

Chapter 1: The UK Constitution

Problem scenario

Following the death of King William V, his son, George VII, succeeds him and ascends the throne, becoming King of the United Kingdom. George, though, is keen to reassert the historical power of the British Monarchy and, within the first year of his reign, seeks to take the following (fictitious) actions:

- Following that year's General Election, and not liking the Leader of the political party that achieves a majority in the House of Commons, George VII decides to summon the Leader of the second largest party in the House of Commons to Buckingham Palace, asking her to become Prime Minister and to form a government.
- When a Bill, amending the Devolution settlements with Scotland, Wales and Northern Ireland, is brought to George VII for Royal Assent, he amends it heavily, effectively abolishing the Devolution Settlements on the basis that he wishes the country 'to be one, United Kingdom, under one Monarch and one Parliament'. Once the amendments have been made, he signs the Bill, passing it into law.
- Finally, and late in the year, when the Government seeks to introduce a Bill into Parliament that would severely limit the King's ability to influence the political process and the passing of laws, George VII instructs the House of Lords to veto the Bill, threatening to strip members of the Lords of their peerages if they do not seek to do so.

Imagine that you were presented with this scenario in an exam and asked to discuss the constitutional issues arising from these actions.

A number of issues are raised by this scenario, including: the allocation of sovereign power; constitutional conventions; devolution; parliamentary procedure and, above all, the power of the monarchy against the institutions of the state.

Dealing, first, with the issue surrounding the appointment of Prime Minister after the General Election, it has already been explained that, by convention, the monarch appoints as Prime Minister the Leader of the political party that commands a majority in the House of Commons following a General Election. In making this appointment, the monarch does not exercise independent judgment or authority, but formally appoints the individual already in that position. King George VII, therefore, has arguably breached constitutional convention in seeking to exercise his own judgment and authority in going against the election result and appointing the Leader of the second largest party in the Commons as Prime Minister.

King George VII has also gone against settled convention in respect of the second action. Like appointment of the Prime Minister, in granting Royal Assent and passing a Bill into law, it is convention that the monarch will not refuse to sign a Bill that has been passed by both Houses of Parliament. To do so would be to usurp the democratically legitimised legislative process. In the same vein, the monarch does not amend legislation that has been agreed upon and passed by Parliament. George VII's significant alteration to the Devolution Bill, therefore, goes against accepted convention. In so doing, his actions have a potential impact in altering the allocation of power in the Constitution, bring power previously devolved to the regions back to the central institutions in London.

Of course, one of the defining features of constitutional conventions is the reality that they are constitutionally binding but legally unenforceable. It would not be possible, therefore, to challenge the actions of the King in any court of law. What do you think might happen instead as a consequence of King George VII going against these conventions? Do you think Parliament would seek to pass a law altering and limiting the power and involvement of the monarch in the constitutional process? Or would something more fundamental be required?

The last action is notable since it would not be appropriate for the King to instruct either House of Parliament to act in a particular way. To do so would reflect undesired royal involvement and interference in the legal and political process. If King George VII were to request that the House of Lords veto legislation, however, then this would go against the provisions of the Parliament Acts 1911 and 1949, which limited the power of the unelected Lords.

There are, therefore, a number of constitutional issues arising from the problem scenario, demonstrating the unique nature of the UK's constitutional arrangements and the extent to which these arrangements have changed over the centuries. Indeed, if these monarchical actions had been taken by a monarch in the 16th century, do you think they would have been more successful?