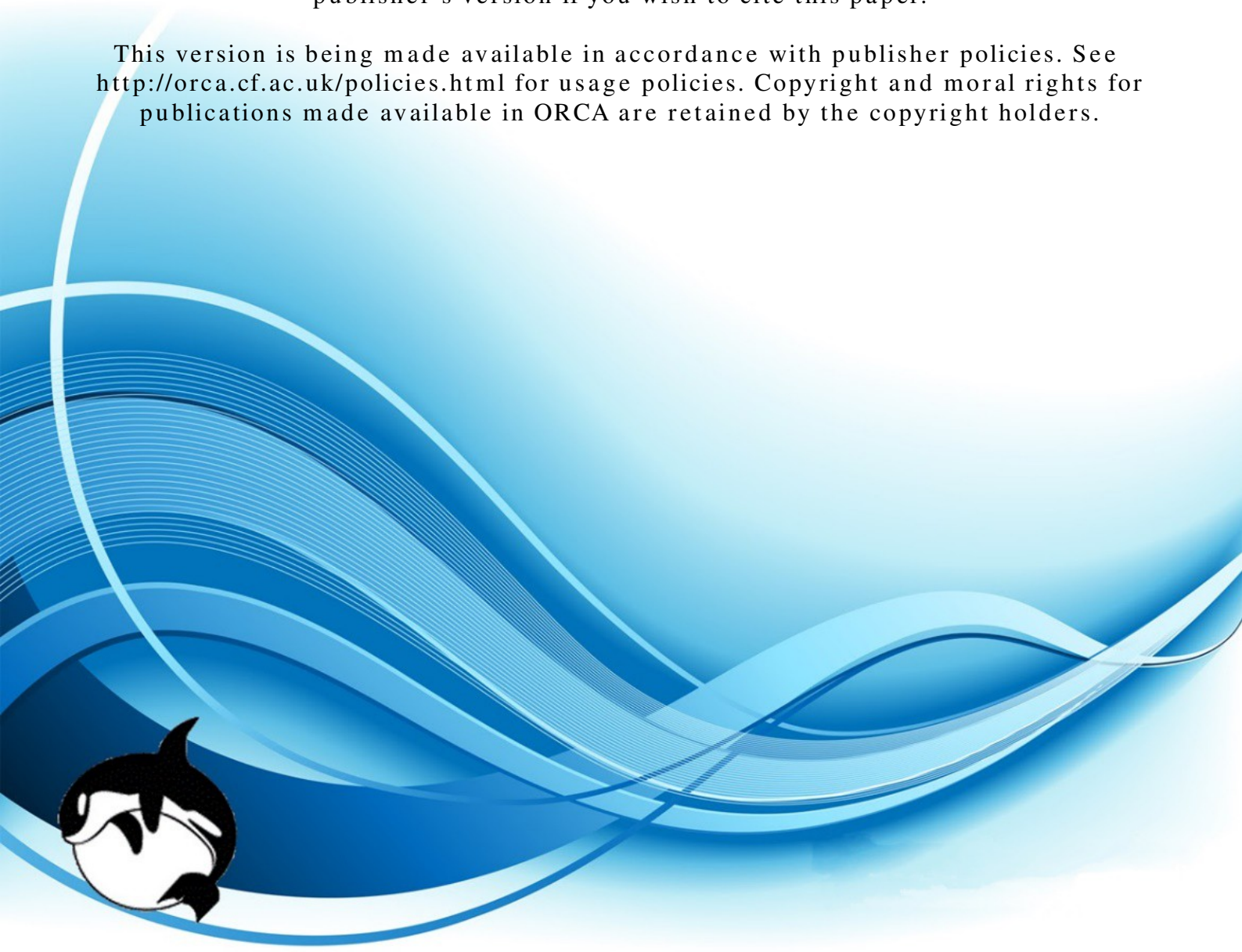

A tale as old as (devolved) time? Sewel, Stormont and the legislative consent convention

Dr Adam Evans

Wales Governance Centre, Cardiff University evansab1@cf.ac.uk

Abstract

The legislative consent convention forms one of a number of conventions that underpin the UK's uncodified constitution and has been an important facet of the UK's territorial governance, post-devolution. It provides that the UK Government will not normally seek to legislate on devolved matters, and the devolution settlements, without the consent of the respective devolved legislatures. Commonly referred to as the 'Sewel convention', the convention's roots are often traced to the commitments made by Lord Sewel during the passage of the Scotland Act 1998.

This article demonstrates, however, that the convention has a far deeper history that long predated Lord Sewel's comments at the despatch box in 1998. Rather, the convention goes back to the dawn of devolution in the United Kingdom: namely, the Northern Ireland Parliament that existed between 1921 and 1972. This paper charts the development of the legislative consent convention from its roots in the unwillingness of the UK Government to directly challenge the Northern Ireland Government over local government franchise reform in 1921, to its continued survival, even when Stormont collapsed in 1972 and argues that the convention's survived due to its role as a device of convenience and pragmatism for politicians in Westminster.

Keywords: Devolution, constitutional history, intergovernmental relations, interparliamentary relations, Brexit

Introduction: **the 'Sewel Convention'?**

The legislative consent convention forms one of a number of conventions underpinning the UK's uncodified constitution and is a central pillar of devolution in the United Kingdom. The convention is more commonly referred to as the 'Sewel convention' as its origins are often ascribed to the comments made by Lord Sewel when guiding the Scotland Bill through the House of Lords in 1998.[i] Sewel, then a Junior Scottish Office Minister, explained to Peers that the Government expected "a convention to be established that Westminster would not normally legislate with regard to devolved matters in Scotland without the consent of the Scottish Parliament".[ii]

This commitment, that the Government would not normally legislate on devolved matters without the consent of the devolved legislature affected, has been enshrined in the Memorandums of Understanding between the UK and devolved Governments and Devolution Guidance Notes (DGNs) (produced by the UK Government to assist civil servants in dealing with devolution issues). As Cowie explains, the DGNs also assumed a broader interpretation of the legislative consent convention, namely that consent would also be sought where the UK Parliament sought to alter the legislative and/or executive competence of the devolved institutions.[iii]

Amidst the drama of the UK's withdrawal from the European Union, the Sewel Convention has become a matter of controversy. During R v Secretary of State for Exiting the European Union ('the Miller case'), for example, the Scottish and Welsh Governments intervened to argue that, if an Act of Parliament was needed for an Article 50 notification to take place, the consent of the Scottish and Welsh devolved

legislatures was required. The Supreme Court, in its judgement, ruled that the Convention was a political convention, notwithstanding s.2 of the Scotland Act 2016 and Wales Act 2017, and was not justiciable.[iv] Since then, the European Union (Withdrawal) Act 2018 was passed by the UK Parliament despite consent being refused in Holyrood, marking only the second time that a legislative consent motion had been denied by the Scottish Parliament since devolution.

This article looks at the roots of the legislative consent convention in the UK's territorial constitution. It demonstrates that the convention has a far deeper history that long predated the comments of Lord Sewel at the despatch box in 1998 and traces the convention's roots back to the first few months of the UK's much earlier experiment in legislative devolution: the Parliament and Government of Northern Ireland (also referred collectively in this paper as 'Stormont'), established in 1921 and which existed until 1972. The article explains how the convention developed, and the forces that helped entrench it as a principle of territorial management, even after the suspension of Stormont in 1972.

Northern Ireland and the origins of the 'Sewel' convention

The establishment of a convention

Whilst the 'Sewel convention' takes its name from the comments made by Lord Sewel in 1998 its origins stretch back to the beginning of the devolution experiment in the United Kingdom, namely the devolved Parliament and Government in Northern Ireland that existed from 1921 until its prorogation in 1972. Indeed, Lord Sewel prefaced his remarks in 1998 by saying that he expected a legislative consent

convention to be established after Scottish devolution "as happened in Northern Ireland earlier in the century".[v] The rest of this article will focus on how the original legislative consent convention developed in the context of Northern Ireland and how the 'Sewel' articulation can be seen as a continuation of this earlier legislative consent convention.

The origins of the legislative consent convention lie in a dispute that occurred during the earliest days of devolution in Northern Ireland. In the summer of 1922, Stormont MPs had passed legislation replacing the pre-partition and pre-devolution electoral system for local government elections (proportional representation) with the first past the post system used in Great Britain. This reform, passed through the Northern Ireland Parliament in the midst of the Irish Civil War and intense discussions between London and Dublin on legislating for the Irish Free State constitution, sparked outrage amongst nationalist leaders and prompted complaints from Michael Collins and, after Collins' death, W.T. Cosgrave, that the Bill was contrary to the spirit of the Anglo-Irish Treaty.[vi] As a result, Royal Assent for the Bill was reserved and the final decision on whether to give Assent or not was put to the Cabinet at a meeting of the British signatories to the Treaty with Ireland on 7 September 1922.

The decision to reserve forwarding the Bill for Royal Assent prompted fierce protests from the Unionist Government in Northern Ireland. On 22 July, Sir James Craig, the Prime Minister of Northern Ireland, wrote to Sir James Masterton-Smith, the Permanent Under-Secretary at the Colonial Office, to warn the Government to:

> Consider the effect of the British Government withholding Royal Assent to a Bill dealing with purely local affairs and certified, as is required under the

> Regulations, by the Attorney General to be within the terms of the Government of Ireland Act 1920.[vii]

The effect, Craig advised, would be that he would collapse his administration and possibly even the delicate system of devolved government in Northern Ireland altogether. According to Craig, "no Government could carry on in Northern Ireland if it knows that the powers of the Parliament (of Northern Ireland) [...] were to be abrogated".[viii]

This threat was reiterated by Craig, in a letter to Winston Churchill, the then Secretary of State for the Colonies, on 1 September. Craig, who had been invited to the crucial UK cabinet meeting on 7 September, warned Churchill that the Northern Ireland cabinet had met and decided unanimously that "it would be impossible to carry on if legislation passed by the Commons and Senate admittedly within the powers conferred by the Government of Ireland Act 1920 were to be vetoed".[ix]

Craig's threats were clearly effective. On 7 September, the British signatories of the Anglo-Irish Treaty met to consider the fate of the controversial Bill. While the Government of Ireland Act 1920 had transferred responsibility for local government to Stormont, Section 75 of the Act expressly stressed the continuing sovereignty of the UK Parliament, stating that the supreme authority of Westminster "shall remain unaffected and undiminished over all persons, matters, and things in Ireland and every part thereof".[x] Nonetheless, the minutes of that meeting demonstrate a clear feeling that the UK Government could not exercise said sovereignty to block Stormont. Austen Chamberlain, the Lord Privy Seal, warned, for example, that blocking the Bill would "be straining our prerogative", while the Prime Minister, David Lloyd George, also accepted that the Bill could not be vetoed, despite it being a

"breach of the spirit of the Treaty as regards the protection of minorities". Instead, he expressed hope that Sir James Craig could be persuaded to delay the Bill's implementation until the Free State constitution had passed through Westminster and the Dáil.[xi]

Craig, for his part, criticised the lack of warning as to the toxicity of the Bill in the context of the Free State constitution discussions. He told the Cabinet members present that "had he been warned in time he would have done his best to postpone the measure". While he promised to postpone some of the local elections (and thus the impact of the reforms), he was insistent that the Bill could not be held back.

Craig's threat to bring down devolution in Stormont was successful, Royal Assent being given to the Bill on 12 September 1922 and in retrospect it can be argued to represent a key moment in relations between the UK and Northern Ireland governments and in the centre's understanding of its room for manoeuvre in relation to devolved matters in Northern Ireland. By refusing to withhold Royal Assent on this measure, despite the concerns of members of both the Irish Free State and UK Cabinets as to its implications, the Lloyd George coalition Government essentially accepted Chamberlain's claim that using s.75 of the Government of Ireland Act 1920 to intervene in devolved matters and to assert continued parliamentary sovereignty would be "straining our prerogative". [xii]

In this episode we therefore see the birth of what would become a near fifty-year convention whereby Whitehall and Westminster would not unilaterally intervene in Stormont's affairs and would only legislate on devolved matters at Stormont's request. –This understanding, which would develop into the legislative consent

convention (including not only a non-interference limb, but also a legislate on devolved matters only at the request, or with the approval, of the devolved institutions limb), was not just an intergovernmental affair, however, and was able to develop due to the rulings of Speakers of the House of Commons.

In May 1923, Frank Gray MP sought a ruling from Speaker Whiteley as to "whether Members of this House are entitled to put questions to the Prime Minister or the Home Secretary with reference to the conduct of proceedings in Northern Ireland".[xiii] The following day, Gray repeated this request, noting that despite the powers devolved to the Northern Ireland Parliament by the Government of Ireland Act 1920:

> Northern Ireland has representation in this House; secondly, that powers are reserved to this country under the provisions of the Government of Ireland Act, 1920: thirdly, that monies are voted by this House to defray in whole or in part the expenses of services transferred to Northern Ireland, and, fourthly, that there is reserved the power of taxation and an interest in the profits of taxation in Northern Ireland for the benefit of the Consolidated Fund.[xiv]

In response, Speaker Whiteley ruled that "with regard to those subjects which have been delegated to the Government of Northern Ireland, questions must be asked of Ministers in Northern Ireland, and not in this House" – this ruling would prove particularly significant in entrenching the legislative consent convention and the attitude that, notwithstanding parliamentary sovereignty, Westminster and Whitehall could not intervene in devolved matters.[xv] Indeed, as Bogdanor has previously highlighted, this convention and attitude was so entrenched that Sir Ivor Jennings, the doyen of British and commonwealth constitutional law and history, argued that it would be "unconstitutional" for Westminster to legislate on devolved

matters in a manner contrary to the wishes of the Parliament and government in Stormont.[xvi]

The convention under strain

This era of non-intervention in Northern Ireland came under strain during the 1960s. This decade would culminate in mass protests from a fledgling civil rights movement in the province, riots and the beginning of 'The Troubles', it would result in the Stormont system facing the fiercest criticism and scrutiny that it had encountered to date from MPs in Westminster and, by 1972, would end in the system's collapse and replacement by direct rule by Westminster.

Among the first to raise attention to Northern Ireland in Westminster in the early 1960s was the Labour MP, Paul Rose. In his memoirs, *Backbencher's dilemma*, Rose described a "blank wall of incomprehension and ignorance about Ulster", suggesting a House of Commons in the early 1960s where "Members who knew about Saigon or Salisbury seemed to know nothing of Stormont", a situation that was buttressed by a "Parliamentary convention, erected into holy writ by Speaker after Speaker, that prevented us raising matters of real substance on the floor of the House without being ruled out of order".[xvii]

Rose's account of this period clearly paints a picture of the legislative consent/non-intervention convention as a tool of convenience for those in Westminster and in Whitehall who did not want to get embroiled in Northern Ireland affairs. He described a "fear of getting too involved" with Sir Frank Soskice and other Home Secretaries (the Home Secretary also held responsibility for Northern Ireland

matters within the Cabinet) accused, by Rose, of having hidden "behind the conventions of the Government of Ireland Act".[xviii]

Indeed, one striking example of these conventions in play can be seen in a debate on Northern Ireland affairs held on 14 July 1964. Eric Lubbock, Liberal MP for Orpington, used the debate to raise cases of religious discrimination and gerrymandering of local government boundaries, only to be then interrupted by the Deputy Speaker who warned that it was out of order to raise local government boundaries in Northern Ireland which were "a matter for the Northern Ireland Government and nothing to do with the Government here".[xix]

Winding up the debate, the then Home Secretary, Henry Brooke MP bemoaned allegations of religious discrimination in Northern Ireland, suggesting that "that there are more urgent matters to discuss". While Brooke acknowledged that any discriminatory legislation or actions by the Parliament or Government of Northern Ireland could be challenged, under sections 5 and 8(6) of the Government of Ireland Act (which provided that neither body could make a law or exercise executive power of a discriminatory kind on account of religion), he also claimed that the UK Governments hands were bound by convention:

> But it has been held by successive Governments in the United Kingdom, regardless of party, that the reserve powers in the Government of Ireland Act do not enable the United Kingdom Government to intervene in matters which, under Section 4, are the sole responsibility of the Northern Ireland Parliament and Government.[xx]

It is perhaps little wonder, then, that when reflecting in his memoirs on the escalation of the situation in Northern Ireland in the late 1960s, Denis Healey

lamented the “generations of inexcusable neglect” that had resulted in a lack of knowledge about the paramilitary organisations on both the loyalist and nationalist sides and “lamentably poor communications between Whitehall and Stormont”.[xxi] Indeed, K.O. Morgan, in his biography of James Callaghan, noted that when Callaghan became Home Secretary in 1968 “there were no policy briefings, and no boxes whatsoever on how to handle Northern Irish affairs”.[xxii]

Despite, or perhaps because of, the generations of inexcusable neglect, the situation by the late 1960s had escalated alarmingly for both the UK and Northern Irish Governments. So much so that by late 1968, the UK Government threatened to impose reform on Stormont if the latter could not make the reforms necessary to redress the grievances of the nationalist community in the province. On 4 November 1968, the UK Prime Minister Harold Wilson summoned Terence O’Neill (the then Prime Minister of Northern Ireland) and other senior Stormont ministers to Downing Street to discuss the situation in Northern Ireland.[xxiii]

At this meeting Wilson expressed the “great concern at Westminster over many aspects of the Northern Ireland scene” and highlighted “a number of Northern Ireland matters that the United Kingdom Government found irksome, including the Londonderry situation and the Local Government franchise”. Whilst emphasizing the UK’s “residual responsibility” for devolved matters under s.75 of the Government of Ireland Act, Wilson nonetheless warned that the Government “did not need to get involved in a constitutional crisis in order to exert its will on Northern Ireland, but could have recourse to other possibilities”. Such possibilities included the generous financial contributions made to Stormont by the UK Government and Parliament, contributions that were “of a discretionary nature” and “would clearly be at risk in

any situation in which the United Kingdom Government needed to bring pressure to bear".[xxiv]

As an added inducement, James Callaghan, the Home Secretary, cautioned the Stormont delegation that pressures at Westminster for action "were increasing [...] [and] clearly about to grow on a massive scale while in Northern Ireland the risk of some escalation in violence had to be faced". He therefore suggested that both Governments shared a "common interest in achieving reform fast", otherwise the situation would deteriorate further.

Notwithstanding the Prime Minister and Home Secretary's overtures, the minutes of the subsequent meeting of the Northern Ireland cabinet, on 20 November 1968, demonstrate, at least among some ministers, a continued belief that they were immune from Westminster interference. The minutes record the Ministers of Commerce, Education and Agriculture all expressing the view that the Government "could not be expected to act on the franchise issue under duress", while William Craig, the Minister for Home Affairs went further, describing s. 75 as a "mere reserve power, which it would be quite unconstitutional to exercise" against the Stormont institutions. This position was rejected by the Northern Ireland Attorney General who warned that s.75 "meant what is said, which was that Westminster retained its powers to legislate in <u>all</u> matters, including those 'transferred'" and, importantly, that "conventional practice should not be confused with legal power". [xxv]

Intervention, survival and re-emergence

By early 1972 the situation in Northern Ireland had deteriorated to the extent that direct intervention in Stormont's affairs had migrated from a theoretical possibility to a political imperative. On 30 January 1972, 28 unarmed civilians would be shot, of which fourteen died, by the British Army in what became known as Bloody Sunday. This sparked a rapid series of political developments. On 4 February 1972, the UK and Northern Irish Governments met to discuss the political and security situation in Northern Ireland. At this meeting, the UK Ministers floated a number of suggestions ranging from varying the border and exchanging populations to a referendum on the future status of Northern Ireland (which would become known as a border poll) and transferring law and order powers from Stormont to Westminster.

Edward Heath, the then UK Prime Minister, noted that this was now the policy of the official opposition at Westminster and he pondered what the arguments against this proposal would be. In response, the Prime Minister of Northern Ireland, Brian Faulkner cautioned that such a move would be "in substance direct rule" and would reduce the Government of Northern Ireland to "a sham". Warning the UK Government against such a course, Faulkner threatened that "if this transfer of powers were proposed, he would call for withdrawal or direct rule" and that the basis of such a proposal would be "that a Northern Ireland Government could not be trusted".[xxvi]

Despite Faulkner's objections, a month later the UK Government had decided that enough was enough. At a meeting on 22 March, Heath advised Faulkner that it was his Government's view that Westminster should take over responsibility for law and order, other proposals included the border poll floated in the February meeting, as well as the appointment of a Secretary of State with responsibility for Northern

Ireland affairs.[xxvii] These proposals fell on predictably stony ground. Faulkner reiterated his threat that the Northern Ireland Government could not accept the transfer of law and order powers from Stormont. The next day, at a meeting of the Northern Ireland cabinet, Ministers endorsed this position and threatened the resignation of the Government.[xxviii]

It is an irony that the fifty-year existence of a devolved Government and Parliament in Northern Ireland was book-ended by threats from Northern Irish Prime Ministers to collapse their Governments in the face of threatened interference from Westminster and Whitehall. However, while the first threat, by Sir James Craig, was successful and played a key role in establishing a convention that was as much about non-interference as it was about legislative consent, the second threat, by Brian Faulkner, would prove futile.

On 24 March 1972, Edward Heath announced to the House of Commons that despite the threats to resign from the Northern Ireland Government, the UK Government remained of the view "that the transfer of this responsibility to Westminster is an indispensable condition for progress in finding a political solution in Northern Ireland". As a result, the UK Parliament would be invited to pass before Easter a Measure transferring all legislative and executive powers currently invested in the Northern Ireland Parliament and Government to the United Kingdom Parliament and Government. The provision would expire after one year unless otherwise decided by Parliament and the Parliament of Northern Ireland "would stand prorogued but would not be dissolved".[xxix] Shortly afterwards, Westminster passed the Northern Ireland (Temporary Provisions) Act 1972.

While this marked the ultimate breach of the legislative consent convention that had been established after 1922, it did not mean that the convention was entirely dead or indeed disavowed. In its 1972 Green Paper, *The Future of Northern Ireland: A Paper for Discussion*, the Heath Government reflected on the development and rationale for the legislative consent convention. According to the Green Paper, the legislative consent convention developed as a pragmatic view that, having establish devolved institutions in Northern Ireland, Westminster "should not lightly supersede or override those powers".[xxx]

This argument was echoed, a year later when the Royal Commission on the Constitution, initially established in 1969 in response to a surge in support for the SNP and Plaid Cymru in parliamentary by-elections, finally reported. The Royal Commission's majority report noted that although the subordinate status of the Northern Ireland institutions vis-à-vis Westminster had always been clear, "in practice [...] the United Kingdom Parliament had refrained from legislating for the province on matters with which the Northern Ireland Parliament could deal, except at the request and with the agreement of the Government of Northern Ireland". This legislative consent convention had developed, according to the report, as a recognition that "any departure from this practice would undermine the authority of the Northern Ireland Government".[xxxi]

The Commission's majority report acknowledged that under a future scheme of devolution the Government could seek to adopt a different approach and to be more assertive regarding the devolved institutions and be more prescriptive in setting out how such bodies could use their powers; such a scheme would not be in keeping with their conception of legislative devolution. Instead, the majority report conceived

legislative devolution on generous lines with restrictions on their powers limited to abiding by the rule of law and international legal obligations. Under this model, while Parliamentary sovereignty would remain intact, “there would be a convention that those powers would not ordinarily be used to legislate on a transferred matter without the consent of the region”.

While Parliament would retain the power to legislate for devolved matters, even when consent was withheld, or to veto devolved legislation, these powers “would in practice have to be regarded as a weapon of last resort”. As the majority report goes on to note, “frequent recourse to either of them [legislating contrary to the devolved institutions wishes or vetoing devolved legislation] would be bound to undermine regional autonomy and the smooth working relationship between central and regional authorities which would be essential to good government”. The legislative consent convention, or rather the principle of the convention, had survived. [xxxii]

Conclusion

In actually existing form, or just in principle, the idea of a legislative consent convention is as old as devolution itself in the United Kingdom. Lord Sewel’s famous comment during the passage of the Scotland Act 1998 acknowledged the lineage of a legislative consent convention, yet it is arguably the case that this pre-history has not been readily engaged with by scholars of the UK’s territorial constitution post the reforms of the Blair era.

The legislative consent convention emerged from a mixture of an unwillingness by the Lloyd George coalition Government to assert Westminster’s sovereignty in the

face of the threat to collapse Stormont in its infancy from Sir James Craig to a more general desire at the centre to leave Northern Ireland matters to the province's devolved institutions. The latter arguably reflecting a desire among many in Westminster and Whitehall to avoid being tangled in Northern Irish matters after nearly half a century of prolonged debate on the Irish question.

The convention, as it emerged from those early days, was a tool of both political and administrative convenience and consisted of two pillars: 1) non-interference in matters that were transferred by the Government of Ireland Act 1920; and 2) only legislating for transferred matters at the invitation, or with the consent, of the Northern Ireland Parliament and Government. The first pillar of this convention led to what Denis Healey termed "generations of inexcusable neglect" of Northern Ireland by the centre, a state of play that collapsed in the late 1960s and early 1970s as the situation in Northern Ireland became increasingly unstable and dangerous.

The second pillar is more recognisable to scholars of devolution post-1997 and, cast by the UK Government in its 1972 Green Paper and the Royal Commission on the Constitution's majority report, as a pragmatic and convenient approach to territorial management, ultimately survived the suspension of the Northern Ireland Parliament in 1972 and, after a prolonged period of hibernation between 1972 and 1998, re-emerged to become a central pillar of devolution in the United Kingdom.

In this latest incarnation, the legislative consent convention has once more been a device of convenience and pragmatism. The convention and its apparatus, including legislative consent motions, have proven useful in enabling Westminster to legislate in devolved spheres when such legislation has been to the convenience of the

devolved legislatures and Governments (as the Institute for Government has shown, between 1998 and May 2018, there had been 340 LCMs: of which 173 LCMs were voted on in the Scottish Parliament) and have been utilised effectively by devolved governments when seeking to negotiate concessions from Westminster. [xxxiii]

The UK's withdrawal from the European Union raises a number of questions that are fundamental to the country's territorial constitution and to the balance of power between the UK and the devolved institutions with a potentially large increase in the number of competencies where responsibilities fall within the ambit of the UK and devolved governments. The controversy that surrounds the Brexit process may make managing these shared interests, itself a complex task, more difficult and in doing so could bring into question the near century old foundations of the legislative consent convention: namely that non-intervention by Westminster in devolved matters, except where consent is provided or where intervention is requested, is both a pragmatic and convenient approach to the management of the UK's territorial constitution.

---

[i] See for example: Anthony, G. (2018). *Devolution, Brexit, and the Sewel Convention*, The Constitution Society: London, p.2; McHarg, A. (2018). Constitutional Change and Territorial Consent: The *Miller* Case and the Sewel Convention, in, M. Elliott et al (eds.), *The UK Constitution after Miller: Brexit and Beyond*, Bloomsbury: London, p.159

[ii] House of Lords Debates (HL Deb) 21 July 1998, vol. 592, c.791

[iii] Cowie, G. (29 March 2018). *Brexit: Devolution and legislative consent*, Briefing Paper No. 08274, House of Commons Library: London, p.11; Jamieson, I. (16 May 2016). Sewel in statute: competence or confusion?, *The Journal of the Law Society of Scotland* [online]: http://www.journalonline.co.uk/Magazine/61-5/1021700.aspx#.XW5TeXvTWUk (accessed: 3 September 2019)

[iv] *R (on the application of Miller) vs the Secretary of State for Exiting the European Union, Hilary Term [2017], UKSC 5, paras. 136–151*

[v] HL Deb 21 July 1998, c.791

[vi] TNA. CAB 43/2/9: Conference on Ireland Records: memoranda circulated to the British representatives (S.F.B. Series): SF(B) 67: Local Government (Northern Ireland) Bill: Memorandum for the British Signatories to the Irish Treaty.

[vii] TNA. CAB 43/2/9: SF(B) 67: Appendix B: Letter from Sir James Craig to Sir James Masterton-Smith, dated 22 July 1922

[viii] Ibid.

[ix] TNA. CAB 43/2/9: SF(B) 67:Appendix F: Letter from Sir James Craig to Winston Churchill, dated 1 September 1922
[x] Government of Ireland Act 1970, s.75
[xi] TNA. CAB 43/1: Conclusions of a Meeting of the British Signatories to the Treaty with Ireland, held at No.10, Downing Street, S.W., on Thursday 7 September 1922, at 3.30p.m.
[xii] *Ibid.*
[xiii] House of Commons Debates (HC Deb) 2 May 1923, vol, 163 c.1365
[xiv] HC Deb 3 May 1923, vol 163, cc.1623-1624
[xv] *Ibid.*, c.1625
[xvi] Bogdanor, V. (1999). Devolution and the British Constitution, in, D. Butler, V. Bogdanor and R. Summers (eds.), *The Law, Politics and the Constitution: Essays in Honour of Geoffrey Marshall*, Oxford University Press: Oxford, p.59; Jennings, I. (1955). *The Law and the Constitution*, University of London Press: London, p.158
[xvii] Rose, P. (1981). *Backbencher's dilemma*, Frederick Muller Ltd: London, p.179
[xviii] *Ibid.*, pp.179-180
[xix] HC Deb 14 July1964, vol 698, c.1127-1128
[xx] *Ibid.*, c.1151
[xxi] Healey, D. (1989). *The Time Of My Life*, Michael Joseph: London, pp.142-144
[xxii] Morgan, K.O. (1997). *Callaghan: A Life*, Oxford University Press: Oxford, p.347
[xxiii] Public Records Office of Northern Ireland (PRONI): CAB/4/1413: Meeting at 10 Downing Street on 4 November, 1968
[xxiv] *Ibid.*
[xxv] PRONI. CAB/4/1418: Conclusions of a meeting of the Cabinet, 20 November 1968
[xxvi] PRONI. CAB/9/R/238/7: Note of a meeting at 10 Downing Street, Friday 4 February 1972
[xxvii] PRONI. CAB/4/1647: Main points made by Mr Heath at Downing Street meeting on 22 March 1972 about the Northern Ireland Situation; CAB/4/1647: Later Statement by Mr Heath in the Course of the Discussion in which he defined the United Kingdom Government's ideas
[xxviii] PRONI. CAB/4/1647: Conclusions of a Meeting of the Cabinet held at Stormont Castle, 23 March 1973; HA/32/2/51: Statement by E. Heath to the House of Commons about Northern Ireland
[xxix] HC Deb 24 March 1972, vol 833, cc.1860-1861
[xxx] H.M. Government (1972). *The Future of Northern Ireland: A Paper for Discussion*, HMSO: London, para. 11
[xxxi] Royal Commission on the Constitution (1973), Royal Commission on the Constitution, 1969-1973, Vol.1 Report, HMSO: London, paras. 762-763
[xxxii] *Ibid.*, paras. 763-768
[xxxiii] Institute for Government (17 May 2018), Brexit and the Sewel Convention, https://www.instituteforgovernment.org.uk/explainers/brexit-sewel-legislative-consent-convention (accessed 11 September 2019); McHarg, *Constitutional Change and Territorial Consent*, pp.160-162; on how the devolved institutions have used the LCM process to negotiate concessions, see: Rawlings, R. (2018) The Strange Reconstitution of Wales, *Public Law* , pp. 62-83; McCorkindale, C. (2016), Scotland and Brexit: The State of the Union and the Union State, *King's Law Journal*, 27:3, p.358