 'democratic meltdown'. The second section then examines the government's response to the MP expenses scandal and then locates this reaction within the contours of broader debates concerning New Labour's approach to democratic renewal at the national level (the third and fourth issues). The simple argument being that despite the cross-party rhetoric about a 'clean break' and the need for a far-reaching redistribution of powers, this is highly unlikely to occur. Although specific parliamentary reforms are likely due to the existence of cross-party support, the political mainframe will not be reconstituted. This, in turn, raises questions about the interrelationship between context, agents and structures, and, importantly, the politics of public expectations as it relates to democratic renewal. With these factors in mind the final section returns to the work of Paine and examines the fifth and sixth issues by commenting on the likely trajectory of democratic renewal in Britain, reflecting on the manner in which the British political elite have approached the topic and highlighting some central issues that have, as yet, been missing from the

debate on constitutional reform and the revitalisation of politics.

The MP expenses scandal, public opinion and the perception of crisis

In May 2009 the *Telegraph* newspaper published extensive details of how MPs had utilised the expenses regime over recent years. This created a widespread sense of public anger as, day-after-day, more revelations were revealed about the manner in which MPs had apparently abused the Additional Members Allowance to make significant personal financial gains. The specific details of the MP expenses scandal has been reviewed in detail elsewhere and it is sufficient here to note that it led to the forced resignation of the Speaker of the House of Commons and several ministers, the de-selection or early retirement of a significant number of MPs, the voluntary repayment of over £700,000 by MPs, a palpable feeling of crisis within the Palace of Westminster (including reports that some MPs had been placed on 'suicide watch' due to concerns about their mental health), the election of a new 'clean break' Speaker, police investigations and an Inland Revenue inquiry, and an almost frenzied media and public debate about the failings of British democracy and the need for far-reaching reforms. Such was the public outcry that observers 'speculated that a political crisis of such magnitude had not been seen in Britain in living memory, and that it had caused a collapse in public trust in politicians so comprehensive that the entire basis of parliamentary democracy might well be in jeopardy'.⁴ This prompts two critical questions: What does opinion poll data reveal about the impact of the MP expenses scandal on public attitudes to politics; and how and why did a specific issue become so rapidly amplified into a 'systematic crisis'?

At the beginning of the twentieth century Lowell stressed the pride and respect held by the British public in their system of government: '[T]he typical Englishman believes that his government is incomparably the best in the world. It is the thing above all others that he is proud of... he is certain that the general form of government is well-nigh perfect.'⁵ Similar attitudes were far less widespread at the beginning of the twenty-first century. Attitudinal data and survey evidence on public attitudes suggests that the MP expenses scandal has significantly reduced public confidence, faith and trust in politics. Figure 1—and indeed all the data for 2009 provided in this section—suggests a marked recent increase in the proportion of the public believing the system could either be 'improved quite a lot' (38 per cent) or 'needs a great deal of improvement' (37 per cent). The only period at which public opinion was so disapproving was in the mid-1990s when the Conservative government led by John Major was mired in accusation of sleaze and corruption. Furthermore, recent polls also suggest that 80 per cent of voters want non-party candidates to stand against incumbent MPs—evidence that has been interpreted as a shift in socio-political attitudes from *passive-cynical* to *active-cynical* as a result of the MP expenses scandal (discussed further below).

Shifting the lens of analysis away from broad public attitudes to more specific questions concerning Parliament reveals an even starker erosion of public confidence (see Table 1). In 2001, 45 per cent of the public were satisfied with the way that Parliament was doing its job; that figure has now fallen to just 20 per cent (that is, down 25 points). Eight years ago satisfaction with Westminster was 45 per cent compared to 30 per cent dissatisfied, a three-to-two ratio; now it is 20 per cent to 63 per cent, three-to-one dissatisfied (a 29 per cent swing). Respondents who say they are 'very dissatisfied' with the way

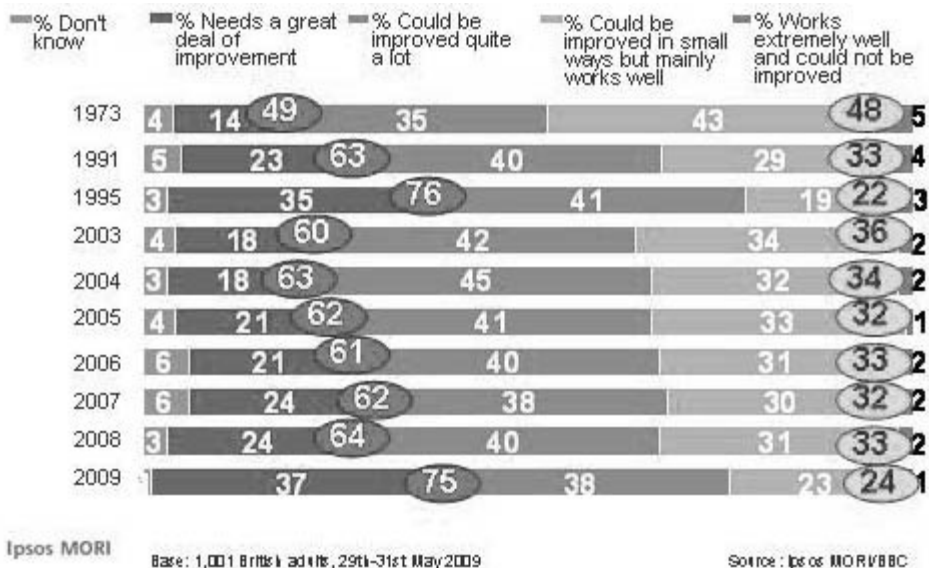


Figure 1. Present system of governing (Q6. Which of these statements best describes your opinion of the present system of governing Britain?)

Parliament is doing its job has tripled from 11 to 33 per cent.

One interesting attitudinal element of Table 1 is the manner in which it suggests that public satisfaction is actually now higher for the House of Lords than the House of Commons (23 and 16 per cent, respectively). This in itself may well reflect not any sudden surge in public support for non-elected forms of representation, but simply the decline in public trust and confidence in MPs. The simple strapline of the public opinion data is that the divide between the governors and the governed has widened. The public believes that MPs in general are primarily self-interested and willing to put their own interests before their constituents' (see Table 2) and that they are increasingly untrustworthy (Table 3). Reflecting on the data, Bob Worcester, Chairman of Ipsos/MORI, concludes:

[A] third of the electorate are not just sullen, they're mutinous! Compared with the dark unhappy days of the Major Government in the mid-1990s and its problems with sleaze, the problems facing Gordon Brown are monumental. Certainly one thing upsetting the

body politic big time is all the kerfuffle over MP expenses.⁶

The evidence and data would certainly appear to support the contention that the MP expenses scandal has further eroded public trust and confidence in politics, but should it really be interpreted as a 'crisis' or an example of the 'meltdown of British democracy' as some commentators have suggested? The issue of crisis narration, promotion and perception is particularly significant in relation to the next section's emphasis on how the government has sought to respond to the public and media outcry because crises frequently create 'windows of opportunity' through which far-reaching reforms can be implemented.⁷ Dominant assumptions about the efficacy of certain governing arrangements can be destabilised by a crisis that, in turn, reduces the capacity of the incumbent government to prevent reform while at the same time increasing the resources of reform advocates. Civil wars, natural disasters, the granting of independence, invasions—to name just a few examples of crises—can all lead to a seismic shift in governing and public

Table 1: Public institutional satisfaction levels (To what extent are you satisfied or dissatisfied with the way each is doing its job these days? Are you ...?)

	Year	Very satisfied	Fairly satisfied	Neither/ nor	Fairly dissatisfied	Very dissatisfied	Don't know	Total satisfied	Total dissatisfied
Westminster Parliament	2001	4	41	16	19	11	9	45	30
	2009	2	18	11	30	33	6	20	63
House of Commons	2009	1	14	10	30	41	4	15	71
House of Lords	2009	3	20	15	22	28	12	23	50
Scottish Parliament	2001	7	47	17	11	10	8	54	21
	2009	14	34	14	25	10	3	49	35
National Assembly for Wales	2001	7	32	16	16	13	16	39	29
	2009	8	62	4	14	13	0	70	26

Note: Data for 2009 collected on 29–31 May 2009 (that is, in the wake of the expenses scandal).
Source: Ipsos/Mori 2009.

Table 2: Public beliefs on the motivations of MPs (*In general, whose interests do you think MPs put first: their own, their constituents', their party's or the country's?*) (percentages)

	1994	1996	2006	2009
Their own	52	56	45	62
Their party's	26	27	28	21
Their constituents'	11	7	9	7
The country's	5	5	14	5
Other	1	1	1	1
None of these/don't know	5	4	3	4

Note: Data for 2009 collected on 29–31 May 2009 (that is, in the wake of the expenses scandal).

Source: Ipsos/Mori 2009.

Table 3: Public attitudes towards the trustworthiness of MPs (*I am going to read out some different types of people. Please tell me which you would generally trust them to tell the truth and which you wouldn't.*) (percentages)

	Trust to tell truth	Do not trust to tell truth	Don't know
MPs in general			
2004	27	67	6
2006	30	60	11
2009	20	76	3
Your local MP			
2004	47	45	7
2006	48	39	13
2009	40	44	6

Note: Data for 2009 collected on 29–31 May 2009 (that is, in the wake of the expenses scandal).

Source: Ipsos/Mori 2009.

attitudes, and for this reason the notion of a 'governing crisis' is tied into analyses of regime change and democratic transition. Crises are therefore often associated with a 'fresh start' or a new beginning that in political terms may be reflected in the design and entrenchment of a new constitution.

It is neither possible nor necessary to explore the extensive body of literature on the interplay between crises and democratic transitions (a literature that for obvious reasons is generally focused on South America, Southern Europe and the former communist countries in Eastern Europe), but it is possible to draw out a number of critical issues or reference points in order to assist with our later

analysis of recent developments in Britain. Three reform variables seem particularly critical. First, there must be *public pressure* for change. Public pressure acts as an almost tangible resource that pro-reform advocates can channel in order to control the political agenda, and thereby defuse executive veto capacities.⁸ Second, there must usually be a *constitutional entrepreneur* (that is, a strategically located actor within government with the capacity to drive forward reform and prevent marginalisation or the introduction of executive veto points).⁹ Third, the crisis must be of such magnitude that it induces a broader *ideational shift* among the political elite that some form of democratic transition is not only appropriate, but

also largely inevitable. Iran, for example, is currently experiencing a constitutional crisis, but whether this will lead to a democratic transition is currently unclear. There is clearly public pressure for change, but the capacity of opposition leader, Hossein Moussavi, to act as a constitutional entrepreneur is limited by his position outside government; it is also clear that the Iranian government has not embraced an ideational shift in favour of a need for change. The presidential election of June 2009 and the subsequent political aftermath in Iran does possibly place the recent 'crisis narratives' in Britain in perspective.

The MP expenses scandal was not a crisis. It was a specific incident that was amplified by the media, opposition parties and some reform advocates to create a public perception of a crisis: there was lots of smoke, but arguably little fire. This argument provides a buckle between the constitutional history of Britain and the subsequent response by Gordon Brown's government to the issue. As King notes: 'The phrase "constitutional crisis" is overworked: there has not been a *true* constitutional crisis in Britain since before the First World War.'¹⁰ Compared to most other advanced liberal democracies Britain has fared rather well in avoiding 'constitutional moments' exactly because the British political elite have been able to absorb societal tensions using the malleability of the constitutional framework to defuse issues that in other countries might have led to far-reaching regime change.¹¹ In a sense, the British political elite have been sensitive to the need to 'give a little, to secure a lot' at various historical junctures when pressure for change needed to be vented and channelled (examples include the Great Reform Act 1832, the design of the Salisbury Convention in 1911, and various devolutionary pressures during the twentieth century). The dominant theme of British constitutional history is therefore continuity; the fundamental characteris-

tics of an essentially quasi-elitist form of modern democracy, couched and promoted in the form of the Westminster Model, remain essentially uncontested.

This focus and awareness of the absence of governing crises within British politics allows us to both critique the existing literature and prepare ourselves for the analysis of Gordon Brown's response to the MP expenses scandal. In terms of critique it is possible to suggest that scholars of British political studies have tended to be too insular—even parochial—in their comprehension of the drivers of democratic change. Foley's *The Politics of the British Constitution* (1999), for example, lists no less than ten 'constitutional fuels' (centralisation, governmental excess, personal misconduct, etc.), but overlooks what comparative political science has repeatedly revealed as arguably the most critical fuel: crisis. The notion of 'fuel', in the context of a crisis, is closely tied to public pressure and the need for any political party to bring itself within the contours of public preferences in order to secure election or re-election. And yet what is interesting about the MP expenses scandal is the manner in which evidence of public anger, outrage and frustration has simply not been translated into direct public pressure for change. This is a critical point.

A 'crisis of trust' will not automatically place pressure on politicians to reform a polity unless it exerts a real-world force for change (that is, it must be cynical-active rather than cynical-passive). And yet although the MP expenses scandal may have reached the parts of the public that other scandals failed to reach, it appears to have reinforced rather than changed an almost fatalistic cynical-passive social outlook. In this sense it proved what the majority of the public already thought about politicians; and as a result the social amplification from specific controversy to systemic failure was therefore facilitated by the existence of an already receptive socio-political context.

Kohn, and other observers, are therefore wrong in their argument that the MP expenses scandal has led to a societal shift ('it's fired a real anger') from passively cynical to actively cynical.¹² There is very little evidence, if any, for this assertion. In recent years the British public have marched on Westminster and Whitehall in their hundreds of thousands about fox hunting, gay rights, globalisation, wars in foreign countries and a host of other issues, but the MP expenses scandal provoked no direct manifestation of social anger. That is not to suggest that the incident was not significant, that MPs were not rocked by the scale of public disquiet or that reforms of some kind will not be implemented. However, it is to suggest that the absence of an active citizenry reduced the pressure on the government to make good their rhetorical comments on the need for radical reform and a 'clean break'. Put slightly differently, the existence of a 'governing crisis' is to a great extent demonstrated by the capacity of the incumbent executive to control the agenda or whether a political confluence of forces exists of such magnitude that the capacity of the government to prevent or limit change is eviscerated. With this in mind it is necessary to examine the manner in which Gordon Brown's government responded to the scandal.

Gordon Brown and democratic renewal: rhetoric and reality

This section examines the response of the Labour government to the MP expenses scandal and particularly emphasises the creation of what could be termed an 'expectations gap' between what was rhetorically promised and what was actually delivered. This, in turn, deepens our understanding of the role of crises in reshaping politics, how political actors can adopt strategically selective positions and the realities of executive politics. This section further supports the argument

that the MP expenses scandal was not a governing crisis that is likely to significantly change the nature of British democracy. If anything, the incident created more heat than light and may well lead to the introduction of ill-prepared reforms that will further widen constitutional fault-lines that have existed for some time. However, as has already been mentioned above, crises—or more importantly, the public perception that a crisis exists—creates opportunities as well as threats. As President Obama's Chief of Staff recently emphasised: 'Never let a good crisis go to waste—[its] an opportunity to do things you could not do before.' This adds a certain rational-choice theoretic dimension to recent debates about the Labour government's response to the MP expenses scandal because comparative constitutional analysis suggests that—crises apart—constitutional entrenchment strategies are often linked to changing electoral incentives. Put simply, the costs and benefits of diluting constitutional powers lessens for a government as they move towards the end of their term in office and their chances of re-election appear slim.¹³ And yet what this section reveals is a complete lack of strategic thinking, the introduction of partial reforms, the rapid closure of any 'window of opportunity' created by the scandal and the government (and opposition) quickly reverting back to type in terms of majoritarian instincts.

The manner and style in which New Labour altered the British constitution under the leadership of Tony Blair (1997–2007) has been well documented and is summarised in Table 4. In terms of dissecting the general approach to constitutional statecraft during this period it is possible to highlight five main characteristics: first, a failure to explain the principles or rationale underlying the reform process¹⁴; second, a lack of coordination in the sense of viewing the constitution as an integrated entity; third, a

mixture of timidity and radicalism (that is, the 'Blair paradox'); fourth, a tendency to make surprise announcements (the Tommy Cooper approach to government 'Just like that'¹⁵) without undertaking informal consultation or detailed preparatory work leading to a perception that the government was frequently floundering, ill-prepared, over-hasty and, at times, simply shoddy in relation to constitutional reform; and fifth, despite the fact that historians will probably judge changes to the British constitution as one of the most significant legacies of his period in office, Tony Blair was (Northern Ireland apart) famously uninterested in constitutional reform. He was not a constitutional entrepreneur. According to one senior official, whenever the issue of constitutional reform was raised in a meeting Blair's eyes 'just glazed over'.¹⁶ Most significantly, the final years of Tony Blair's tenure were characterised as a situation of 'constitutional anomie' because the government appeared completely unable to explain why it had undertaken reforms in some areas but not others, outline exactly what their reforms had been trying to achieve, or provide a coherent position on how to complete longstanding elements of 'unfinished business'.¹⁷

It was due to this situation of constitutional anomie that Lord Norton has suggested that Tony Blair, 'set off with an agenda in which he had little interest, he generated a set of constitutional changes that do not hang together, and he bequeaths to his successor an absence of any coherent view of what type of constitution is appropriate'.¹⁸ Bogdanor similarly suggested that Britain was 'constitutionally speaking, in a half-way house',¹⁹ while King concluded more starkly that the British constitution was 'a mess'.²⁰ The 'Blair legacy' was also challenging in relation to social attitudes because despite New Labour's ambition to rekindle public trust in politics, data for the decade 1997–2007 revealed a

further decline in public confidence in politics.²¹

Nevertheless Gordon Brown's tenure as prime minister (Stage 4, 2007–2009) began optimistically. As Chancellor of the Exchequer, Brown had always been more sensitive to the existence and implications of constitutional anomie, and during the government's second term (2001–2005) he signalled his anxieties in a number of speeches and statements in which he called for a 'new constitutional settlement'.²² It was against this background that he made the issue of public trust and democratic renewal the topic of not only his May 2007 leadership campaign, but also his first public statement as PM and his government's first policy document: *The Governance of Britain*. Although the foreword to this document spoke of its intention to forge 'a new relationship between government and the citizen, and begin the journey towards a new constitutional settlement', its actual reform proposals were limited in both scope and ambition.²³ Moreover, when the subsequent white paper and draft bill were published in March 2008 many of the government's most significant proposals had been removed or diluted.²⁴ The Political Studies Association suggested that the majority of the reforms were 'cosmetic' and together constituted 'a rag-bag of potentially clashing proposals, aspirations and objectives'.²⁵ Most significantly, the *Governance of Britain* agenda appeared unable to respond to Hazell's plea that whoever succeeded Tony Blair should offer a 'new narrative' that can present a 'better justification for the first wave of reforms than the bland word of modernisation'.²⁶

Three elements of the *Governance of Britain* agenda link back to the notion of 'constitutional anomie' discussed above. First, there was a massive gulf between the ambitious rhetoric of 'new politics' and the rather weak and insignificant package of reforms placed on the agenda.

Table 4: New Labour, constitutional reform and democratic renewal

Epithet		Period	Main measures	Prime minister
Stage 1	Activity	1997–2001	Devolution to Scotland, England, Wales and London; operational independence to the Bank of England; incorporation of the ECHR; introduction of statutory FOI regime; ‘Stage 1’ reform of the House of Lords; creation of Electoral Commission and independent regulatory framework for political parties.	Tony Blair
Stage 2	Fatigue	2001–2005	Creation of a ‘second class’ Supreme Court; amended the role and powers of the Lord Chancellor; established Judicial Appointments Commission.	
Stage 3	Anomie	2005–2007	No significant measures or leadership concerning the future agenda, direction of constitutional travel or ‘unfinished business’.	
Stage 4	Optimism	2007–2009	<i>Governance of Britain</i> (Cm.7170) agenda: based around limiting the executive’s Royal Prerogative Powers, making the executive more accountable, increasing public participation, and considering a British Bill of Rights and Responsibilities.	Gordon Brown
Stage 5	Timidity	2009–	Proposed shift to external statutory regulation of MPs to prevent financial abuses. Creation of a parliamentary commission to advise on Commons reform. <i>Building Britain’s Future</i> (Cm.7654) pledged the introduction of the delayed <i>Constitutional Reform Bill</i> during the 2009–2010 session (place Civil Service and House of Lords Appointments Commission on a statutory footing; ensure that the existing hereditary peers will not be replaced when they die).	

The *reality* was consistently less courageous than the *rhetoric*. Second, the programme of reform offered absolutely nothing in terms of innovation, fresh thinking or originality. It regurgitated a series of measures that had been discussed for years that may have marginal consequences for the distribution of power but offered little in terms of introducing or experimenting with more participative or deliberative tools of democracy: it was 'as if the National Trust has been brought in to restore a declining constitutional relic'.²⁷ Finally, the *Governance of Britain* agenda focused on a number of quite anomalous constitutional questions—rules about flying the Union Jack over public buildings, the public's rights to protest in Parliament Square—while failing to confront the much bigger questions concerning 'unfinished business'—House of Lords, electoral reform, English devolution and so on. Taken together, the agenda reflected a lack of ambition that was made all the more stark by Brown's long-term personal support for constitutional change. Indeed, such was the paucity of ambition and content that the joint committee that was convened to undertake pre-legislative scrutiny of the draft *Constitutional Reform Bill* concluded:

We recognise that the draft Bill is a first step in a wider programme of reforms to the constitution. However, we have found it difficult to discern the principles underpinning the draft Bill and we ask the government to reflect further on whether 'Constitutional Renewal' is an appropriate title.²⁸

Progress with the *Constitutional Reform Bill* was, however, prevented by the global financial crisis and the bill languished in a legislative queue for eighteen months until the MP expenses scandal forced the government to turn its attention back to constitutional reform and democratic renewal. Again the 'new politics' narrative was re-introduced to political discourse by a PM who told the House of

Commons: '[I]n the midst of all the rancour and recrimination about expenses, let us seize the moment and lift our politics to a higher standard. Let us stand together for integrity and democracy'.²⁹ For some observers the MP expenses scandal, coupled with opinion poll evidence that suggested the Conservative party was likely to win the next general election, might provide the hook on which Brown could hang, at last, a transition to a more pluralist, participatory and power-sharing model of democracy, but in the event the opportunity was not taken. The 'post-crisis' agenda involved the announcement of specific measures to rectify concerns regarding MPs allowances—specifically the creation of a statutory Independent Parliamentary Standards Authority (IPSA) and the introduction of criminal offences to cover false claims—alongside a number of non-committal comments regarding the future of five much bigger reform issues (stimulate a 'public debate' about a written constitution, 'consider' devolution within England, 'take forward a debate' about electoral reform, 'publish proposals' for Stage 2 reform of the Lords, and 'consider' ways of improving electoral registration and turnout).

The tangible outcome of the MP expenses scandal will therefore be significant but not dramatic. IPSA is a specific response to a specific issue that may well end the atmosphere and culture of 'club government' within the Palace of Westminster, but it will do little in terms of affecting the superstructure of British democracy. A Parliamentary Commission (chaired by Tony Wright MP) examining further modernisation of the House of Commons may lead to some sensible reforms, but is unlikely to lead to a fundamental shift in the balance of power. Brown committed his government to nothing that would radically redistribute power. If the MP expenses scandal opened a 'window of opportunity', then it was an opportunity wasted.

Indeed, it reflected many of the issues identified above with the *Governance of Britain* agenda; expectations were inflated by the 'new politics'/'clean break' narrative in the wake of the scandal but then dashed by the gap between what the public were led to expect and what was subsequently delivered, thereby undermining public confidence and fuelling disenchantment and apathy with politics. There was no evidence of innovation or originality: nothing about party funding or fixed-term parliaments, nothing about experiments with direct public participation via various trigger mechanisms, or anything about the creation of a Royal Commission or, more radically, a Citizens' Assembly on the Constitution.³⁰ The sense of deflation was almost palpable. One leading columnist noted:

They [politicians] still don't understand. After all the furore over expenses . . . what do we get as Gordon Brown and his new Cabinet's first big idea—a half-baked statement of intention vaguely to reform the constitution. It's . . . pathetic in terms of its poverty of aspiration and the wooliness [sic] of its thinking.³¹

By the end of June 2009, just weeks after the MP expenses scandal had first broken, the agenda had moved on (ironically to concern about expenses within the British Broadcasting Corporation) and the 'window of opportunity', if it had ever existed, had closed. The publication by the government of *Building Britain's Future* represented not just an economic recovery plan or legislative programme for the final session of the 2005–2010 term, but also, in effect, a draft election manifesto.³² The dominant strategy or narrative was not concerned with 'new politics', but with the efficient delivery of public services and a new incentives and sanctions framework for those receiving state benefits. The *Constitutional Renewal Bill* is included in the government's plans, but only as a mechanism for removing the remaining 92 hereditary peers and placing the Civil Service (and

the House of Lords Appointments Commission) on a statutory footing. Constitutional reform and democratic renewal have therefore slipped well down the political agenda as quickly as they emerged on the back of the MP expenses scandal. Major decisions concerning the House of Lords, electoral reform, devolution and so on have been deferred and it appears that, once again, Britain's traditional constitution was able to absorb public disquiet and vent societal pressures through an elite-led strategy of 'giving a little, to control a lot' (in this case conceding a degree of parliamentary modernisation to sate broader demands).

The final days of June 2009 also witnessed the end of a period of political reflection and contrition as the behaviour of politicians reverted to type. MPs receipts were published in such a heavily redacted form that they stimulated public derision not least as the Commons authorities had spent over £140,000 in legal fees trying to prevent publication and then over £2 million having the receipts reviewed and edited. The PM announced that an inquiry into Iraq would be held, but that evidence sessions would be held in private (a decision that the inquiry chairman, Sir John Chilcot, has since challenged). Moreover the election of a new Speaker of the House of Commons, an independent office that is supposed to possess the confidence of the whole house, degenerated into an almost tribal party political game.³³

The period 1997–2009 was undoubtedly a critical period in British constitutional history. A new government was elected into office after 18 years of Conservative government on the basis of a commitment to democratic change that can be framed as one of 'aversive constitutionalism' (that is, a critique of the past that is used to construct and promote a quite different constitutional order).³⁴ And yet this article has revealed that ironically the underlying principle of New Labour's constitutional statecraft

has been a commitment to maintaining the core power-hoarding components of the Westminster Model (that is, a simple plurality electoral system, executive dominance within the Palace of Westminster, and executive vetos and opt-outs in relation to other measures). Even the MP expenses scandal, data on the further erosion of public support for politics and changing electoral incentives could not provoke the government into a more ambitious or creative approach to democratic renewal. This raises a number of questions about the future of British democracy and notably what has been missing from the recent debate about constitutional reform and revitalising politics (that is, the fifth and sixth issues in our list above).

The revolution that did not happen

In 1992 Gordon Brown used an article in this very journal to call for 'a decisive shift in the balance of power . . . the demand is not to tidy up the constitution, but to transform it'.³⁵ And yet the constitution has not been transformed. It has been significantly modified, but as Nairn has argued 'the mainframe has remained sacrosanct'; Evans goes further and evokes the logic of Bagehot to suggest that 'third-way democracy is elite democracy in disguise'.³⁶ This brings the focus of the article neatly back to the writing of Thomas Paine exactly two centuries ago and particularly his assertion that the paradox lie 'in the ideal of vitiated bodies reforming themselves'. For Paine the answer lay in taking 'the axe to the root of this rotten tree' and yet Bagehot's 'efficient secret' in some ways creates an internal fortification against 'decisive shifts' as a government with a large and secure majority sees little incentive to change the rules; a government with a small one is too weak (compare Blair in 1997; Brown in 2009). That is not to say

that many of New Labour's reforms will not evolve through a process of gradual accretion, sedimentation, spill-over and spill-back as Dunleavy and others have argued, but that is a different argument to one focused on the behaviour of New Labour in office under Blair and Brown.³⁷ Put simply: 'No second glorious revolution ever took place.'³⁸ In order to understand why there has always existed such a stark divergence between the *rhetoric* and *reality* of Labour government's during this period (and particularly after 2001) it is useful to return to the three elements that comparative political science suggests are often crucial in terms of democratic transitions (noted above).

First, Labour ministers never operated within a political context in which there was visible and significant *public pressure* for radical change. This reflected three interrelated aspects of British constitutional development: the capacity of the existing constitutional system to avoid crises by evolving to mitigate social pressures; the failure of pro-reform groups, like Charter 88, during the late 1980s and 1990s to either orchestrate a social movement for change or convince the two main political parties of the substance of their arguments; and the relative disinterest of the British public in constitutional matters. Numerous public opinion polls reveal that when offered a portfolio of contemporary issues (crime, health policy, immigration, etc.) the public will consistently place democratic renewal at the bottom of the list. Whether this reflects a resigned fatalism or simply an interest in less conventional forms of political engagement is debatable, but it certainly contributes to an assumption among ministers and officials that they will receive little political credit for engaging with such matters.³⁹

Indeed, what the analysis offered in this article has revealed is the absence of a *constitutional entrepreneur*. Tony Blair was never a wholehearted supporter of radical reform. Many of the most far-

reaching measures passed during 1997–2001 were carried through on the momentum of John Smith's legacy rather than Blair's personal commitment. Gordon Brown's capacity to emerge as a constitutional entrepreneur was reduced by his personal indecisiveness over specific measures (for example, for a written constitution, but against electoral reform) and the existence of many anti-reform Cabinet members. With the benefit of hindsight it is possible to suggest that Gordon Brown's opportunity to become a constitutional entrepreneur and drive through a decisive package of reforms was in June 2007 when he first became PM. This was the point when his position vis-à-vis the Cabinet was at its strongest, the government needed to set out a clear, coherent and fresh reform agenda and (most importantly) he would have had more legislative time. By the time the MP expenses scandal encouraged Brown to reconsider the need for far-reaching constitutional reform in June 2009 his government lacked the legislative space to actually proceed with any of the bigger measures, apart from the limited issue of parliamentary reform where they had cross-party support.

The issue of cross-party support provides a bridge between Brown's failure to act as a constitutional entrepreneur and the notion of a broader *ideational shift* among the political elite in favour of change. Both the Labour party and the Conservative party remain, at root, committed to the precepts of a power-hoarding constitution or what Marquand has termed the 'Whig Imperialist' tradition⁴⁰. The Labour party has, since its creation, enjoyed a 'history of satisfaction' with the constitutional configuration and, in particular, the influential Fabian tradition within the party advocated the Westminster Model as providing a strong foundation through which socialist reforms could be delivered.⁴¹ The Conservative party has also been—and remains—wedded to the Westminster

Model.⁴² The absence of significant public pressure relieves the parties of any need to re-evaluate these positions, and even when individuals who may be committed to reform achieve prominent positions within the executive—like Gordon Brown or Robin Cook—they find themselves isolated.⁴³

And yet isolation and the lack of cross-party support should not automatically impede reform. Significant measures are generally led by one individual and usually in the absence of consensus. There was no consensus on the Great Reform Act, or universal suffrage, or Scottish devolution, or freedom of information, but that did not diminish their legitimacy.

Yet what is arguably most clear about the future trajectory of British democracy is that it is likely to be unstable: the constitution is in a transitional stage and the next government (post-2010) will have no choice but to make a number of difficult decisions regarding institutional dynamics (for example, ongoing devolutionary pressures, how a Supreme Court can operate within a framework of parliamentary sovereignty) and 'unfinished business' (Lords, electoral reform for Westminster, English Question). It is therefore worth concluding by highlighting very briefly three central themes that any future government would do well to acknowledge.

The first theme centres on the notion of constitutional anomie and the need for a 'new narrative'. The next government must base their response to the challenges outlined above within an explicit account of what type of representative democracy is envisaged. Tony Wright MP, who will chair the parliamentary commission into reform of the Commons, once wrote of an experience in which he had spoken to a group of visiting German dignitaries, mostly professors and politicians, about the ambitious programme of constitutional reforms that his government had pledged to introduce.

As the exposition continued, a deeply troubled look became apparent on all the German faces. It finally found expression in one exasperated cry: 'But where is the plan?' I had to explain that there was no plan. Nor was there any special machinery or procedure involved. We were just going to get on with it, bit by bit. If difficulties arose, we would have to sort them out somehow. We had no idea how it would all end, but we were sure it would turn out all right. The Germans shook their heads in a mixture of intellectual pity and political bewilderment.⁴⁴

'Where is the plan?' remains a crucial question for any future government and in order to ensure the design of a coherent design it is vital to understand what has been missing from the constitutional agenda since 1997: any real focus on popular engagement. Constitutional reform has since 1997 primarily involved the transfer of power between various elites; it has, ironically, been elite-based in terms of the redistribution of power. This may, as Bogdanor has argued, have created a new constitutional state, but not a *popular* constitutional state involving new forms of democratic engagement and dialogue.⁴⁵ This, in itself, relates back to the public perception of politicians as remote; and the sense that New Labour simply ran out of ideas. Where Bogdanor is possibly over-optimistic is in his assessment that the next phase of constitutional reform is likely to involve the creation of just these new democratic arenas. (The 'deepening and widening of democracy . . . [the] democratisation of democracy' that Giddens placed at the centre of the 'third way' in the late 1990s.)⁴⁶ Finally, a focus on the future of constitutional reform highlights the need for any future government to be sensitive to the relationship between political rhetoric and public expectations. The constant inflation of public expectations through the promotion of a 'new politics' narrative; only for these expectations to be dashed as the government either seeks to renege upon certain commitments or

implements them in a heavily diluted form simply further undermines public confidence, thereby fuelling disenchantment and apathy.

This point brings us back full circle to the work of Thomas Paine and 'the revolution that did not happen'. Paine was acutely aware of the felicities of executive politics and, for him, the entrenched pathology of a constitution in which change was largely dependent on the support of the incumbent government. The MP expenses scandal did not provide a trigger that is likely to lead to far-reaching change of the type Paine demanded. And with that in his mind, Paine's ghost turns and solemnly walks out of the House of Commons' gallery. Bagehot just sits, looking across the chamber, contented, smiling.

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Notes

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