

John P Mackintosh Lecture
Gavin Esler
'Is Britain better than this?'
Thursday 27th April 2023
St Mary's Parish Church, Haddington

Hello - good evening. As an itinerant Scot I'm delighted to be here. I am delighted to be home. And I am also humbled to be joining an extraordinary list of lecturers for this event.

We are here to remember not just a great and forward thinking man but also to do some thinking ourselves about the relevance of John P. Mackintosh's ideas for the future - and the problems we face now in the 2020s.

The problems are many. But solutions are available.

Unfortunately I have come to believe that we have in Britain now a political culture that too often prefers to CREATE problems rather than SOLVE them. But if we live up to our own best traditions - LEARNING from the past but NOT LIVING IN THE PAST - we can, as the title of this lecture says - and the title of my next book confirms - ensure that BRITAIN IS BETTER THAN THIS.

John Pitcairn Mackintosh was a man of ideas. At first these were ideas that were ahead of his time. Then they were acted upon. And now those ideas are so obvious and mainstream we take them for granted.

He was also someone who respected the past - but he did not wish to live in the past.

My own interest in Professor Mackintosh stems from a simple fact.

I am - and have always felt myself to be - Scottish and British and European. I was born in Glasgow. We lived in a council house in Clydebank, before moving to Edinburgh.

I've also lived in Belfast and London and I'm now Chancellor of the University of Kent.

My family were German Protestant migrants who fled the 30 years war sometime in the 1630s. They settled in Scotland and in County Antrim. My wife is from an Irish and German Catholic family.

The name Esler comes from ESEL - German for "donkey."

My people have been donkeys for centuries... We are donkey people...

Things are changing in our United Kingdom of Great Britain and Northern Ireland. We are in a state of DIS-UNION.the tectonic plates of the union have shifted.

Sinn Fein is now the largest party in Northern Ireland. Northern Ireland was created in 1921 precisely to avoid such an outcome.

The SNP are - despite their many current troubles - the largest party in Scotland. In Wales the Labour party is predominant.

Yet the Conservative party - exhausted by the warfare of all those OTHER parties WITHIN THE CONSERVATIVE party including the UKIP wing known as the ERG - pretend that with just 43.6% of the vote in 2019 - which is 29% of the Voting Age Population - that they had what Boris Johnson called a "stonking" mandate to govern.

My spell check - by the way - keeps translating Boris Johnson's Old Etonian phrase "a stonking mandate" as a "stinking" mandate.

They - the Conservative party with a mandate of fewer than a third of the Voting Age Population - decided what Brexit should look like. And they paid the penalty for their hubris.

Five prime ministers in the six years from 2016 is a record of political attrition worse than post-war Italy.

Cameron - May - Johnson - Truss - Sunak - two old Etonians, all five Oxford graduates.

I would suggest that the United Kingdom often draws its political leaders from the shallow end of the talent pool.

But in Britain all that is just normal. It's how the British system "works". Except once you begin to think about it - the British system that we are taught in school guarantees "stable" and "corruption-free" governments clearly does NOT work.

Moreover we are also taught not to think too hard about the details of the British system of governance. It's not to be analysed critically. It is to be worshipped as "exceptional". I am going to do the opposite tonight.

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In the 21st century we live in an age of Weaponised Nostalgia. Putin wants his Empire back. So does Xi Jinping. Donald Trump wanted to Make America Great Again.

If Trump has any ideology beyond looking in the mirror - it is that of constantly looking backwards, including to the racist America memorialised in *Gone With The Wind*.

Trump wondered why America doesn't make movies like that any more.

If you have ever viewed the opening scenes of happy slaves working in golden sunlight on a white master's plantation perhaps you will know why Hollywood doesn't make movies like that any more.

The idealisation of an imagined Confederacy is something which - as my grandmother from Clydebank would have said, is "Less Gone With the Wind - More Away With the Fairies."

When it comes to Weaponised Nostalgia - in Britain we have some world class experts.

There is Jacob Rees-Mogg. He conducted an inquiry into whether the UK should restore imperial measurements of the type most British people under the age of 50 cannot remember.

No other country in the world has the British imperial measurements system. It was changed partially in 1965 - that's so long ago it is even before England *allegedly* won the World Cup.

YES: Americans talk of gallons.

BUT: a US gallon is 3.785 litres. A British imperial gallon is 4.546 litres.

American AR-15 assault rifles (Armalites) - much in the news recently - fire ammunition calibrated not in inches, but millimetres (5.56×45mm), although Americans spell it 'millimeters'.

No country in the world - NOT ONE - uses the antiquated British imperial system. Yet Jacob Rees-Mogg wants it back.

And then there is our own *Gone With the Prevailing Wind* former prime minister Boris Johnson.

Here is Johnson employing “Weaponised Nostalgia.” It’s from *The Spectator*. They actually printed this in the 21st century. (2002). The title of Johnson’s column is “Africa is a mess, but we can’t blame colonialism.”

He writes: “It is just not convincing ... to blame Africa’s problems on the ‘lines on the map’, the arbitrary boundary-making of the men in sola topis.” (A sola topi (sic) is a pith helmet of the sort worn in India - usually spelled “solar topee.”)

Johnson continues: “The continent (of Africa) may be a blot, but it is not a blot upon our conscience. The problem is not that we were once in charge, but that we are *not in charge any more...*”

At the 2016 Conservative party conference the by then British Foreign Secretary (*the Foreign Secretary!*) Boris Johnson instructed his party in language which would have shamed even the *Ladybird* version of world affairs: “Life expectancy in Africa has risen astonishingly *as that country* has entered the global economic system.”

There are currently 54 countries and 1.3 billion diverse people on the African continent.

It’s entertaining to continue in this vein - and in the new book I compare Boris Johnson’s musings to the real *Ladybird* version of Africa - perhaps something he studied as a child.

But Johnson is not the point of this lecture.

The point of this lecture is to examine in terms that John P Mackintosh would I hope be pleased with - the failed system of governance in the United Kingdom. It’s a system that produced, encouraged and promoted Boris Johnson, Liz Truss, Dominic Raab and many others.

It’s a system as out of date as imperial measurements, *Gone With The Wind* and Boris Johnson’s sense of the “white man’s burden.”

And yet it is a system that persists without truly rigorous examination of its fitness - or otherwise - for a modern 21st century western European democracy.

Our failed British system allows- indeed encourages - clearly unsuitable people to get to the top in British public life. These are people we trust to run our country yet you would not trust them with your wallet or to babysit your children or to drive your car.

I am in a lovely church - but I fear at this point I am going to mention the C-Word.

CONSTITUTION.

I spent much of my life believing that constitutional matters in the United Kingdom were boring and best avoided.

Our endless discussions about Scottish independence have been around for years. But - I intend to park the Scottish independence question tonight - rather as one might park a £100,000 motorhome in your mother-in-law's front drive.

What I want to talk about instead is the mysterious unwritten or uncodified constitution of the United Kingdom itself.

I have come to believe that the British constitution is a metaphor.

A metaphor is defined as “a word or phrase which is not LITERALLY applicable.”

And for some reason my Scottish presbyterian spirit finds the idea that the UK is governed by metaphor rather ludicrous.

I have come to believe that the United Kingdom constitution is - in effect - merely what those in power choose to say it is - FOR THEIR OWN CONVENIENCE. I will back up that statement in a moment.

First a bit of HOCUS POCUS.

In post-Reformation Britain the phrase **hocus pocus** was used by magicians and cheats as a cod-Latin incantation to deceive the eye of the gullible. It was a Protestant corruption of “hoc est corpus meum” - this is my body. The language of the unwritten British constitution - an agglomeration of precedents and laws - is, I fear, a similar illusion. It is hocus pocus.

There's no constitutional magic in the he word “precedent”.

A precedent is something which once happened. It is then considered an example or a guide in the present or future.

My father set a precedent by playing golf every Sunday morning. When he retired the precedent ended. He started playing on weekday mornings instead. Another precedent.

According to no lesser an authority than *The Sun* newspaper His Majesty King Charles is set to “drop his breeches” in the Coronation in May. He will drop the precedent of breeches ... in favour of trousers. A modernising monarch if ever there was one.

There's no particular constitutional magic in a law either. One of the flexibilities of the British constitution is that a law - such as the Fixed Term Parliaments Act - can be passed in 2011; circumvented legally within its own provisions by Theresa May in 2017; and removed from the statute book altogether by Boris Johnson in 2019.

That you may say is the British genius for flexibility.

I would respectfully suggest that things that are flexible can also easily be BENT.

And the bending may be done by the prime minister who - in the case of Mr Johnson - bent quite a lot of things while speaking with the authority of fewer than a third of the Voting Age Population.

SO: let me take a step back.

I lived for many years in the United States. On almost any serious subject almost any American I have ever met would make reference to what the US constitution might have to say on gun control, abortion rights, states' rights, the power and limits on the presidency and so on.

In decades as a journalist and writer I have NEVER come across any British person - except a few academics, lawyers and politicians - referencing the British constitution on **any** significant matters with any degree of enthusiasm, confidence or authority.

At first I assumed British constitutional matters were boring - particularly to English audiences.

In 2011, for example, the referendum on something as significant as changing the Westminster First Past The Post voting procedures to a modern, fairer and more democratic system, attracted considerably fewer than half of the 45 million registered British voters of that time.

Of the 19 million who did vote, just 6 million, wanted to change First Past The Post. When a mere 13% of the Voting Age Population votes for something it is hardly engaging the national debate.

But the only nation in Europe apart from the UK that uses a Westminster type system to elect their most significant legislature is **Belarus**, the Putin supporting dictatorship of Alexander Lukashenko.

Some 39 million British voters either didn't care that British democracy is twinned with Belarus - or were opposed to change.

So ... I started to read the most quoted constitutional experts.

I began with a sense of wonder - Bagehot, Dicey, Burke, Macaulay.

Lord Macaulay claimed that the English - yes it's the "*English*" - constitution was "pure gold" compared to the "paper money" of others.

So - hands up all of you who have paid for something in gold?

But at least we all know what gold looks like. You can hold it in your hand.

The "English" constitution? Not so much.

In the age of Apple Pay I'm not sure how useful pure gold is anyway.

For plain simple folk - like me - here's how the House of Commons Library explains the British constitution for us all:

"Along with the House of Commons and the House of Lords, the Crown is an integral part of the institution of Parliament. The King plays a constitutional role in opening and dissolving Parliament and approving Bills before they become law." (House of Commons Library, UK Parliament 2022)

What do we mean by any of this?

Imagine not a constitutional scholar surveying these words but a literary critic - perhaps F R Leavis. What does “the Crown” mean here - beyond the name of a historically inaccurate TV series?

Here again is the House of Commons Library definition - while Queen Elizabeth was on the throne:

“The Crown is one of the oldest institutions in the United Kingdom and remains *a significant part of its constitution. It has, however, no single accepted definition.*”

Ah, “no single accepted definition”. If there was “no single definition’ of gravity or death or a red traffic light or pure gold we might be in trouble, but when it comes to constitutional matters this is just normal.

There is “no single accepted definition” of what the Brexit referendum meant either.

The House of Commons Library tells us that “the Crown” is “significant” but we still do not have a clue what it is.

Then:

“The term has been used to describe a physical object // or as an alternative way of referring to the monarch in their personal // or official capacity. At its most expansive, the Crown *has been taken* as a proxy for “the government” — or what in other countries would be known as “the State.”

In this explanation “the Crown” is **not** the government but it is a “proxy” for the government or indeed for “the state” which is, of course, not exactly the same as “the government”, while the Crown is also a physical object and a way of referring to the monarch in either (or both) their “personal or official capacity”. This isn’t getting much clearer, I suspect, ***but that’s the point.***

To repeat: the dictionary definition of a metaphor is “a figure of speech in which a word or phrase is applied to an object or action to which it is **not** literally applicable.”

WE ARE GOVERNED BY METAPHOR. IT IS NOT LITERALLY APPLICABLE.

We apply that metaphor when it suits those in power. Then they change it when it no longer suits them. And they drench us in verbal porridge to make sure we don't have a clue what is going on.

Here's some more from the House of Commons Library.

"There are, as a result, many distinct Crowns – of Canada, Australia and other countries where the Queen (Elizabeth II) is head of state – all connected via the "*personal union*" of the current monarch, who marks her Platinum Jubilee during 2022. The terms "the sovereign" or "monarch" and "the Crown" are related but have separate meanings. The Crown encompasses both the monarch and the government. It is *vested in the Queen, but in general its functions are exercised by Ministers of the Crown* accountable to the UK Parliament or the three devolved legislatures." (my italics) (<https://commonslibrary.parliament.uk/research-briefings/cbp-8885/>)

(Please pay attention at the back. I'll be asking questions later.)

Remember: the verbal porridge asserts that the Crown has functions that are "exercised" by government ministers yet somehow "vested" in the Queen or, now, the King. The dictionary definition of "vested" is to "confer or bestow (power, authority, property, etc.) on someone."

Yet if power is **exercised** by ministers, it can hardly be conferred, bestowed or "vested" in the monarch except - again - in some miraculously symbolic form, perhaps as communion wine really is (or is a metaphor for) the blood of Christ. That must be what "personal union" means.

Constitutional scholars love their metaphors. And their trinities.

British sovereignty is St Patrick's shamrock, three leaves in one body. So let us fix on the - for me, less than comforting - certainty that there is "no single accepted definition" of anything important at the heart of the system of British governance, but there certainly are a lot of words to let you know that no one knows anything for sure.

A generous conclusion might be that the works of constitutional scholars and the House of Commons library are designed to impress rather than to inform.

That excellent Scottish writer Neal Ascherson gave this Mackintosh lecture many years ago. In 2021 Neal suggested in the columns of the London Review of Books that the British constitution does not exist. It is a myth. No one is really in charge, but this matters because he argued “governments are becoming lawless”.

This led to a more traditional rebuttal from a distinguished jurist Sir Stephen Sedley. Sedley tried to explain the Crown in Parliament, the Royal Prerogative, executive privilege, the sovereignty of parliament and other matters:

“It is the Crown that is in charge,” Sir Stephen wrote. That’s clear then. Except he goes on to say that the Crown is “functioning through three separate but interlocking institutions: parliament, the courts and the executive. This paradigm long antedates the Tudors. It is depicted around 1300 in an illuminated manuscript showing Justinian on his imperial throne handing his legal code with his right hand to a kneeling lawyer and the sword of secular authority with his left hand to a kneeling knight.”

Justinian - by the way - was a Byzantine emperor from 527 to 565 AD.

He was the Donald Trump of his day. Justinian the First - “the Great” - was best known for his ambition of “*renovatio imperii*”. He wanted to make Rome Great Again. You couldn’t make it up.

Actually - in constitutional matters you CAN make it up - as long as you have a workable majority in parliament. And here’s how it is done.

Labour started down the road to constitutional reform in 1997.

I had hoped that Tony Blair would commit to removing First Past The Post.

I asked a very senior civil servant why it hadn't happened.

"179" he said.

What? The senior civil servant then pointed out that 179 was Tony Blair's majority. Blair was not prepared to kick away the ladder up which he had so brilliantly ascended.

But - when it comes to making up the British constitution - the Blair government gave it a go.

The House of Lords at that time had more than 1200 peers. The idea was to cut it back to a much lower figure, eventually 600.

It is currently 800 plus and growing. THERE IS NO UPPER LIMIT.

ONE DAY PERHAPS WE CAN ALL SIT IN THE HOUSE OF LORDS - 48 million peers of the realm; everyone of voting age.

Recent members of the House of Lords include various huge contributors to Conservative party funds, a retired cricketer, a former member of the Revolutionary Communist Party - a party which praised the IRA bombing campaign of murder in the UK - and the son of a senior KGB officer.

By the way Vladimir Putin himself said that "there is no such thing as a **former** KGB man."

I know personally a number of Life Peers. The ones I know are very fine public servants, even though the House of Lords is simply a nonsensical institution, as we will now explore.

Hereditary peers were not entirely removed. This is the Electoral Reform Society's explanation of how those continuing hereditary peers are chosen.

And a health warning - the next paragraph is utterly incomprehensible.

But that - as with many constitutional matters - is precisely my point.

It is constitutional hocus pocus:

“The House of Lords Act of 1999 removed all but 92 hereditaries, then numbering 750, breaking a 700-year-old right for all peers to sit on and vote from the red benches. The remaining 92 were elected by all the previous hereditary peers in the House grouped by party affiliation – 42 Conservatives, 28 Crossbenchers, three Lib Dems, two Labour and 17 others. These numbers are set. When one Conservative resigns, a new Conservative is elected.”

Reading all this - I started to believe that maybe - just maybe - rather like the pre-Reformation priesthood and the Latin liturgy - a small band of constitutional experts were keeping their secrets away from illiterate peasants including me. And you.

BRITAIN IS BETTER THAN THIS is to be published in September. In it I will argue that constitutional matters are kept obscure and boring because it suits those in power to pretend that the incoherence and invisibility of the British constitution is the secret of British success.

But logically then it must also be part of the secret of British failure in recent years too.

There is a famous phrase of Walter Bagehot:

“We must not let in daylight upon magic. The Sovereign has, under a constitutional monarchy such as ours, three rights—the right to be consulted, the right to encourage, the right to warn.”

The Sovereign also appears to have the right to be ignored and told what to do - including NOT attending the COP climate change conference in Egypt. And YES WE NEED TO LET THE DAYLIGHT IN IMMEDIATELY.

The executive rules. The checks and balances in the system are very limited. Lord Hailsham was correct when he suggested that without what used to be called the “GOOD CHAP” system of government - because GOOD CHAPS

(they were always CHAPS) are definitely in short supply - the risks of abuse are profound. And those abuses are obvious.

To lose ONE Ethics Adviser may be a misfortune. To lose TWO - both Lord Geidt and Sir Alex Allen - as Boris Johnson did was careless. Actually it was WORSE THAN CARELESS.

But of course there was then an inquiry under the excellent Sue Gray - a public servant I admire. AND who did she report to? To Boris Johnson.

Now - imagine - if you can - someone less narcissistic, more ideological and less indolent than Boris Johnson - someone ruthless who can see how easily the "FLEXIBLE" British system can be BENT.

And that is the danger.

And - while this is not strictly a matter of the British constitution - can we have a moment to consider how we ended up with Liz Truss as prime minister - the leader known forever as "Lettuce Liz."

Ms Truss - as we know - never enjoyed the support of a majority of Conservative MPs.

Nor did she ever as prime minister win a general election.

She was chosen to lead 68 million British people by a majority of around 172,000 paying members of the Conservative party in a party vote.

The only qualification to become a member of the Conservative party is to pay £2.09 per month.

For about the same price as two and a half Mars bars you have the privilege of choosing the person who for seven weeks is British prime minister - except when Tory MPs had enough of the losers they changed the rules. They decided not to trust their own two and a half Mars bars a month membership and instead anointed Rishi Sunak as the next winner of Britain's Got Political Talent.

Incidentally the next shortest time for a prime minister - after Truss - was that of George Canning. He managed four months in the job and left office suddenly - but with a good excuse.

He died.

Now - let me repeat that I am not a constitutional expert.

I approached the constitutional spaghetti that is British governance more like a literary critic. I read the words and try to find out if they make sense. I did find one constitution that sounds excellent.

That of Russia.

Article 29 of the post-Soviet Russian constitution is admirably clear:

‘Everyone shall be guaranteed the freedom of ideas and speech. ... The freedom of mass communication shall be guaranteed. Censorship shall be banned.’ Article 31 reads: ‘Citizens of the Russian Federation shall have the right to assemble peacefully, without weapons, hold rallies, meetings and demonstrations, marches and pickets.’

Putting all this to the test, on July 27, 2019, a 17 year old woman, Olga Misik, attended one of the peaceful Moscow rallies ‘For Fair Elections’.

When we interviewed Olga for *The Big Steal* podcast series that I presented on Putin’s crimes, Olga told us that she was so inspired by her country’s written constitution that she decided to read sections aloud in public at the rally. She reminded Russian people of their rights in front of a large group of Putin’s police in full riot gear. It did not go well.

Olga’s constitutional right to “assemble peacefully” - or even to mention those constitutional rights - was cut short. The riot police carried her off. She was sentenced to a long period of house arrest.

Written constitutions are NOT a guarantee of good behaviour.

There is nothing in the American Constitution which says that Donald Trump should have conceded gracefully in 2020.

But written constitutions - with the right checks and balances - can offer clear guidance on who does what; who is responsible for what; and who checks on good or bad behaviour. Britain, Israel and New Zealand are the only three democracies in the world without some kind of written constitution. Israel, like Britain, has currently serious constitutional difficulties.

New Zealand is a lovely country, but it has a population of just five million, about half that of greater London. They are not - like the United Kingdom - a complex democracy of almost 70 million people with Scotland, Wales and

Northern Ireland each having not just their own significant identities but also their own parliaments.

I have much more to say on the subject in BRITAIN IS BETTER THAN THIS. But I want to end by trying to convince you that the British constitution is - and always has been - made up by those in power, for the benefit of those in power. Fortunately many of those have been very GOOD CHAPS or good women in power.

But that is **not good enough** for the 21st century in which - thankfully - not all politicians are CHAPS - but unfortunately not all politicians are GOOD.

Two letters, both to *The Times* newspaper, sum up what seems to be the British dilemma, the Good, the Bad, and the Ugly.

The first letter is seventy years old. It was written in 1950 and returned to prominence in October 2019. That month Boris Johnson had a very slender majority in the House of Commons. In the depths of despair about the various ideas of fantasy Brexit ever being “done,” and following Johnson’s failed attempt to suspend parliament through prorogation, the Johnson team tried backstairs manoeuvres.

Some MPs suggested that a vote of no confidence in the government should be held with the aim of forcing an election. Then anonymous “sources” in Downing Street suggested that if Johnson LOST a no confidence vote, he would neither step down as prime minister nor would he call a general election. The *Sun* newspaper translated this complex political principle into the suggestion that Boris Johnson would tell Queen Elizabeth that she “can’t sack him”. The Royal Prerogative didn’t seem any kind of prerogative any more. Or was it? As usual nobody knew for sure.

That's when constitutional scholars began quoting the "Lascelles Principles". They were named after Sir Alan Frederick "Tommy" Lascelles GCB, GCVO, CMG, MC, undoubtedly one of British history's "Good Chaps". He even featured as a character in the TV series *The Queen*.

With a long lineage in the aristocracy, Lascelles became a trusted adviser for British monarchs from the 1920s until the 1950s. Upon retirement in 1953 Lascelles refused a peerage. He opted instead for a Knight Grand Cross of the Order of the Bath because he rated this gong much more highly than merely being sent to the House of Lords. Yet his place in British constitutional history, and the reason his "principles" were quoted in 2019 and again in 2022, was a letter he wrote to *The Times* in 1950 when he was King George VI's private secretary. The constitutional dilemma was about the monarch calling an election.

The Labour government of Clement Attlee had been elected in the 1945 post-war landslide with a majority of 146. In the general election in February 1950, Labour ended up with a shaky majority of just 5. Speculation grew that King George would dissolve parliament to enable fresh elections. Could he? What were the constitutional rules? No ordinary person had a clue.

The Lascelles letter was published under a pseudonym on 2 May 1950 to settle the matter, insofar as anything is ever settled in the British constitution. The pseudonym Lascelles chose was "Senex" (Latin for Old Man). Here is how the supposedly relevant part of what passes for the British constitution was spelled out in the letters pages of *The Times*:

"Sir, It is surely indisputable (and common sense) that a Prime Minister may ask—not demand—that his Sovereign will grant him a dissolution of Parliament; and that the Sovereign, if he so chooses, may refuse to grant this request. The problem of such a choice is entirely personal to the Sovereign, though he is, of course, free to seek informal advice from anybody whom he

thinks fit to consult. In so far as this matter can be publicly discussed, it can be properly assumed that no wise Sovereign—that is, one who has at heart the true interest of the country, the constitution, and the Monarchy—would deny a dissolution to his Prime Minister unless he were satisfied that: (1) the existing Parliament was still vital, viable, and capable of doing its job; (2) a General Election would be detrimental to the national economy; (3) he could rely on finding another Prime Minister who could carry on his Government, for a reasonable period, with a working majority in the House of Commons.

When Sir Patrick Duncan refused a dissolution to his prime minister in South Africa in 1939, all these conditions were satisfied: when Lord Byng did the same in Canada in 1926, they appeared to be, but in the event the third proved illusory.

I am, &c.,

SENEX. April 29”

The wisdom of what then became known as the Lascelles principles seems obvious. Lascelles was doing his best for his country, his monarch and for British democracy. He was a GOOD CHAP. But take a step back. The relevant part of the British constitution in a political discussion about Brexit in the 21st century was, we were told, based on a letter published anonymously 70 years earlier under a Latin pseudonym in a British daily newspaper. These constitutional principles were articulated by an unelected royal appointee, the private secretary to the king telling the British people under what circumstances they might get a chance to vote for or against a government in difficulty, based on precedents involving two (by then) foreign countries – Canada in 1926 and South Africa in 1939 – former parts of an empire which no longer existed.

Incidentally - there was no general election in 1950 but Attlee did call one in October 1951 and lost, even though his Labour party not only won the popular vote, but also achieved the highest-ever total vote for any party then

in history, surpassed only by the Conservatives in 1992. Yet Labour in 1951 still LOST power because, despite the enormous Labour vote, the Conservatives had a majority of 17 seats.

Winning more votes yet losing the election is also seen as normal in Britain. There may among you be those who believe that publishing in 1950 an anonymous letter from an unelected royal flunkey in a newspaper that was formerly read by the establishment and nowadays is owned by the family of an Australian-turned-American billionaire Rupert Murdoch is a satisfactory way to arrive at a constitutional decision in British democracy, and that all this somehow remains relevant in 2019 and 2022. Personally, I think we really have to consider how to do better than this.

That's where the second letter comes in.

It is another letter to *The Times* appearing in 2023 from another fine British public servant, reminding us of some of the strengths of our very peculiar country. It was from Sir David Normington. From 2011–16 he was the Commissioner for Public Appointments, a person who, as the government describes it, “regulates the processes by which ministers make appointments to the boards of national and regional public bodies. The commissioner aims to ensure that such appointments are made on merit after a fair, open and transparent process.”

Sir David chose to write about precisely the key constitutional area where Britain is most vulnerable to abuse. It is the way in which the executive, the government, the prime minister, (and even a royal aide like “Senex”) can change the rules of our public life very easily because – stripped of constitutional hocus pocus – that which is “constitutional” in Britain is simply what the people in charge say it is.

Sir David Normington's letter was restrained but cross. He was exercised by the appointment of Richard Sharp as chairman of the BBC. Mr Sharp had been Rishi Sunak's boss at Goldman Sachs and contributed £400,000 to

Conservative party funds. He was also the man who helped fix an introduction to secure a loan of £800,000 for Boris Johnson. Subsequently Mr Sharp was appointed to his top job at the BBC by Johnson himself. No one broke any law of course. All this was just fine. But Sir David's letter suggests we really can do better.

“Sir,

In 2016 the government changed the public appointments rules after an independent report by Gerry Grimstone who subsequently became a Conservative peer and government minister. Those changes gave the government the power to write its own appointments rules, appoint the advisory panels, intervene at every stage to get their candidates appointed, ignore the panels' advice and appoint their friends and cronies. The public appointments commissioner, a regulator with few powers, was reduced to a commentator whose advice is easily discounted. *The resulting system depends largely on the self-restraint of ministers and the prime minister.* Those who want to appoint political donors and allies can do so with impunity. This is how we ended up with a BBC chairman who, whatever his other merits, is a large scale donor to the Conservative party and we now learn a go-between in arranging a loan for Boris Johnson. Is it any wonder that the public have little confidence in either our politicians or those they appoint to lead our most important public bodies?” (*The Times* 14.2.23 my italics)

The Normington and Lascelles letters, taken together, give us a clue as to our current difficulties as a nation - or rather a group of nations within the United Kingdom.

Lascelles considered what the constitutional rules should be.

He sent his letter to *The Times* and our “unwritten” constitution had another bit of wisdom added to its constitutional spaghetti.

In the Grimstone case, the rules were changed to give the British government even more power to write its own rules, appoint its own cronies and donors to high office. The person who changed the rules was – no doubt on merit – rewarded with a lifetime position in the House of Lords. The result has been that a British government minister is given the power to “intervene at every stage” in public appointments. The checks and balances of the British system were often in the past merely flimsy constitutional camouflage. Now they mean that the public appointments commissioner has so few powers that the job is not that of a regulator at all, but of a “commentator”.

Normington does not say it, but the spectre of the kind of abuse ended by the the Northcote–Trevelyan reforms in the 19th century has returned. Lascelles and Normington were Good Chaps. Others in our public life are not. Until we find a better way to broaden the talent pool in British public life, to reward those who behave ethically and weed out the others, then perhaps we get the governments we deserve.

But can we agree this is an idiotic way to run a country?

We really are better than this.

Aren't we?

6000 words